



Contrary to Plan

Case Studies of Developments that
Conflict with Local Growth Plans

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Environment Maryland
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Implementation of Local Growth Plans

The Comprehensive Plan: A Community Blueprint

For nearly two decades Maryland jurisdictions—counties, cities and towns—have worked together to balance growth and preservation through one unifying benchmark: the locally-devised comprehensive plan. The state’s nationally renowned planning regulations since 1992 have required such plans to adhere to eight visions that, at their core, call for developing “suitable areas” while protecting sensitive sites.¹ Each area’s plan may be vastly different based on geography and demographics, but they all must follow the general tenets of preserving the state’s rural character by steering new development to existing population centers and areas earmarked to accommodate growth.

The local comprehensive plan has always been central to that planning philosophy, commonly known as Smart Growth. Every jurisdiction must develop such a document, also known as the “master plan” or the “master development plan.”² To accommodate ever-changing circumstances

in jurisdictions, the plans must be updated every six years. In most cases, those updates involve exhaustive input from engaged citizens in the community.

A comprehensive plan forecasts what housing, employment, and transportation demands will occur in a community in future years. It details how best to handle those needs while protecting the environment and needs of the community by, for example, ensuring that growth occurs near established water and sewer services, roads, schools and other infrastructure. The plans spell out what a community wants to look like in years to come, and it does so as collectively as possible, with citizens as crucial to the process as planning professionals and builders. They are approved by elected officials—the county council—which provides another layer of public accountability.

State planning officials have long believed the comprehensive plan dictates and controls the zoning policies of a local jurisdiction, and therefore protects a community’s character from developers or elected officials who try to ignore its

communal tenets for selfish interests. The Maryland Department of Planning's online primer on comprehensive plans states that zoning actions, water and sewer provisions and all other land use decisions must be consistent with the comprehensive plan's recommendations. Article 66b of the state's annotated code, which details land use and planning powers, states that "a local jurisdiction shall ensure that the implementation of the provisions of the plan ... are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations and other land use ordinances and regulations that are consistent with the (comprehensive) plan."

Terrapin Run

Then, four years ago, a developer proposed to build Terrapin Run, and, in the process, dismantled a bedrock of local planning.

In 2005, PDC Inc. of Columbia proposed to build a 4,300-home community next to Green Ridge State Forest, far removed from public water and sewer systems. Allegany County officials approved the project that year.

Opponents promptly sued. The circuit court sided with the opposition and sent the development back to the county's zoning commission. But in March 2008 the Maryland Court of Appeals sided with the developer and said the county's zoning officials were not legally bound to the follow the Allegany County comprehensive plan.

The court's opinion has sent shockwaves through the state planning community. In its opinion in the case of *David Trail, et al. v. Terrapin Run*, the court stated that a special exception to zoning ordinances

could be granted even if it did not conform to the comprehensive plan. The majority ruling said that Allegany County's comprehensive plan was merely advisory. The minority dissent stated Article 66b clearly stipulates that local jurisdictions must enact zoning laws that enforce their own comprehensive plans.

Many now fear that the court's decision could be interpreted to apply throughout Maryland, not just in Allegany County, and that the influence of comprehensive plans could be undermined.

Gov. Martin O'Malley's Task Force on the Future for Growth and Development in Maryland advised in January that corrective action was needed after the Court of Appeals decision. The task force's report, entitled "Where We Grow From Here," states that the group believes the decision serves to "weaken the link between the comprehensive plan and its implementing ordinances such as zoning."³ A majority of the task force believed "that the Terrapin Run decision would devalue the significant local government and citizen investment of time and resources in comprehensive plans."⁴

Terrapin Run Is Not Alone

Currently, are such deviations rare? Was Terrapin Run an isolated case? The examples outlined in this report show that Terrapin Run is not unique.

There is no standardized way to track when local officials approve developments that are inconsistent with comprehensive plans, or how many local zoning laws contradict the master plans. Throughout the state, however, land use advocates say development pressure has been mounting on local officials who, thanks to the Terrapin Run decision, are now unsure of

whether their comprehensive plans mean anything.

