Twenty Lessons From Maryland's Smart Growth Initiative

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I. INTRODUCTION

In the early 1990s, a gubernatorial commission created in Maryland to look at the state's development patterns through the year 2020, boldly proposed to shift the balance of power over land use control in Maryland from the local level to the state. Vehemently opposed by the state's 23 counties, the commission's sweeping recommendations[1] were too much for state legislators to swallow, even in generally progressive Maryland. The proposal never emerged from a legislative committee. When the end finally came, it was a crushing defeat for advocates of stronger state authority over land use. It also served as a cautionary tale for subsequent political leaders who might otherwise be tempted to push for stronger state authority.

The following year, the Economic Growth, Resource Protection and Planning Act of 1992 ("Growth Act"),[2] which is a much less sweeping and intentionally less controversial land use law, was enacted. Perhaps the most important provision of this law was a requirement that all local government comprehensive plans be revised to be consistent with eight "visions" designed to guide policymakers in deciding where and how future development should occur. The visions were phrased as broad statements of principle:

1. development shall be concentrated in suitable areas;
2. sensitive areas shall be protected;

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1. *See* James R. Cohen, *Maryland's "Smart Growth," Using Incentives to Combat Sprawl, in Urban Sprawl: Causes, Consequences and Policy Responses* 4 (2002), *available at* http://www.arch.umd.edu/URSP/People/faculty/jcohensgchapter.pdf. The 2020 commission's proposal called for local governments to designate land in their jurisdictions into four categories: developed areas; growth areas; sensitive areas; and, rural and resource areas. The commission also recommended that the State establish specified permitted densities and performance standards within the growth, developed and rural resource areas, and require local governments to inventory their environmentally sensitive areas and develop protection programs. Finally, the commission proposed that the state be given approval authority over local plans, which would be valid for only three years.

2. MD. CODE ANN., STATE FIN. & PROC. § 5-7A-02 (2000).

3. in rural areas, growth shall be directed to existing population centers and resource areas shall be protected;
4. stewardship of the Chesapeake Bay and the land shall be a universal ethic;
5. conservation of resources, including a reduction in resource consumption, shall be practiced;
6. to encourage the achievement of paragraphs (1) through (5) of this subsection, economic growth shall be encouraged and regulatory mechanisms shall be streamlined;
7. adequate public facilities and infrastructure are available or planned in areas where growth is to occur; and
8. funding mechanisms shall be addressed to achieve this policy.[3]

The Growth Act also specifically identified four types of "sensitive areas" for special protection: streams and stream buffers; 100-year floodplains; habitats for endangered species; and steep slopes.[4] Nevertheless, it was left to local governments to draft plans to protect these and other sensitive areas.[5]

Advocates for stronger state authority over land use dismissed the Growth Act as weak and ineffective. It was derided by critics as "a nothing-burger." In retrospect, however, the Growth Act could claim one significant accomplishment: it became the foundation on which a bigger, broader, stronger land use reform would be built five years later.

II. SMART GROWTH

In November 1994, Parris N. Glendening was elected as Maryland's new governor after serving two decades as a municipal and county official. The last 12 of those years he served three terms as county executive of Prince George's County, a suburb of Washington, D.C., and one of the largest and most diverse counties in Maryland.

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3. MD. CODE ANN., STATE FIN. & PROC. § 5-7A-01 (2000).
4. MD. ANN. CODE art. 66B, § 3.06 (1994).
5. MD. CODE ANN., STATE FIN. & PROC. § 5-709 (2000). (requiring local plans to contain recommendations that: encourage streamlined review of development applications within areas designated for growth; encourage the use of flexible development regulations to promote innovative and cost-saving site design and protect the environment; use innovative techniques to foster economic development in areas designated for growth; and, encourage more widespread use of flexible development standards. Finally, the Growth Act created a seventeen-member advisory commission to monitor the progress made in implementing the Growth Act, explore new solutions, and report annually to the governor and the general assembly. Seats on the Growth Commission were designated to represent the full array of land use stakeholders: business, finance, agriculture, forestry, environmental, civic associations, planning, real estate development interests, counties and municipal governments, and the General Assembly).

Glendening gained extensive experience dealing with local land use issues. As a result, he arrived in Annapolis with an understanding of the push and pull of the development community, the internal politics of supporting or opposing specific projects, and the importance of obtaining financial support for development projects from the state. For years, Glendening watched as most of the state support for development in his county went for new projects, new development, new schools and roads, as well as other infrastructure on the fringe. Meanwhile, older communities and first-ring suburbs were neglected, deteriorating and left to fend for themselves.

Within two years of coming to office, Glendening had his staff working on a new statewide approach to land use. Glendening had become frustrated with the state's inability to influence a county government's decision to build a huge new mini-city in an old-growth forest on the banks of the Potomac River. Furthermore, Glendening was bothered by the inability of the state to intervene in a quaint Eastern Shore town's fight to stop the merchandising giant, Wal-Mart, from killing the town's downtown businesses.

Glendening told his staff that the state had to increase its role in local land use issues, but no one knew quite how that could be done. What the Maryland staff did was devise a new approach to state involvement in land use, an approach that was often trial and error. Working quietly behind the scenes, the governor and his staff put their new program together from April through December 1996, and introduced it in the General Assembly in January 1997. It would be known as the "Smart Growth and Neighborhood Conservation" initiative.

The initiative, however, raised a number of questions. How far could the governor's office push the new approach without suffering defeat? How could the governor's office get disparate factions working toward the same goal? Did the public care and, if so, what did they think? Finally, from Governor Glendening's personal political perspective, could he do this and still be re-elected?

