To: Sustainable Growth Commission

From: Derick Berlage, Chairman, Concentrating Growth Workgroup

Date: November 4, 2011

<u>What we have done</u>

Our Workgroup divided into three subcommittees to address the following three questions:

1. How do we persuade more people and businesses to choose existing communities when they choose where they will live, work and invest?
2. Can we encourage development in places that are targeted for growth and revitalization by streamlining the development approval process in those locations?
3. What is the best way to implement sustainable growth policies in rural areas of the State?

After numerous presentations, meetings and conference calls, the first two subcommittees drafted specific recommendations. These recommendations have been reviewed by the full Workgroup and are now transmitted to the full Commission for its consideration. The recommendations are attached.

<u>What we will do next</u>

The rural growth subcommittee will continue its work and prepare recommendations for the Commission's consideration at a later date.

<u>When we intend to do it</u>

We will strive to complete recommendations on rural growth in early 2012.

November 4, 2011

RECOMMENDATIONS OF THE CONCENTRATING GROWTH WORKGROUP: **MAKING COMMUNITIES ATTRACTIVE FOR INVESTMENT**

Mission of the Group:

How do we persuade more people and businesses to choose existing communities when they choose where they will live, work and invest?

Challenge 1:
Existing communities need to upgrade infrastructure in order to be competitive for attracting and partnering with private investment that will concentrate growth. State and local governments currently have an important focus on upgrading water and sewer capacity and quality for environmental and public health purposes. However, incentives and resources to improve other infrastructure to make existing communities "development ready" are lacking.

As an example, the Arts District Hyattsville is home to a $213 million infill investment in historic downtown Hyattsville. The 25-acre retail and residential development is a project of regional real estate developer EYA which, when complete, will feature new townhomes, multi-family homes, live-work homes, and leasable retail space, just two miles from DC.

A 30,000 square foot retail center recently opened and offers hundreds of jobs at newly opened businesses, including: Busboys and Poets and Tara Thai restaurants, and Yes! Organic Market. This $20 million phase of the project would not have been financially feasible without three State agencies – DHCD, DBED and MDOT – and Prince George's County pooling support totaling $1.75 million to support road and site infrastructure. This development is not only expected to increase the City of Hyattsville's annual property taxes by $4 million, it will also significantly increase the State's income and sales tax revenues. Additionally, it greatly enhances the livability of this community.

Recommendations for Challenge 1:

1. **Big New Idea: Create a "Maryland *Targeted Communities* Infrastructure Fund".**
    - We recommend that the State of Maryland establish a source of revenue for a new fund that supports infrastructure improvements in existing communities designated for growth and revitalization.
    - Many states have established federally- and state-funded infrastructure banks to support local transportation and infrastructure improvements. While most banks are established with federal funds from the US Department of Transportation Federal Highway Administration and used solely for transportation projects, some states have capitalized their banks with state revenues providing more flexibility to establish loan rules and regulations and determine which projects are financed. These banks are essentially

revolving loan funds that offer both loans and credit enhancements and vary widely in loan capacity, from under $1 million to more than $100 million.[1]

Below are a few examples of states that have used state revenues to capitalize their infrastructure banks:

- Ohio's State Infrastructure Bank (SIB) "was capitalized with a $40 million authorization of state general revenue funds (GRF) from the Ohio State Legislature, $10 million in state motor fuel tax funds, and $87 million in Federal Title XXIII Highway Funds."[2] Direct loans and bond financing are provided for transportation projects and aviation, rail and other intermodal transportation facilities. The bank is managed by Ohio's Department of Transportation.

- The SIB in Florida "can provide loans and other assistance to public or private entities" for projects that increase "mobility on the State's transportation system, or provide intermodal connectivity with airports, seaports, rail facilities and other transportation terminals." Projects "must be consistent with local Metropolitan Planning Organizations and local government comprehensive plans…. Loans have been used to purchase buses and trolleys, construct intermodal facilities, add capacity on the state highway system, relieve congestion on state and federal highways, build a new airport, and build container terminals at a local seaport." [3]