George Kaplan, former president of Cecil Land Use Alliance, wrote in his group's January 2008 newsletter that community groups throughout Maryland have been experiencing this for years. They participate in the master plan process only to watch it ignored. "The way people around here usually phrase this frustration is, 'The comprehensive plan isn't working.' It isn't working because our regulatory tools can't do what we say we want them to," he wrote.⁵

Since local planning departments tend to be overworked and understaffed, implementation of comprehensive plans cannot be expected to be perfect. But the efforts of local government staff are only further hindered by an uncertain legal framework.

In cities and towns across Maryland, concerned citizens, government officials and developers are scrambling to meet a state mandate of rewriting comprehensive plans by October 2009. Despite their varied and sometimes conflicting interests, the process joins them in a common cause of devising sensible plans that both promote growth while protecting the environment and the character of existing communities. It is hard work requiring volumes of

reports, dozens of meetings, and countless compromises.

But, in the end, the tireless efforts of all produce documents that provide a meaningful blueprint and strive to assure the flourishing of environment and commerce in every community in Maryland.

Terrapin Run, however, threatens to derail the most grassroots of community governance if the plans—and all of the coordinated efforts to produce them—are rendered moot.

Shelley Wasserman, chief legal counsel for the state Department of Planning, said her office has been sensing disturbing fallout from Terrapin Run.

"We're hearing, anecdotally, that developer's attorneys are telling government officials that now that Terrapin Run has been decided you can ignore your plans," Wasserman said.⁶

Some believe the development and the decisions in Allegany County are as isolated as the remote western county. They are not. As shown in this report, the struggle between sensible plans and unremitting growth are playing out everywhere across the state. Comprehensive plans, a democratic and necessary institution for the health of our communities, are being flouted throughout the state.

Case Studies

Development:
The Highlands
Jurisdiction: Queen Anne’s County
Status: In litigation

A development is under consideration in Queen Anne’s County that some people think will be a test—a remedy to or a reinforcement of—the Terrapin Run decision.

The Court of Appeals will have a chance to clarify its opinion of comprehensive plans this year after it decides the case of Grasslands Plantation Inc. v. Frizz-King Enterprises.

The case centers on a 114-unit housing subdivision, called The Highlands, proposed for a 275-acre parcel on Route 544 outside of Chestertown. The property is zoned agriculture and is located outside of growth area designated by the county’s 2002 comprehensive plan. A creek that drains into the Chester River runs through the property, which is also adjacent to one of the largest preservation easements in Maryland and is in the Foreman Branch

Rural Legacy Area. The 5,400-acre Grasslands Plantation has nearly four miles of Chester River shoreline and is home to more than 200 species of birds and thriving bald eagle and Delmarva fox squirrel populations. It hosts 1,000 acres of farmland and is a laboratory for state government and university scientists researching wetlands restoration.⁷

The Queen Anne’s County’s planning commission approved the subdivision in

“The State’s investment of public funds is poorly served when easements become scenic background for intensive development next door.”

2006. The Maryland Department of Planning viewed the development unfavorably because it would be adjacent to Grasslands, which the state preserved in 2001 with an \$8 million easement deal. “The State’s investment of public funds is poorly served when easements become scenic background for intensive development next door,” the state agency had written in a letter prior to the planning commission’s approval.⁸

Opponents appealed the planning commission’s decision but the Board of Appeals and the Circuit Court sided with the county agency. In July 2008 the state Court of Special Appeals also sided with the decision to approve Highlands.

But when new county officials were elected, they took action to force a re-evaluation of the decision. They passed a local ordinance requiring that developments conform to the comprehensive plan.

Opponents argued that the courts should reject the project since it is outside of the county’s Priority Funding Area, but so far that has not happened. Philip Hoon,



Aerial view of farmland slated for the Highlands development.

the attorney for the project’s opponents, argues that this is the perfect case to clarify the Terrapin Run decision.