To the surprise of many on the governor's staff, especially his hardened political consultants, Maryland's Smart Growth program became one of the best-known land use initiatives in the country. For Glendening personally, it became his "legacy" issue—the one issue for which he would be known throughout the country.

The Smart Growth law that was enacted in 1997 had several component parts, but the thrust of the initiative was fundamentally simple:

use state financial resources as incentives to alter development behavior.[6] It was this reliance on incentives, rather than regulations, that represented the breakthrough that attracted so much national attention.

Before the Smart Growth law was enacted, the state government in Maryland made no distinction about where a development project was located before deciding whether to provide financial assistance. If the project was otherwise eligible, no one within the state government ever asked the question, "Where is it?" To demonstrate the folly of this approach, Glendening himself would cite the example of an expensive highway the state built to enable residents of a down-on-its-luck western Maryland city to reach a new shopping mall outside of town. Easy access to the new mall simply accelerated the death of the city's downtown business district, which in turn spawned its own downward spiral of unemployment and abandonment.

The Smart Growth law was designed to change that. It restricted where the state could spend money associated with growth projects to municipalities and other locally-designated areas that became known in the legislation as Priority Funding Areas (PFAs).[7] After the Smart Growth law formally took effect on October 1, 1998, projects outside of PFAs were prohibited from receiving state financial assistance except in rare instances or when a formal exception was granted.[8] This had never been done before, at least not in Maryland.

Governor Glendening's theory was that where the state spent its money could affect growth decisions. Glendening often said that developers make "bottom line decisions" and believed that if the availability of state financial assistance would improve a developer's or builder's bottom line, then it might change their decision on where to build. To this end, the Governor and his staff restricted almost every growth-related financial or technical assistance program the state offered to PFAs: housing assistance programs, job creation tax credits, brownfield cleanup assistance, historic preservation

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6. Smart Growth and Neighborhood Revitalization Act, Md. Laws 4335, ch. 759 (1997) (S.B. 389).

7. MD. CODE ANN., STATE FIN. & PROC § 5-7B-02 (2000) (Priority Funding Areas were defined as all areas within the boundaries of the state's 156 incorporated municipalities, within the beltway around Baltimore and the Maryland portion of the beltway around Washington, D.C., and in any other area designated as a PFA by any of Maryland's 23 county governments, as long as those areas met minimum state criteria. Generally, the state criteria for local designation of PFAs required that such areas must: (1) be served by, or planned to be served by, public sewer and water; (2) require that new residential development within the PFA be a minimum of 3.5 units per acre (existing communities as of January 1, 1997, that were already served by public sewer or water systems also qualified, but needed to meet a density threshold of only 2 units per acre); and (3) be sized to accommodate a given county's projected growth over the next 20 years).

8. *Id*. *See also* Cohen, *supra* note 1.

tax credits, business expansion loans, park improvement funds, highway improvement funds, and the location and placement of state offices. They hoped such support would generate more development within PFAs, and that the absence of financial support elsewhere would discourage development outside of PFAs.[9]

III. RURAL LEGACY

Glendening and his team also knew that however successful their efforts to revitalize or rejuvenate existing communities might be, development pressure would continue to spread outwards, threatening farmland, forests, the scenic beauty of the state, water quality in the Chesapeake Bay and its tributaries, and Maryland's air quality. Thus, the second prong of the Maryland Smart Growth program was directed at *permanently* protecting the best remaining natural areas in the state before they were lost forever to development.

The measure was called the Rural Legacy Program[10] because it was designed to save the rural legacy of a state that had become the fifth most densely populated in the nation. The state envisioned a multi-year program in which millions of dollars in state funds would be anteed up each year to be awarded on a competitive basis to finance the best protection plans submitted by local sponsors.

The goal was to establish a community-up process to identify large, contiguous tracts of land that were either still in pristine condition or were not overly fragmented by existing development. To be eligible for Rural Legacy funds, such lands had to feature multiple resources, such as scenic or historic value, prime agricultural soils, wetlands, buffers along waterways, old growth forests, wildlife habitat, buffers around drinking water reservoirs, or areas that would serve as greenbelts to protect the character of small towns or communities.[11] While the legislation would authorize purchases of land in fee simple, the Governor and his Smart Growth advisers anticipated that Rural Legacy funds would primarily be used to purchase development rights on targeted properties, leaving ownership and usage in the hands of existing landowners.[12]

The program was appealing because it was both voluntary and competitive. It involved willing landowners, who usually worked with non-profit land trusts to develop an application for Rural Legacy funds. Every

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9. MD. CODE ANN., STATE FIN. & PROC. § 5-7B-02 (2000).
10. MD. CODE ANN., NAT. RES. § 5-9A-01 (2000).
11. MD. CODE ANN., STATE FIN. & PROC § 5-7B-02 (2000). *See also* Cohen, *supra* note 1, at 2.
12. *See* Cohen, *supra* note 1, at 2.

application had to have prior local government approval. The lands to be protected also had to meet criteria set forth in the law. The goal was to protect large tracts of land that had not yet been overly fragmented by development, but which were clearly threatened by the spread of development.

The Rural Legacy program was never intended to function by itself. Almost every Rural Legacy area was comprised of many individually owned parcels. The strategy was to save the entire area by employing the resources from multiple programs. These programs include the Rural Legacy program;[13] GreenPrint (a program designed to protect the state's most ecologically significant lands);[14] Program Open Space (the state's parkland acquisition program);[15] the Agricultural Land Preservation Program (which was aimed at farmland protection);[16] donated easements to the Maryland Environmental Trust;[17] and a variety of county purchases of development rights or transfer of development rights programs. By applying funds from so many different sources, it became possible to protect a large area from encroaching development.