2. **<u>Idea that Builds on Current Strengths: Further enhance the Local Government Infrastructure Financing (LGIF) Program to provide more affordable infrastructure financing for communities where there are the good opportunities for concentrating growth.</u>**
   - DHCD currently issues tax-exempt bonds as a way of raising capital, and loans those bond proceeds to local governments through the Local Government Infrastructure Financing (LGIF) program. The interest rate on the local government loans is subject to market conditions at the time of sale - based upon the rate attained on DHCDs pooled bond issue. Local governments are responsible for repaying the debt incurred through the bond financing and for paying their pro-rata share of the costs of issuance of the pooled bonds. To secure payment of the loans and to enhance the marketability of the bonds that are sold to fund the loans, each participant pledges its full faith and credit to make payment on the loan.
   - In the 2009 session, legislation enhanced LGIF to replace the need for private bond insurance because of its expense and downgrading. An additional enhancement that would boost investor confidence would be to create a $2 million debt reserve available to both counties and municipalities.

---

[1] http://westcoastcollaborative.org/files/sector-trucking/SIBfactsheet.pdf
[2] http://www.dot.state.oh.us/Divisions/Finance/Pages/StateInfrastructureBank.aspx
[3] http://knowledgecenter.csg.org/drupal/content/state-infrastructure-banks

3. Enhance Tax Increment Financing (TIF) legislation that provides a State incentive for projects that will concentrate growth in targeted communities
    - A number of States coordinate with local governments to use TIF as a vehicle for encouraging transformative Smart Growth and Neighborhood reinvestment projects. Our recommendation is that the State of Maryland should support local TIF programs by offering the same enhancements to projects that concentrate growth in targeted communities. We recommend consulting with the Commission's counsel on what legislation might be needed for Maryland to do what these other states do.
    - For Example:
        - Pennsylvania provides a credit enhancement to qualifying TIF projects in a form of a loan guarantee up to $5 Million.
        - Connecticut converts a local jurisdictions pledge of future incremental tax revenues into an upfront cash grant to the developer.
        - Kentucky extends a "limited" moral obligation guarantee, which makes TIF, bonds more marketable through creation of a supplemental reserve for debt service payments.
        - Washington uses their Local Infrastructure Financing Tool (LIFT) Program to support public improvements in designated "Revenue Development Areas". The State credits 75% of any increases in sales and use taxes imposed by the local jurisdiction to make its contribution. The local jurisdiction then uses these increases in revenues to repay their bonds.

4. Reinforce 2010 Sustainable Communities Act
    - The Sustainable Communities Act of 2010 was a great step forward toward reinvestment and revitalization in our State's existing communities through the reauthorization of the Maryland Heritage Structure Rehabilitation Tax Credit as the Sustainable Communities Tax Credit and simplification of the targeting of State revitalization resources into a single focus area called Sustainable Community Areas. In the Act, Sustainable Community Areas are defined as places where public and private investments and partnerships achieve:
        - Development of a healthy local economy;
        - Protection and appreciation of historical and cultural resources;
        - A mix of land uses;
        - Affordable and sustainable housing, and employment options;
        - Growth and development practices that protect the environment and conserve air, water and energy resources, encourage walkability and recreational opportunities, and where available, create access to transit.
    - While there are a number of frameworks for sustainable and livability, all aim to break down silos and achieve more integrated and balanced approaches to community planning and investment.
    - We recommend that the Sustainable Communities Act could be furthered implemented by encouraging all Smart Growth sub-cabinet agencies to focus increased resources

within designated areas targeted for Growth & Revitalization such as Sustainable Communities. This will strengthen the intent of the Sustainable Communities Act by continuing the alignment of scarce state resources into areas that local governments have identified as being their priority via the Sustainable Community Action Plans.

- We encourage all agencies to think about how smart growth applies to them and consider adding incentives that concentrates growth and development in the designated Sustainable Communities. For example," Smart Growth" does not necessarily mean density. And in many Maryland communities, where increasing housing densities is not practical, acquisition and rehabilitation programs can be very effective tools in providing housing options for residents of various economic backgrounds. Not only can acquisition and rehabilitation programs provide a variety of housing options, they can also deter new construction outside of Sustainable Community boundaries and encourage reuse of vacant and blighted buildings and properties.
- We further recommend a 5-year goal to sustain/expand Community Legacy @ $5 Million - Neighborhood BusinessWorks (NBW) @ $5 Million and the Maryland Sustainable Communities Rehabilitation Tax Credit Program (administered by the Maryland Historical Trust) @ $10 Million such that there is at least $20 million annually focused in Sustainable Communities Areas, with goal of leveraging an additional minimum $80 million annually (including leverage of other State/local public resources and of course private resources) with a concentration on designated TOD sites and high-impact infill sites.