Hoon’s 80-page brief filed with the Court of Appeals asks a critical question: Did the Court of Special Appeals make a mistake by not considering “intervening legislation enacted by the Queen Anne’s County Commissioners that elevated the (county) comprehensive plan by ‘Mandates of Compliance’ to the ‘Level of A Regulatory Device?’”⁹

Development:
Woodlands at Whiton
Jurisdiction: Wicomico County
Status: On appeal

When county officials stick to their goals for growth, developers can repeatedly press the courts for approval. This was the case with the Woodlands at Whiton project in Wicomico County, where a developer has appealed a permit denial in light of the Terrapin Run case.

In December 2008 the Wicomico County Planning and Zoning Commission rejected the plan for 146 single family homes on 167 acres of a 519-acre plot. The forested site is outside the county's growth corridor and is less than a mile from the Nassawango Creek Preserve. The preserve provides "habitat for plants and animals and also protects water quality in the creek, which is home to some of the northernmost bald cypress forests in the country. The preserve also harbors at least 14 species of orchids, and more than 14 species of warblers."¹⁰

It's not the first time the developer, Pomerac-Burke Associates, has tried to build on the site. In 2005, the builder proposed 1,060 units but was rejected. They returned at least five other times with various forms of the same plan, only to be rejected each time by the Wicomico County's planning commission because the plans were inconsistent with the comprehensive plan.

Now the developer is appealing in court, and the case is showing just how Terrapin Run decision is emboldening builders.

Mike Pretl, president of the Wicomico Environmental Trust, says the developer's appeal shows that Terrapin Run is emboldening developers to distinguish between comprehensive plans and zoning laws.

In the appeal, the developer's attorney, Raymond S. "Steve" Smethurst, Jr., argued, "The matter is governed by the zoning and subdivision codes and not the county's comprehensive plan or any 'policies' of whatever nature that are not stated as requirements for A-1 cluster subdivision approval in the zoning code. Any doubt as to this was settled by the Court of Appeals decision last March in *Trail v. Terrapin Run LLC*, 403 Md. 523 (2008)."¹¹

In an earlier argument before the commission on Jan. 11, 2007, Smethurst, argued that "there is a failure to recognize the distinction between the zoning code and the comprehensive plan." The comprehensive plan, he argued, "is strictly a plan, not a law," according to minutes of the meeting.¹²

State planning officials are clearly watching this case and showing their sensitivity to any legal challenge that could broaden Terrapin Run's applicability beyond Allegany County. State Secretary of Planning Richard Hall wrote a letter himself opposing the Woodlands at Whiton plan.

"Although I am aware it has been argued to the contrary, MDP is of the opinion that the 1992 Planning Act clearly established the role of the comprehensive plan in the review process and stated the need for consistency between the comprehensive plan and regulatory ordinances such as zoning and subdivision regulations," Hall wrote to the Wicomico County planning commission on Nov. 19, 2008.

With its proximity to the ocean, Wicomico County is under intense pressure from developers. The Heart of the Chesapeake project reports that the county's zoning laws in agricultural areas reward developers who build on only half of a farm by allowing higher densities, a process called "density bonus."

“While current zoning requires 50 percent of the land to remain open after development, much of this land ends up in tracts too small or irregularly shaped to be economically viable for a farmer,” the group’s report states. County data shows that there is ample land inside the county’s adopted growth area to satisfy the demand for new homes, yet more “lots were approved outside of the growth area in 2007 than in any year since the mid 1990’s,” the report stated.¹³

Erik Fisher, Maryland land use planner for the Heart of the Chesapeake Project, said the density bonus in the agriculture zones is inconsistent with the comprehensive plan, which attempts “to guide major growth to non-agricultural areas, maintain agriculture as an important part of the local economy, and protect the agricultural heritage of the county.”¹⁴

Corrine Les Callette, the chairwoman

“The comprehensive plan indicates we need to preserve agricultural land, but the zoning code does not allow us to do that.”

of the county’s planning commission, agrees.

“The zoning does not define things like it should. That’s what gives us a headache,” she says. “The comprehensive plan is not a law that we can sink our teeth into. There are inconsistencies: the comprehensive plan indicates we need to preserve agricultural land, but the zoning code does not allow us to do that.”¹⁵



Site of the proposed Woodlands at Whiton subdivision.