IV. TWENTY LESSONS

Land use decisions have a long incubation period. A major development project can take five to ten years to move from inception through zoning and subdivision approval, environmental permitting, approval for utilities, and a waiting period to assure compliance with local adequate public facilities ordinances. Increasingly, projects that obtain required approvals are still appealed by local opponents, adding months and often years to the process. For example, a highway project can stay on the books for forty years without the first shovel of dirt being turned, and take five to ten years or more to build once all approvals are granted. Transit planners think in thirty to fifty year time horizons.

Change is also gradual. Who is to say when or what has to happen before a specific city or town or community reaches what author Malcolm Gladwell[18] calls "the tipping point" for better or for ill? What is the action

13. MD. CODE ANN., NAT. RES. I § 5-9A-01 (2000).

14. 2001 Md. Laws 3070, ch. 570 (H.B. 1379). *See also* Maryland Department of Natural Resources, *Maryland's GreenPrint Program* (2005), *available at* http://www.dnr.state.md.us/greenways/greenprint/greenprint.html [hereinafter *GreenPrint*].

15. MD. CODE ANN., NAT. RES. I § 5-904(E)(1) (2000).

16. MD. CODE ANN., AGRIC., §§ 2-501 – 2-515 (2000).

17. MD. CODE ANN., REAL PROP. § 2-118 (2000). *See also* MD. CODE ANN TAX-PROP. § 9-107 (2000).

18. *See generally*, MALCOLM GLADWELL, THE TIPPING POINT: HOW LITTLE THINGS CAN

or incident or series of changes that drive people (and businesses) away, or that bring them back? What critical mass is necessary before someone says, "I'd like to live there," instead of, "I'm moving out?"

By these standards, it would be premature to say whether Maryland's Smart Growth program has been successful. It is simply too soon to tell. Moreover, just as the Governor's Smart Growth initiative was built on the Growth Act[19]—which in turn was built on earlier land use efforts—it is fair to say that land use initiatives are always dynamic and the Maryland Smart Growth experiment is no different. Land use laws and strategies are changed, modified, expanded, improved, and sometimes weakened over time. However, they are never static, which makes it all the more difficult to judge their short or long-term effectiveness.

More than a few people, however, have monitored what transpired in Maryland over the past decade or more. While it would be foolhardy to predict the long-range implications of Maryland's Smart Growth initiative, enough time has gone by to make some initial assessments about what the Glendening administration did right in creating the Smart Growth initiative, as well as what the administration did wrong.

Based on Maryland's experience, the following are twenty lessons relevant to state and local governments who are struggling with these complex, stubbornly resistant, and politically explosive issues.

A. What the Maryland Smart Growth Initiative Did <u>Right</u>

1. The governor and staff understood the political parameters and did not try to overreach.

Nothing guided the Glendening administration's initial approach to land use issues in Maryland more than the 1991 defeat of the recommendations offered by the 2020 Commission to shift some of the authority over land use decisions from local governments to the state. Governor Glendening and his team knew they had to learn from the lessons of the past, and that it would be futile to try the same approach twice.

As a result, Glendening was able at the outset to outline a broad set of parameters for what the state's new program would and would not do. The first and most important of the parameters was that whatever the state did, it had to find a way to preserve local decision-making authority. (It is not an overstatement to say that the Smart Growth initiative would never have

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MAKE A BIG DIFFERENCE (Little Brown & Co. 2000).

19. MD. CODE ANN., STATE FIN. & PROC. § 5-7A-02 (2000).

been enacted without preserving local land use authority, but as discussed below, this proved to be one of the program's weaknesses as well).

The second parameter had to do with cost. At the time the Smart Growth initiative was being developed, the state treasury was not facing a deficit, nor was there likely to be a big surplus. Whatever was proposed, therefore, could not constitute a big new spending program. The program had to live within the resources then available. Not only was this a pragmatic approach, since the state didn't have extra money to spend, but it was a strategic approach as well: Glendening did not want his new land use program to come under attack as a drain on limited state financial resources that potential supporters might rather see spent elsewhere.

Perhaps the most important parameter was that the new initiative was not to take a regulatory approach, but rather an incentive-based approach. Regulations, Glendening believed, created more enemies than friends. Intuitively and politically, he knew that an incentive-based program would have a softer landing in the legislature and with the public-at-large. In retrospect, it was the incentive-based nature of the Maryland program that seemed to attract so much attention from outside the state.

Finally, the Maryland program would be unabashedly pro-growth. It would not be a "no-growth" program or even a "slow-growth" program. Growth supported by the program, however, could not be anywhere or at any cost. While the Smart Growth program was not a planning program per se, it was the state's intention to support well-planned growth, especially in areas already supported by infrastructure and services.

Because the program embraced growth, homebuilders, developers, and even the property rights advocates who might otherwise have opposed the Smart Growth initiative, were neutralized. Pro Growth advocates wanted to know the new rules and they wanted those rules to be fairly and consistently applied. But as long the state was not trying to stop growth, they were willing let the program unfold.

Obviously, the political parameters of a land use program in Maryland will be different than they are in Vermont, Ohio, Montana, or anywhere else. But once the staff understands the limits and knows how far they can go, then it becomes easier to fashion a program that fits within those restraints.

2. The program was branded with a name people would recognize and that would be hard to oppose.

In retrospect, the selection of the name "Smart Growth" represented one of the Glendening Administration's smartest strategies. Those two words summarized a broad set of issues with a phrase catchy enough to grab people's attention. Moreover, it was a concept that was hard for anyone to oppose. Who would want to be against "smart growth?" The phrase also helped mollify the suspicious pro-growth crowd, assuring them the state still favored growth as long as it was "smart" growth.