Challenge 2:
Developers are deterred by high land costs, land assembly timetables, and difficulty in applying regulatory requirements in existing communities**.**

Recommendations for Challenge 2:

1. Differentiate impact fees such that areas designated for Concentrated Growth have lower impact fees/State fees/regulations and areas not designated for growth have substantially higher fees. In regions that have multiple jurisdictions, inter-jurisdictional planning and efforts to reduce fees should be considered.

2. Jurisdictions should exercise the maximum flexibility without sacrificing water quality in applying storm water regulations in areas targeted for Growth and Revitalization by PlanMD.

Challenge 3:

Nonprofit Capacity is fairly weak in older communities. However, nonprofit Community Development Financial Institutions (CDFIs) and Community Development Corporations (CDCs) are a critical catalyst and leader for attracting investment that concentrates growth in existing communities.

Recommendations for Challenge 3:

1. ***Big New Idea. New resource for Community Development Financial Institutions (CDFIs)***
   - CDFIs are financial institutions which provide credit and financial services to underserved markets and populations. CDFIs are certified by the Community Development Financial Institutions Fund at the U.S. Department of the Treasury, which provides funds to CDFIs through a variety of programs. Broadly speaking, a CDFI is defined as a financial institution that has a primary mission of community development, serves a target market, is a financing entity, provides development services, remains accountable to its community, and is a non-governmental entity.
   - Nationwide, over 1000 CDFIs serve economically distressed communities by providing credit, capital and financial services that are often unavailable from mainstream financial institutions. CDFIs have loaned and invested over billions in our nation's most distressed communities. Even better, their loans and investments have leveraged billions more dollars from the private sector for development activities in low wealth communities across the nation. In general, CDFIs can often apply and leverage the funds that they have generated from state governments, local governments, banks, and the philanthropic community as much as 1:1 from the U.S. Department of the Treasury.
   - We recommend creating a regular funding source that the CDFIs that are doing work in Maryland could access to continue to leverage their other financial resources. This funding would be limited to projects that are located in Sustainable Communities. This would add another funding resource within areas that are in need of additional support and have a strategy in place by the local government to foster investment.
     - One example of how a CDFI successfully partnered with a State government included The Reinvestment Fund (TRF), a CDFI that serves the mid-Atlantic region, and the State of Pennsylvania. Through TRF's supermarket lending initiative, it was able to finance the construction of grocery stores in inner-city food desert neighborhoods. The funding for the loan program came from three sources: Pennsylvania Fresh Food Financing Initiative, TRF's Core Loan Fund, and the New Markets Tax Credit program. The State contributed $30 million towards this program.[4]
     - The Finance Fund, a CDFI that serves the state of Ohio began as a task force consisting of representatives from the Ohio Department of Development and the Ohio Community Development Corporations Association. After various

[4] CDFI Financing of Supermarkets in Underserved Communities: A Case Study

meetings and interviews with local stakeholders serving disenfranchised communities, the task force found that the creation of an independent CDFI would best meet the investment needs of these communities.[5] In 2011, the Finance Fund received just over $2 million from the State's Housing Trust Fund.[6]

2. ***Building on Current Strengths:* Increase the statutory Community Investment Tax Credit (CITC) Allocation from $1 million to $2.5 million in Sustainable Communities**
   - CITC that supports 501(c)(3) nonprofit organizations by awarding allocations of State tax credits for use as incentives to attract contributions from individuals and businesses to benefit local projects and services.
   - Community Investment Tax Credits complement other State funding programs which offer resources to assist communities with revitalization efforts. As part of an annual, competitive application process, 501(c) (3) nonprofit organizations apply to the Maryland Department of Housing and Community Development for tax credit allocations. Over the past 12 years, the Community Investment Tax Credit program has leveraged nearly $20 million in charitable contributions to 300 projects across the State.
   - We recommend focusing the new $1.5 million toward Community Development Corporations (CDCs), CDFIs, and social equity groups working to revitalization areas that are Sustainable Communities and/or "Growth & Revitalization Areas".

[5] http://www.financefund.org/about-us/history
[6] http://www.development.ohio.gov/newsroom/2011PR/March/14.htm

November 4, 2011

RECOMMENDATIONS OF THE CONCENTRATING GROWTH WORKGROUP: **REGULATORY STREAMLINING**

Mission of the Group:

Can we encourage development in places that are targeted for growth and revitalization by streamlining the development approval process in those locations?