Developments:
**Meadows at Barren Creek
and Essex Ridge**
Location: Wicomico County
Status: Approved

Wicomico is being barraged by projects far outside its growth corridor centered on Salisbury. Two other developments similar to Woodlands at Whiton are moving forward.

The Meadows at Barren Creek is being built in the “midst of prime farmland west of Hebron.”¹⁶ Its plans concerned commission members because the 33 lots on 94 acres fragmented contiguous open space. The developer’s plan also assumed that the new homes would not impact fire and police services or increase the population of a county that is above capacity for its public schools. At one meeting, county planning commission chairwoman Corrine Les Callette said the county is trying to be more proactive in preserving farmland.

Nevertheless, the planning commission approved the development in 2007.

The developer of another subdivision, Essex Ridge, has been proposing new sections to be built entirely on forest land that is marked as a priority for preservation by the county.

One planning commission member stated at a January 2008 hearing that the property is outside growth areas and that it does not provide for effective agricultural or open space preservation. Several members of the public pleaded with the commission to protect the 342 acres in the new sections of the development.¹⁷

The county’s attorney stated at the Jan. 10, 2008 hearing: “regardless of what the Comprehensive Plan says, it is not part of the Zoning Code,” commission minutes state.¹⁸

The county is currently considering amending its rural zoning to make it consistent with the comprehensive plan to avoid such future developments.

“We need to get the zoning code and the comprehensive plan into agreement,” Les Callette says.

“Regardless of what the Comprehensive Plan says, it is not part of the Zoning Code.”



Trail into the woods at the Essex Ridge property.

Development:
**Water and Sewer
Extension**
Location: Cecil County
Status: Approved

Few counties are under more pressure from developers than Cecil County. It is one of Maryland's fastest growing jurisdictions. And water and sewer infrastructure are at the core of the debate.

A battle is underway in the rural areas north of Elkton, beyond the designated growth corridor that straddles Interstate 95 and Route 40. The comprehensive plan, adopted in 1990, set out to protect that northern area from large-scale development. But a recent water and sewer deal would allow greater densities under existing zoning that would be inconsistent with the comprehensive plan's vision for the region.

Last year the county awarded water and sewer franchise agreements to Artesian Water Company of Delaware to provide service to a largely rural area north and west of Elkton, outside of the designated

"This turns land use planning on its head."

growth corridor. The move was made while citizens were devising a new comprehensive plan that they will complete within months.

George Kaplan of the Cecil Land Use Alliance and others were happy to see the franchise granted for land west of Elkton because it resides in the growth corridor. But the area to the north is rural, beyond the growth corridor, and adjacent to state protected lands at Fair Hill. It is not recognized by the state as a Priority Funding Area.

After the water and sewer franchise was allowed, county officials asked the consultant devising the new comprehensive plan to designate that area for development in the draft document.¹⁹

"The dominoes are not just set up, they are already falling," Kaplan wrote in his December 2008 newsletter. "This turns land use planning on its head. The new comprehensive plan would set in concrete the dubious decisions already made."

Development:
Riverdale
Jurisdiction: Howard County
Status: Pending

Howard County's master plan states that in 1982 it adopted the Residential Environmental Development Zone as a substitute for conventional half-acre minimum lot zoning in several environmentally sensitive areas, including some on the Middle Patuxent River. "Developers in the R-ED zone are permitted only two units per net acre and are allowed to cluster units on smaller lots to keep development impacts such as clearing and grading away from sensitive steep slopes and stream valleys."²⁰

A 30-acre forested parcel atop a steep slope overlooking the Middle Patuxent River near the intersection of Route 32 and Cedar Lane was granted just that type of zoning. But the zoning board rezoned it a few years ago to residential-single attached and planned office research, despite a recommendation from the planning commission to maintain the R-ED zone. Why

the rezoning? Dale Thompson Builders Inc. wanted to build a 260-unit residential and office development.

But Joan Lancos, land-use liaison of the Hickory Ridge Community Association, said this is precisely the type of environmentally sensitive land that the master plan set out to protect. She should know. As the former vice chairperson on the county's planning board, she helped write the 1990 document.