Even before the initiative was enacted, it became obvious that those who opposed "Smart Growth" must inevitably favor "dumb growth." No one wanted to be seen as favoring "dumb growth." Over time, this became a nuisance, especially among those local elected officials and planners who suddenly found that the work they had been doing so proudly for years was now denigrated and dismissed as "dumb growth." However, there can be no doubt about the power of those two words in their ability convey the fundamental belief that the patterns of growth experienced in the United States for the past half century have not been in the collective best interest of citizens, and should be improved. Everyone can take a smarter approach to growth.

Today, the phrase "Smart Growth" works in some settings, but not in others. To some, it carries the partisan baggage of Parris Glendening and Al Gore. To others, it is simply insulting. Still others equate it erroneously with top-down regulatory approaches that are usually unpopular with the public. Around the country, dozens of other names have been tried: "Livable Communities," "Balanced Growth," "Quality Growth," "Sustainable Growth," and "Priority Places." Even when these substitute names are used, however, the press and public still often refer to the issues embraced under these titles as "Smart Growth."

A computerized Google search of the phrase "Smart Growth" is all it takes to demonstrate how common and widespread this shorthand description has become. While there is abundant evidence that this popular phrase was not first coined in Maryland, there is little doubt that the Maryland program succeeded in popularizing it.

An intangible and un-measurable effect of the phrase "Smart Growth" is the degree to which it has empowered everyday citizens to talk about issues that once seemed to be the exclusive language of builders, planners and traffic engineers. It has enabled the public to see that, where and how we build, is directly connected to their quality of life. Further, it begs the question: Are we being smart about our community's growth?

3. The program relied on incentives rather than regulations to change people's behavior.

How do you change behavior? It sounds like a sociological question, but it was the root question for Glendening and his staff as they debated ways to change the trends of development patterns in Maryland. Do you whack them with a stick or reward them with a carrot?

At that time, most of the models in effect in other states were based in regulations: You may build here; you may not build there. You must build this; you may not build that.

From a political standpoint, the likelihood of enacting such regulatory structure in Maryland seemed highly unlikely, if not impossible. Virtually any regulatory framework based at the state level would impinge upon—or be seen as impinging upon—the land use authority vested in Maryland's local governments. Parris Glendening, who in 1997 was a little more than a year shy of a re-election bid, was not interested in promoting a high profile, sure-loser in the legislature.

If the state could not control the land use decisions of local government, then what could it control? The answer was remarkably obvious: It could control where it spent state money. Moreover, Glendening was convinced that it mattered to builders, developers, and local governments where the state invested its resources. Such investments could make a project happen, and the absence of state funds could grind a project to a halt.

The state of Maryland had never before restricted the use of its financial resources in this way. The incentive approach was clearly more palatable than alternative regulatory approaches. It didn't stop growth; it rewarded "smart" growth. It didn't cost the state more; it enabled the state to spend more efficiently what it already was spending. It represented a better, more thoughtful use of resources. It was, as liberal Governor Glendening often said, a very conservative approach to infrastructure investment. Moreover, it positioned the state as setting an example that local governments might follow.

4. The program was based on an urban-rural strategy that created broad-based coalitions.

Over the course of 1996, the component programs of what became Maryland's Smart Growth initiative were developed almost independently and glued together just before they were introduced into the legislature as a package. The Priority Funding Area concept was developed by one staff group interested in redevelopment, brownfield cleanup, and other efforts to support older cities and towns. The Rural Legacy Program was developed by the state's Natural Resources department and environmentalists alarmed about the loss of farms, forests, and streams.

By linking these urban and rural initiatives—what the staff came to call the "inside/outside strategy"—Glendening created a broad-based coalition that was difficult to defeat. At times during the 1997 legislative session, supporters of one element of the Smart Growth initiative or another sought to cherry-pick the portion they supported and let the rest rise or fall by itself.[20] But Glendening consistently resisted such attempts, insisting that the various components were linked, and thus needed to be considered together and approved together.

This inside/outside strategy provided both substantive and political benefits. Substantively, it was clear that until something was done to make older towns and cities a place where people would want to live, where the schools were of high quality and crime was not a constant fear, the outward migration would continue. At the same time, it was recognized that success in the older towns and cities would be slow and pressure would continue to build on rural areas. The staff recognized that the state needed to attack both problems simultaneously.

Politically, this enabled the governor to build a broad and strong coalition of urban, suburban, and rural legislators who may have preferred to support one part of the program more than another, but who nonetheless were convinced to support the entire program.

5. The governor and staff alerted stakeholders early in the process of the state's intentions and invited their input.

Surprise is rarely an advantage when trying to pass legislation. Surprise irritates lawmakers and makes the interests affected by legislation suspicious and distrustful. It is difficult to muster a majority under such circumstances. However, announcing legislative plans too early can short-circuit the best of proposals by giving potential opponents too much time to organize an attack.

Maryland's Smart Growth program succeeded, in part, because by the time it was introduced, every potential stakeholder knew a proposal was coming and had been given an opportunity to offer ideas. Six months before the legislative session was to convene, the governor used a major speech to municipal leaders to announce his plans to introduce a land use measure.[21] Governor Glendening was careful not to prejudge what would be in that legislation, and invited interested parties to offer suggestions.

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20. *See* Maryland General Assembly, *"Smart Growth" and Neighborhood Conservation—"Smart Growth" Areas* (1997), *at* http://mlis.state.md.us/1997rs/billfile/sb0389.htm.

21. Governor Parris Glendening, speech delivered to the Maryland Municipal League (June 24, 1996) (on file with author).

The governor then dispatched members of his staff to meet with several hundred different organizations and local governments. Ideas from each group were collected, put together in a book, and re-circulated to all of the same groups so that everyone knew what everyone else was proposing.[22] The feedback from the groups informed the choices made by the governor and his staff. Glendening could easily see which ideas were clearly off the table, and which ones seemed to have general support. The outreach effort may not have nailed down converts, but it had a calming effect.