Introduction

Concentrating growth in targeted communities requires a partnership of the private and public sectors. Government can and does direct growth by deciding land use master plans, zoning, infrastructure investment, tax policy, and a host of other regulations that affect land development. But the vast majority of growth will be financed, built and occupied by the *private* sector – not the public sector. Even a brilliant plan for community development will fail if the private sector is not prepared to invest and build the community called for the by the plan.

Many factors affect the private sector's decision to invest, but the Workgroup finds that the regulatory environment is a significant factor. We can encourage development in targeted communities by streamlining the regulatory process in those places. Streamlining provides a competitive advantage in the contest to attract new development.

First, a word about terminology. For purposes of this report, the Workgroup will employ the term "targeted community" to describe the locations where growth should be concentrated. A targeted community can be an inner city neighborhood, an aging shopping center in the suburbs, or a rural village. The term "growth" may include new growth, revitalization, or both. "Streamlining" refers to a change in the regulatory environment that makes it simpler to obtain a governmental approval to develop and build, or that reduces the time needed to obtain that approval.

Our fact-finding process

The Workgroup included a diverse group of stakeholders representing the public, private and non-profit sectors. It included individuals who live and work in urban, suburban and rural parts of the State.

Early in our discussions, we invited a developer from a more urban part of the State (Montgomery County inside the Beltway) and one from a more rural area (the Town of Easton) to discuss projects they had built in targeted communities. Workgroup members also consulted a number of other developers working in targeted communities. Each shared with us the impact of the regulatory environment on their decision making and degree of success. They stressed that developing within a targeted community is frequently more difficult than traditional "green field" development. Land assembly is more difficult and costly. Utility and stormwater challenges are greater. Existing residents understandably express strong opinions about infill development, and public opposition can greatly prolong the approval process, even when all regulatory requirements are met. Development conditions in addition to those required by law are often extracted to satisfy the existing community, and accepted by the developer in order to move the project forward. Community input is critical, but applicants need predictability in order to plan their projects and to forecast their final costs. Too much uncertainty before application will cause some investors to avoid even considering building in targeted communities.

The Subcommittee asked representatives from both the Maryland Association of Counties (MACo), and the Maryland Municipal League (MML) to canvas their membership to see what streamlining programs they currently utilize, if any. The results of these surveys are described below. In addition, the American Planning Association prepared an evaluation of streamlining programs throughout the Country. The findings of this analysis indicate there are limited programs and those that exist are very diverse.

Ten MACo members responded to a questionnaire. Four jurisdictions identified that they have a streamlining program, but did not describe what the program entails. Two jurisdictions identified that they have a streamlining program that focuses on specific project types (primarily economic development projects). For these projects the County is required to review the plans in a specific time frame. One jurisdiction identified that they have an informal streamlining program for smaller, building permit type projects. Finally, three jurisdictions responded that they do not have a streamlining program.

Interestingly, several MACo members described the relationship between State and local reviews for a given project as one of the major impediments to streamlining. Additionally, the lack of resources to adequately streamline project approvals was also noted as a major impediment to instituting a program.

The responses from the MML members that answered the questionnaire varied greatly. More rural municipalities stated that their development approval process is both straightforward and quick, primarily due to a lack of volume. More urban municipalities stated that they review development projects in conjunction with the county in which they sit and that the dual County/local reviews can be delayed by either party. Finally, a number of the responses focused on the building permit process as opposed to the land development process.

Another interesting element of the MML responses was the use of outside consultants to review development projects. Many of our smaller towns do not employ development review staff but have chosen to use outside contractors. In these instances, when a developer submits a project for review and approval, the project is handed to a private planning/engineering consultant that is paid for by the applicant, but reviews the project on behalf of the municipality. The consultant reviews the project in accordance with the municipality's regulations, works with the applicant to perfect the submission, and presents their findings and recommendations to the municipality's approval authority. The ultimate approval is from the approval authority with the assistance of the consultant. Fundamentally the consultant is acting as the local staff, but being paid for by the applicant. This works well in many jurisdictions to streamline the approval. The consultants are typically licensed professionals who are involved in development projects in other jurisdictions and therefore understand the issues associated with approval delays.