"It's a terrible site," she said. "It couldn't be any worse than this."²¹

Mike Antol with the Howard County Planning Department stated that the county has worked out an agreement to have the environmentally sensitive portions of the land transferred to the government's ownership. That includes the slopes and the forested area around the project.

Residents nearby are not convinced. What was so sensitive to protect in explicit language in the county's master plan was simply rezoned to accommodate a developer. Bridget Mugane, president of the Howard County Community Association, said that the wastewater from those 260 units will damage the slopes and the river.

"It tears my heart out," Mugane said.²²

Development:
Trash Transfer Station
Location: Prince George's County
Status: Approved

In September 2008 the Prince George's County Council amended its 10-year Solid Waste Management Plan to transform 216 acres of land zoned for reserved open space (R-O-S) into the future site of the county's new trash transfer station. The ordinance states that such a use is permitted because "governmental buildings and uses are a permitted use on property zoned R-O-S under the county's zoning ordinance."²³

The county's zoning code states that

the R-O-S zone is meant to maintain such parcels in an "undeveloped state" and to "encourage the preservation of large areas of agriculture, trees, and open spaces; to protect scenic and environmentally sensitive areas; to ensure the retention of certain areas for nonintensive, active or passive recreation uses."²⁴

Fred Tutman, the Patuxent Riverkeeper, says the plan is also inconsistent with the county's comprehensive plan, which calls for preserving such open space or limiting it to more environmental and recreational uses. He says the site is located in the middle of a resource preservation area.

"Heavy trash use in our most sensitive area? It's in direct defiance of the comprehensive plan," Tutman says.²⁵

"It's in direct defiance of the comprehensive plan."



The Patuxent River is widely used for recreation but is one of the most impaired rivers in the state.

Development:
Tuckahoe Neck/West End
Jurisdiction: Denton, Caroline
County
Status: Pending

Annexations often pit a county's preservation vision for land against a municipality's desire to grow. Without cooperation, two competing comprehensive plans could lead to the type of fight now occurring in another part of the Eastern Shore.

Across the Choptank River from Denton is an 853-acre waterfront parcel that has managed to literally divide the Caroline County town over the issue of growth.

The town of Denton annexed the land in 2004. Officials designated the parcel as a growth area in the town's comprehensive plan. The designation was meant to clear the way for a planned neighborhood of over 3,000 residential and mixed-use units.

The county's plan, however, had long designated the land as agriculture preservation and has stated that it is "not an appropriate growth area."²⁶

The land in dispute, called both

Tuckahoe Neck and West End, is located along Route 328 and the Choptank. It has "long been a traditional farming, hunting and fishing area since pre-colonial times and contains many natural resources that are important to Caroline County."²⁷ Portions of the annexation area are within several sensitive designations: the county's rural legacy area; the 100-year floodplain; resource conservation area of the Chesapeake Bay Critical Area; a threatened and endangered species area; and tidal and non-tidal wetlands.

In its discussion of annexation forecasts, Denton's 1998 comprehensive plan states that "it is important for the town to identify long term growth areas to insure that there is not a conflict between the expansion objective of the town and the land preservation objectives of the county."²⁸

Conflict is just what the town got. The county sued over the annexation and refused to allow rezoning for five years, a freeze that expires in 2009.

The county stated that Denton has annexed more than 1,700 acres between 2000 and 2006. Including the Tuckahoe Neck area, nearly 6,000 new housing units could be built by 2025 in a town of some 3,500 people, according to statistics compiled by Caroline County's planning agency in February 2006.

The lawsuit was settled last year. The county commissioners agreed to resolve the case in September 2008 on three conditions: that the developer build age-restricted housing, pay \$1,000 per unit mitigation fees, and that water and sewer lines will be run to North Caroline High School.

The town, however, was not a party to the settlement. Therefore it does not have to hold the developer to the terms that define what type of development is built.