6. State agencies worked together toward the same broad set of goals.

Glendening not only had to sell the concept of Smart Growth to the General Assembly and public, but he also had to sell it to members of his own cabinet. Department chiefs have their own agendas, ideas, constituents, and their own set of pressures. They must sort through the scores of issues a governor may champion in any given year to determine the ones which the governor is truly interested.

The workgroup staff that put Maryland's Smart Growth initiative together represented all the major state agencies: environment, natural resources, planning, economic development, general services, budget and management, housing, and community development. By its nature, Smart Growth represents a cross-disciplinary set of issues. But that fact did not, by itself, cause cabinet secretaries to work together. It took direction and leadership from the top.

The governor's first step toward this goal came in 1998, when he issued a Smart Growth Executive Order that, among other actions, established a Smart Growth sub-cabinet and a staff-level Smart Growth coordinating committee. The Governor was beginning to make it clear that he wanted secretaries and staff from different agencies to work together on Smart Growth issues. It set Smart Growth policies for state agencies to follow. For example, one policy established downtown areas as the priority location for new offices, as well as for holding conferences or meetings.

At first, the response from the cabinet was tentative. At early sub-cabinet meetings, often only one or two secretaries would show up; the rest would send deputies or other surrogates. Not until Glendening was re-elected (campaigning, in part, on a Smart Growth platform) and began to demonstrate intense interest in the Smart Growth program did participation in sub-cabinet meetings and actual cross-departmental cooperation actually increase. After two cabinet secretaries were replaced at the start of his

22. *See* MARYLAND OFFICE OF PLANNING, NEIGHBORHOOD CONSERVATION SMART GROWTH: WE ASKED, YOU PROPOSED, NOW WE NEED YOUR RECOMMENDATIONS (1996).

second term, Glendening publicly explained their departure by saying they had not strongly supported Smart Growth. Subsequently, attendance at sub-cabinet meetings never faltered, and once brought together to discuss specific projects, genuine cooperation ensued. Ultimately, Smart Growth is enhanced when multiple agencies with different responsibilities, different resources, and different expertise work together. However, there is no substitute for strong leadership from the top to make that happen.

7. The governor and his cabinet secretaries demonstrated a willingness to make tough decisions to do things differently than in the past.

After re-election, in early 1999, Glendening directed his cabinet secretaries to review their budgets and programs, identify those that were inconsistent with the state's Smart Growth law, and discontinue them. The governor intended to demonstrate—by example—that Smart Growth meant the state was going to do things differently.

The most visible casualties of this policy were five highway bypass projects. Even though none of these costly roads were likely to be built in the foreseeable future, their cancellation created uproar. The road alignments were mostly outside of and did not connect to Priority Funding Areas, and were therefore in violation of the Smart Growth law. No one could recall the last time the Department of Transportation had taken any project—much less five of them—out of the long-range transportation plan.

When one county that had consistently ignored the state's Smart Growth efforts decided to rezone much of its agricultural land to permit more development, the state threatened to withhold state funds earmarked for the county for farmland preservation. Such a bold move had not previously been attempted. Why should the state spend money to preserve farmland in a county that could become so fragmented by development that farming would no longer be a viable option? The county backed down.

The state was not only willing to step in to stop "dumb growth," it also became more active in support of "Smart Growth." Increasingly, state officials testified for or took positions in favor of local smart growth development projects, helping push through approval of projects that might otherwise have died in the face of local opposition.

Consistent with the governor's executive order,[23] the state insisted that new state facilities or offices be located in downtown areas of towns and cities, rather than on the outskirts of town. Prior to this executive order, most courthouses, motor vehicle offices, or other facilities were built on the

23. Md. Exec. Order No. 01.01.1998.04 (1998), *available at* http://www.dnr.state.md.us/ducation/growfromhere/LESSON15/MDP/EXECORDER.HTM.

outskirts of town. For example, the University of Maryland, was persuaded to build a satellite campus in an abandoned but historic downtown building, rather than on the university's preferred greenfield site.

State agencies also began to use funds in novel new ways. For example, transportation funds that in the past might have been used to expand suburban roadway capacity, were instead used to improve older state roads that ran through the heart of older small towns and cities. In many cases, these roads had not been upgraded in decades. The new improvements often included brick sidewalks, ornamental street lights and benches, and landscaping. These projects not only were cost efficient (a relatively small amount of money went a long way), but were politically popular as well. The ground-breaking and ribbon-cutting ceremonies that resulted from these projects could fit neatly within a typical four-year term in office.

State funds for public school construction and renovation were also targeted at older schools in older areas, rather than mostly for new schools in suburban and rural locations. Schools were magnets for families, so the magnets should be placed where you want the families to live. When one southern Maryland county persisted in permitting residential development outside of designated growth areas, the governor responded by warning that the state would restrict the availability of funds for new schools in those areas.

It took political courage each time the state took action, but through the passage of time, it seemed more surprising when state actions *did not* support the broader goals of Smart Growth.

8. The state recognized that cultural change would only come with the passage of time, so the staff paid particular attention to educating young people about land use issues.

From the outset, the governor and his staff believed that all the rules and incentives the state could muster to encourage smart growth would have little effect if the public's mindset toward land use did not change. Early on, the governor concluded that it would require a change in thinking to make Smart Growth successful. Glendening called for a "Smart Growth ethos" that he compared with the spirit of the Chesapeake Bay Foundation's "Save the Bay" effort.