Similar to the above example, a few local jurisdictions allow the developer/applicant to employ the services of a permit expeditor. A good example of this is in Baltimore City, where developers can hire a permit expeditor for Department of Public Works (DPW) storm water management approvals.

The City DPW Surface Water Division is understaffed for the number of applications they are required to review. In addition, with the recent focus on water quality, a more thorough review is necessary for each application to ensure it complies with newly approved State regulations. Recognizing the backlog in applications, the City qualified a number of approved expeditors. Each expeditor is a licensed professional/consultant that is able to review an application promptly and provide DPW with recommendations. The ultimate approval comes from DPW, with input and recommendations from the expeditor. Although this is an additional cost to the applicant, it is often worth it because of the time saved.

During the Workgroup discussions the State initiated the Fast Track program to provide streamlining at the State level. This program is part of Governor O'Malley's Maryland Made Easy initiative, described at http://easy.maryland.gov/wordpress/fasttrack/ Fast Track is both project and area based. In order to qualify for fast tracking, the project must be in a targeted growth area such as a BRAC or Enterprise Zone, Main Street or Maple Street designation. However, even if the project is in a targeted area, it may not be selected to go through the Fast Track process due, primarily, to resource constraints. In addition, Fast Track only deals with State regulatory agencies and does not involve local input. The program is well conceived and will hopefully provide opportunities for many development projects. However, the program is brand new and needs to be monitored as it matures to understand and build on its positive attributes.

Recommendations

1. ***Each local jurisdiction in Maryland is encouraged to develop a streamlining program that accounts for its unique regulatory environment and the resources it has to implement such a program. If a local jurisdiction cannot implement a streamlining program, it should identify why it cannot.***

2. ***Each local jurisdiction should focus its streamlining efforts on economic development, revitalization, and mixed use projects within communities targeted for growth and revitalization.***

3. ***Every local jurisdiction should evaluate its existing approval process to eliminate unnecessary steps that cause delay. As part of this process, each jurisdiction should work with State agencies that review development, and find ways to better coordinate review and reduce delays.***

4. ***Before implementing a streamlining program, each local jurisdiction should consult both the development and environmental advocacy communities and ensure that the views of all stakeholders are heard and considered.***

5. ***The State and local jurisdictions should proceed carefully before imposing new regulations that increase the cost or approval time of development in targeted communities. New regulations should not be imposed unless they are necessary to advance other public policies that are deemed more important than the goal of concentrated growth.***

6. ***If a jurisdiction adopts a streamlining program, it should consider including the following elements, which represent a list of "best practices":***

   (i) ***The program should be well-defined and staffed appropriately to ensure success.***

   (ii) ***It should be led by an official or agency that is empowered to marshal the resources of all offices within the affected government to achieve the streamlining objective.***

   (iii) ***Maintain a well trained and motivated development review staff so that information provided to applicants is accurate and consistent.***

   (iv) ***Create a culture among reviewing agency staff that emphasizes customer service but also respects important land use policies (environmental protection, traffic mitigation, compact development).***

   (v) ***Create more specific planning documents that prescribe the type and level of development allowed (i.e. master plans for specific areas that detail type and method of development approval); in other words, create a more front end loaded process, so that property owners and developers know what the rules and expectations are and can expect certainty when proposing new or re-development; this can shorten the process on the back end (development submittals).***

   (vi) ***Create the above plans through a fair and transparent planning process that includes key stakeholders so that when development is proposed, there are no or fewer "surprises."***

   (vii) ***Conduct pre-submittal meetings to review requirements and timelines with development applicants***

   (viii) ***Look for ways to make some uses by-right instead of by special exception.***

<u>Recommendations for further study</u>

In addition to the recommendations above, the Workgroup would like to continue its work by examining the following matters:

1. Outline the fiscal realities of streamlining programs. How much does it cost the local jurisdiction to implement and operate a streamlining program and how much money is saved by the developer/applicant? How can part of the money saved be used to operate a local program?
2. Establish clear relationships between the State and local review agencies. Can Fast Track be married to local programs?
3. Fully analyze other streamlining programs throughout the nation to understand if they can be applied in Maryland and if so, how

4. Create a "Models and Guidelines" type publication for local jurisdictions to follow when creating a streamlining program.
5. Study whether form based codes can lead to streamlined approvals. This new zoning approach sets parameters for basic urban form (rather than use), and may provide an opportunity for streamlined approval of projects that meet the parameters. However, more study is needed.