Still, newly elected officials in Denton are now trying to slow development by



Proposed development site across the Choptank River from Denton.

imposing a 10-month moratorium on all new residential plans that are more than three houses. They want the freeze to give their planning department time to rewrite a comprehensive plan that was last updated in 1998. Planning Director Bill Kastning said the current draft plan devised before he took over recently was “too aggressive.”²⁹

It is clear Denton officials see the critical importance of aligning zoning laws with

their comprehensive plan. The Denton moratorium ordinance, No. 571, states that the ten months will provide the town with enough time to adjust zoning laws to accommodate the town’s new vision of growth spelled out in the document.

The town will also start over on the Tuckahoe Neck project in the newly annexed part of town. “They have to start over,” Kastning said. “They have no approvals to construct anything.”³⁰

**Development:
Blackwater Resort
Jurisdiction: Dorchester County
Status: Resolved in 2008**

It is fairly common for a jurisdiction to amend a comprehensive plan to accommodate development that had been unforeseen, or not proposed by builders, in prior versions. When this happens, the revision should be done through an open public process similar to the process of updating the entire comprehensive plan.

One of the biggest and best-known cases of a plan amendment to accommodate a specific project occurred three years ago in the Dorchester County town of Cambridge. A developer wanted to turn 1,072 acres of land near Cambridge into the Blackwater Resort. The \$1 billion proposal would have built a conference center, hotel and 3,200 homes on a sensitive site near the Blackwater National Wildlife Refuge.

Local and state government at the time did all it could to accommodate the project.

Cambridge city government annexed the 1,000-plus acres of farmland to bring it within city limits, since it was not near the town and was not in the city's growth plan. Dorchester County's comprehensive plan designated it a town/incorporated area after annexation, and the property was rezoned from "Agricultural" to "Planned Water Resort District." The state Department of Planning designated the site a state "priority funding area," making the project eligible for state funding for roads and sewers.

On Feb. 21, 2006, the Dorchester County Council changed 313 acres of farmland from a "resource conservation area" to an "intensely developed area" under the Critical Area law.

The Chesapeake Bay Foundation and area farmers sued and said the paving required for the site would flush stormwater into the adjacent Little Blackwater River.³¹

Will Baker, president of the foundation, told the media at the time: "This was not land that the residents of Cambridge or Dorchester County, through the planning process, had designated for growth. It was designated for agriculture. This is happening all over the Chesapeake Bay watershed, where we are seeing loss of agricultural land not according to plan, but following the profit motive of developers."³²

The resort project would have developed some land that is designated as a "locally significant habitat" and a "wetlands of special state concern."

Only through massive public outcry and unusual state intervention was Blackwater scaled back to a size that was less threatening to the environment.

The Critical Area Commission in 2006 struck down the conference center portion of the proposal closest to the Little Blackwater River, rejecting the council's change in designation. And the state spent \$10.3 million in 2007 to purchase the bulk of the land. That left the developer with a development of 675 homes for senior citizens on slightly more than 300 acres.

In its report, the commission reiterated the importance of comprehensive plans by stating that when the city of Cambridge annexed the land slated for the Blackwater Resort in 2004, neither the Dorchester County comprehensive plan of 1996 nor the city's comprehensive plan of 1998 contemplated such a use. The county amended its plan to accommodate the project, but Cambridge never bothered.

"As the city's plan is currently written, it does not propose this area for future growth and development," the commis-

sion review panel found in 2006. “The panel believes that because the property was annexed into the city, and the project reviewed under city zoning, subdivision, and site plan regulations, the city should have amended its comprehensive plan in an appropriate manner to address the direct environmental and indirect impacts of the project.”³³

Municipalities and counties must work together to make sure that their future visions for the same parcels result in zoning codes and comprehensive plans that match, especially after land is taken away

from the county through a municipality’s annexation. It makes little sense for one vision to foresee future conservation of a sensitive environmental area while another foresees houses and roads. The state should mediate disputes.

When local jurisdictions proceed with developments without contemplating the guidance of their comprehensive plans or without devising new plans that factor in the environmental impacts of proposed growth, state action is needed to achieve the overarching visions of Smart Growth planning contained in the plans.