With the knowledge that change takes time, the state tried to think about, focus on, and discuss "Smart Growth" issues. At first, few young people were familiar with "Smart Growth" terminology and knew little about issues such as zoning categories, the purchase of development rights, design-based codes or any of the other arcane topics of the land use. However, they knew about traffic congestion, the loss of farm and forestland near their homes to development, the construction of the latest subdivision of strip malls, as well as the construction of dual-lane highways. Young people sensed something was out-of-balance and that it was affecting the quality of their lives; but they couldn't contextualize the problem.

Governor Glendening's staff tried to inform young people of the land use issues they would encounter as adults. Over the course of five years, the state held four workshops entitled: the Governors' Youth Environmental Summits.[24] Each summit was attended by 700 to 800 high school students and their teachers. The agenda of the summits were to present panelists with opposing views so students can hear both sides of difficult land development issues. Additionally, in order to get students to envision what their state would look like in the future, the state sponsored an art and photo contest for which participants were asked to draw, paint or photograph "The Maryland You Want." The best entries were put on display in the Maryland State House.

Working with a profit-making subsidiary of the National Geographic Society, the state's Smart Growth staff developed a Maryland Smart Growth Map. This map was a helpful student learning tool: on one side it showed the trends that led to the Smart Growth initiative, and on the other it showed the Smart Growth response.

Later, the staff developed a series of Smart Growth lesson plans for middle and high school teachers to use in their classrooms. With the help of a grant from a non-profit foundation, the staff offered training sessions so teachers could learn how to use the lesson plans in their classrooms. The teachers were also provided with mini-grants to cover the cost of field trips, to purchase pedometers, or other materials to help the students understand the issues.[25] Most recently, foundation funds have been used to provide scholarships to a handful of teachers, enabling them to take a more in-depth Smart Growth Leadership course offered by the University of Maryland.[26]

Through education, the state promoted student participation and enhanced knowledge of current land use issues that relate to Smart Growth.

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24. *See* Hon. Paris N. Glendening, *Maryland's Response to Sprawling Development* 22 (2001), *available at* http://www.sas.upenn.edu/fels/Journal/2001article2.pdf.

25. *See* Maryland Department of Natural Resources, *Where Do We Go From Here? Education Grant Application & Guidelines* (2005), *available at* http://www.dnr.state.md.us/education/growfromhere/grantapplication.doc.

26. *See* National Center for Smart Growth Research & Education, *Education—Smart Growth Leadership Program* (2005), *at* http://www.smartgrowth.umd.edu/education/smartgrowthleadershipprogram.htm.

By educating the students, the staff was able to encourage cultural change that will foster the long-term survival of Maryland "Smart Growth" Program.

9. The state recognized that the initial legislation was just the beginning, and to achieve real change new proposals had to be added every year.

Internally, Glendening and his staff knew that what they were proposing in 1997 would not be enough to stop sprawl or revitalize long-troubled cities. But they also felt it went farther than anything that had been previously tried in Maryland. If they could get Smart Growth on the books, they felt they would be able to expand it in later years.

Every year thereafter, the governor, his staff, and his agencies returned to the legislature with new proposals. Such proposals included measures to improve or expand on programs already on the books, or fought for more money in the budget to support the incentive-based approach. For example, it became obvious that the state's historic preservation tax credit was becoming one of the most effective incentives for redevelopment. The administration and the General Assembly steadily increased the size of the tax credit available to participating developers.[27] Furthermore, to encourage more cooperation among departments and provide technical advice on specific development projects to builders, developers, or even local governments, the governor created an Office of Smart Growth within his office.

The goal was to keep the pressure on. The Glendening administration returned to the legislature year after year with new proposals designed to strengthen the original program. It was obvious that only so much change would be approved in any single year, so the administration looked at the long-term benefits the program would offer and consistently applied pressure—attempting to realize the grandest vision for the program.

10. The governor tried to institutionalize as much of the program as possible.

When the 1997 Smart Growth bills[28] were introduced, no one in the Glendening administration knew for sure if the bills would pass. Stiff opposition resulted because the legislation would make "Smart Growth" the

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27. *See* Comptroller of Maryland, *One Maryland Economic Development Tax Credit* (2004), *at* http://business.marylandtaxes.com/taxinfo/taxcredit/onemd/default.asp.

28. *See* 2001 Md. H.B. 1379 (SN); 2001 Md. H.B. 301 (SN); 2001 Md. S.B. 204 (SN).

law of the land, both literally and figuratively. Laws are traditionally hard to pass, but even harder to repeal. Because of this recognition, throughout his years in office Glendening purposely tried to institutionalize as much of the Smart Growth program as possible in hopes it would survive after he left office.

At times, the governor even sought legislative approval when none was needed. For example, he asked the General Assembly to approve legislation directing the Office of Planning to draft model codes for redevelopment and infill projects. Glendening could have delegated his work to the director of planning, but knew it would carry more weight if the General Assembly authorized it. Thus, he sought and received legislative approval.

Similarly, Glendening created the Office of Smart Growth in statute,[29] even though he probably could have delegated the duties to the staff in the governor's office to work on the program. After Glendening left office, a new governor redirected the resources of the office elsewhere, but the framework for the office remained embedded in statute and protected by sympathetic legislators. Presumably, some future governor could fill the office's now vacant positions and put it back to work again.

The legislation creating the Office of Smart Growth also contained a provision formally establishing in statute the Smart Growth Sub-Cabinet.[30] Prior to that, the sub-cabinet only existed under a general executive order[31] that could be superseded by a subsequent executive order.

The fight for smarter growth was to be a long-term struggle, not something accomplished in a year or two, or even in a four-year term. By institutionalizing as much of the program as possible, the governor sought to shelter the effort against the vicissitudes of politics.

B. What the Maryland Smart Growth Initiative Did <u>*Wrong*</u>

1. The state never set specific goals or benchmarks for what it intended to achieve, and therefore had no way of measuring if the program was successful.

At the time the Smart Growth initiative was being developed, the Governor and his staff were thoroughly convinced of the seriousness of the state's development trends. Ron Kreitner, the state planning director,

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29. 2001 Md. Laws 3040, ch. 566 (S.B. 204).
30. *Id*.
31. Md. Exec. Order No. 01.01.1998.04 (1998).

steadily rolled out the ominous numbers:[32]

- Average household size had declined from 3.25 to 2.43, even as lot sizes steadily increased from .42 acres in 1985 to .57 acres in 1993 (36% increase). This meant the state was consuming more land to serve fewer people.[33]
- Between 1970 and 1990, more than 420,000 people had moved out of older developed areas, leaving abandoned houses, closed shops and underutilized infrastructure and services in their wake.[34]
- Over the previous half century, Baltimore had become an urban centrifuge, flinging its residents into the surrounding suburbia. A city population that peaked at nearly 1 million in mid-century had plummeted to about 645,000 by the century's end and was continuing to fall.[35]
- Moreover, the average family moving out of the city tended to have a salary twice that of any family moving in, further reducing resources available to city government.[36]
- There has been a flight from Maryland cities and a push to previously rural areas, putting increased pressure on farm and forest land.[37]
- Development significantly impacted the Chesapeake Bay drainage area. The loss of vegetation—a sink for chemicals, pesticides, and airborne deposits of nitrogen—led to increasing runoff of non-source pollution into the bay.[38]
- Rapid growth outside Maryland cities put increasing pressure on septic systems, with more than $36 million a year being spent to clean up or fix failed septic systems; yet each year more houses were built that relied on septic systems.[39]

Despite such a wealth of statistics, those who put the "Smart Growth" initiative together never tried to establish a set of specific goals for the program. Few people asked, and fewer suggested how the state would know if the "Smart Growth" initiative was successful. There were no benchmarks, no goals, and no plans for measuring change.[40]

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32. *See* Staff Meeting, Maryland Office of Planning, Neighborhood Conservation and Smart Growth (June 18, 1996) (on file with author).
33. *Id*.
34. *Id*.
35. *Id*.
36. *Id*.
37. *Id*.
38. *Id*.
39. *Id*.
40. *See generally*, Gerrit-Jan Knaap & Yan Song, Zorica Nedovic-Budic, *Measuring Patterns for Urban Development: New Intelligence for the War on Sprawl*, National Center for Smart Growth Research and Education, University of Maryland, *available at* http://www.smartgrowth.umd.edu/researc

This shortcoming can be explained, in part, by the fact that the Smart Growth staff faced more fundamental concerns, not the least of which was whether they could muster the majorities needed to enact the proposal. But it was true that without knowing where the program was headed, it was impossible for anyone to know whether it was reaching its destination.[41]

2. The state never conducted any regional or statewide visioning exercises or made any other attempts to determine what the public thought their state or region should look like in the future.

The Glendening administration staff did a commendable job reaching out to several hundred private sector, non-profit, and governmental organizations to solicit ideas as the Smart Growth initiative was being formulated. But the plan the state ultimately devised was not informed by any statewide or even regional visioning exercises that might have engaged the public at-large.

A number of states, most notably Utah through its *Envision Utah* project,[42] have brought together thousands of citizens to discuss and visualize the future of their jurisdiction. In the *Envision Utah* example, several different scenarios for future growth were developed and citizens were allowed to choose from among them.[43] No similar effort was made in Maryland. In the same way the initiative suffered from not having precise goals, it also suffered from the absence of a broad, publicly-supported vision of what the state could or should look like in twenty, thirty, or fifty years.

As a result, local officials felt the state failed to acknowledge or address regional or local differences. Despite statements by the governor to the contrary, many citizens viewed "Smart Growth" as a "one-size-fits-all" effort designed to stuff higher densities into jurisdictions where such intense development would be inappropriate and strongly opposed.

By failing to develop a mechanism through which citizens from different parts of the state could develop their own vision for how "Smart Growth" should be locally defined, the program created opponents where supporters could have been found.

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h/pdf/KnaapSongNedovic-Budic_NewIntelligence_022305.doc (last visited Apr. 24, 2005).

41. *See* GERRIT-JAN KNAAP, LAND MARKET MONITORING FOR SMART URBAN GROWTH. (2001).

34. *See generally* Envision Utah, *at* http://www.envisionutah.org (last visited Apr. 24, 2005).

35. *See* Envision Utah, *Scenario Development*, *at* http://www.envisionutah.org/index.php?id =N Dk5 (last visited Apr. 24, 2005).

3. The Smart Growth initiative made very little headway in changing the paradigm of local land use control.

While there were benefits from the Maryland Smart Growth program preserving local land use decision-making authority, this preservation of local authority also led to a number of problems. The program had little impact on the almost exclusive authority of local governments to make land use decisions. As a result, the success of the state program largely hinged on the actions of local government officials over which the state had little or no control. If local decisions went contrary to the general goals of Smart Growth, the state had little recourse.

The governor could and did use his office as a "bully pulpit" to encourage local government adherence to Smart Growth principles. In his second term, he increasingly withheld state funds as a "stick" designed to force local governments into taking Smart Growth actions. Toward the end of his administration, the governor began to invoke the rarely used state authority to intervene in local land use decisions as a means of steering Smart Growth projects to approval or defeating projects that were at odds with Smart Growth goals. However, in the final analysis, decisions on where growth should occur remained at the local level, where they were often guided by the same parochial political interests that created the state's sprawling development pattern in the first place.