The Blackwater National Wildlife Refuge is essential habitat for migratory birds and has miles of trails for outdoor recreation.

Recommendations

Clarify Current Law

Guidelines for comprehensive plans are detailed and complex. Local planning officials spend enormous amounts of time developing those plans. The process and the outcome are never perfect, but it is much better to have a community blueprint produced through an elaborate process than to look at development piecemeal. Those plans should carry the weight of law.

The case studies in this report demonstrate that there has been a systemic problem of comprehensive plans being ignored in individual development decisions. While the Terrapin Run court ruling changed the legal landscape, it is not the case that everything was fine until that point. Many people in the development community have been saying for years that plans are only guides and not legal documents.

The law must be fixed to clarify that all developments need to be consistent with the comprehensive plan.

Zoning Should Match Plans

Current law already states that “a local jurisdiction shall ensure that the implementation of the provisions of the plan ... are achieved through the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations and other land use ordinances and regulations that are consistent with the (comprehensive) plan.” However, this is often not the case.

This provision should include a deadline by which zoning and other implementing ordinances should be changed. Local jurisdiction should be required to have this work done within two years of each comprehensive plan update.

Clear Process for Plan Revisions

New conditions and proposals can arise between the regular updates of compre-

hensive plans that contradict the plans as written but might be acceptable to the community. There has to be a reasonable way to do mid-course revisions to the plans.

Too often, these cases are addressed simply by granting exceptions. Or, as in two of the case studies in this report, plan revisions are rushed through with minimal public input.

Variations in zoning or other implementing ordinances should not be allowed for projects that are inconsistent with or contrary to the comprehensive plan.

The process for making revisions to the comprehensive plan should be similar to the process for doing full plan updates. It should include repeated opportunities for public input, with time between each step of the process for local residents to review the proposed changes and develop responses.

Annexation Disputes

County and municipal comprehensive plans often say different things about the same plot of land, as was the case with the Blackwater Resort in Dorchester County

and Tuckahoe Neck in Caroline County. The municipalities in these cases annexed land that had been slated for preservation in the county plans, then proceeded to approve major developments.

The state should have a stronger role to resolve these disputes. The Maryland Department of Planning should act as mediator between the jurisdictions under guidance from the state development plan. Regional cooperation in the development of comprehensive plans should also be encouraged to avoid these disputes in the first place.

Resources for Local Planning Staff

Writing and implementing comprehensive plans is complicated and time-consuming. Many local jurisdictions lack the resources to hire enough staff to fully comply with legal requirements and to carry out all the principles of smart growth.

The state can help by providing resources and hiring “circuit rider” planners that assist multiple local governments fulfill their duties.

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- 19 Personal communications with Ed Cairns, research committee chairman for Cecil Land Use Alliance and member of the Cecil County Comprehensive Plan Citizens Oversight Committee; Rupert Rossetti, CLUA secretary and member of the Citizens Oversight Committee; and George Kaplan, past president of the Cecil Land Use Alliance.
- 20 Howard County, Master Plan, 1990, p. 236.
- 21 Personal communication, Joan Lancos, land use liaison for the Hickory Ridge Community Association, 5 February 2009.
- 22 Personal communication, Bridget Mugane, president of the Howard County Community Association, 5 February 2009.
- 23 Prince George’s County Council Resolution CR-74-2008, adopted 16 September 2008.
- 24 Prince George’s County Zoning Code, Sec. 27-424.05.
- 25 Personal communication, Fred Tutman, Patuxent Riverkeeper, 11 February 2009.
- 26 West Caroline County, Comprehensive Plan, page 10.
- 27 *Ibid.*, p. 77.
- 28 Denton Comprehensive Plan, 1997, p. 27.
- 29 Personal communication, Bill Kastning, planning director for Town of Denton, 15 February 2009.
- 30 *Ibid.*
- 31 Tom Pelton, “Lawsuit Targets Shore Project,” *Baltimore Sun*, 21 March 2006.
- 32 *Ibid.*
- 33 Critical Area Commission, “Panel Report on Blackwater Resort Communities Growth Allocation,” 4 October 2006, pp. 9-10.