Any effort to transfer land use authority from the local governments to the state surely would have been met with vehement opposition from the counties and would have been unlikely to pass. Without such change, there is no governmental entity with the authority to look at the overall picture and decide what decisions would result in the greatest good.

4. Because the Maryland Smart Growth initiative was institutionalized almost completely at the state government level, its continuance became problematic once there was a regime change.

Maryland's "Smart Growth" initiative is still part of state law in Maryland, but the program's momentum has been lost and the initiative itself is a ghost of what it was just three years ago. This is because the Smart Growth program was institutionalized almost completely at the state government level and depended heavily on interest and leadership from the governor.

When Maryland elected a new governor, Robert L. Ehrlich, Jr., in January 2003, the state's "Smart Growth" movement almost immediately began to falter. Veteran staff who had worked on the program since its inception voluntarily left state service or were asked to leave. Funds for "Smart Growth" programs were sharply reduced and, in some instances, zeroed out. Moreover, the philosophy of the new governor was to leave local governments alone and let them continue to make their own land use decisions without state interference, regardless of the financial or other effects those decisions might have on the state as a whole or on neighboring jurisdictions.

Absent strong leadership from the state and without sufficient financial incentives, local governments returned to "business-as-usual." Glendening succeeded in embedding the "Smart Growth" initiative in state statute, but there was little he could do to assure that future governors would see this as an important issue deserving of their time and attention.

5. The financial incentives the state offered were never sufficient to encourage the kind of changes the program hoped to achieve.

The financial incentives the state was offering to change land use behavior was never sufficient to create the change envisioned by those involved in establishing the "Smart Growth" Program. The state had other budgetary priorities that had to be met, and so the state was not able to offer enough money to convince builders, developers, or local governments to do things differently. In many instances, a subsidy from the state was never sought in the first place and therefore had no bearing on the ultimate development decision.

For the most part, the incentives offered under the Smart Growth law affected only new development projects and only those projects for which state financial assistance was considered necessary. If neither a project's developer nor the local government wanted or sought state financial assistance, a project was essentially unaffected by the Smart Growth law. Moreover, local governments retained the authority to approve projects, regardless of whether they were in the growth area designated by the Smart Growth law.

The second serious problem with an incentive-based approach is that it is always subject to changing political priorities and economic cycles. If a new administration at the state level decides to appropriate funds elsewhere, the Smart Growth program will lose its effectiveness. If the economy declines or the state refuses to raise sufficient revenues to cover costs, then programs that might otherwise be used as incentives are cut.

An incentive-based program without sufficient funding does not hold much promise for effecting change. To be effective, Maryland's "Smart Growth" program needs more money for incentives, not less.

6. The structure and ground rules for the basic planning block of Smart Growth—the Priority Funding Areas—were too weak and porous to slow sprawl, much less stop it.

Maryland's Smart Growth program relies heavily on its ability to restrict certain state financial assistance for growth-related projects to specific geographic areas in each local jurisdiction; called Priority Funding Areas (PFAs).[44] The creation of these PFAs represented a crisp departure from the past practice of the state in which location was not part of the criteria for deciding the eligibility of projects for funds. The PFA concept was devised to channel new growth into already developed areas and to allow local jurisdictions to designate new growth areas, as long as those areas met some minimum state criteria.

While this was a step in the right direction, it clearly did not go far enough. Maryland's PFAs, for example, would not be confused with the more regulatory structure in place in Oregon, where an Urban Growth Boundary separates where growth is allowed and where it is not.[45] Even the Urban Rural Demarcation Line, long used by planners in Baltimore County, provides stronger separation of growth and no-growth areas than do the PFAs under Smart Growth.

Part of the problem stems from the simplistic statutory definition of PFAs, which limits PFA designations to municipalities, areas inside the Baltimore and Washington beltways, and to areas served by (or planned to be served by) public water and sewer.[46] In some low-lying areas of the state, public sewers have been extended to serve developments where septic systems were failing. These areas were never intended to be "growth areas," yet because the PFA definition is tied to the availability of sewer service, these areas are now considered PFAs. The legislation, which is somewhat arbitrary, requires that new residential developments within PFAs be built at a minimum density of 3.5 units per acre. However, this inflexible standard is the same for every PFA regardless of size, character or location.[47]

The hard reality of Maryland's PFA concept is that it does not prevent growth outside of PFA boundaries. The PFA concept prevents the use of state funds to assist projects that are outside of PFAs.[48] If a project does not

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44. *See* MD. CODE ANN., STATE FIN. & PROC § 5-7B-02 (2000).

45. GERRIT KNAAP & ARTHUR C. NELSON THE REGULATED LANDSCAPE, LESSONS ON STATE LAND USE PLANNING FROM OREGON 39 (1992).

46. 1997 Md. Laws 4335, ch. 759 (S.B. 389).

47. *Id*.

48. *Id*.

require or seek state financial assistance, and is otherwise approved by a local government, the PFA designation has no bearing on the project or its location.[49]

There is anecdotal evidence that the mere creation of PFAs and the subsequent public attention that has been directed to decisions on whether new projects are to be located inside or outside PFA boundaries, has had a salutary effect on local government decisions.[50] The PFA boundaries have provided a framework with which to judge local government development decisions. The fact remains, however, that the universe of projects affected by the PFA designation is relatively small.

7. There was limited public input into the creation of local Priority Funding Area boundaries and no control of their size once they have been established.

The PFA Act[51] failed to stipulate any process that local governments are required to follow as they establish PFAs for their jurisdiction. There is no requirement for public hearings on PFA boundaries and no requirements for informing the public of the plans for the PFA designation. However, once a jurisdiction creates its PFA, there is nothing preventing it from changing the boundaries of the PFA anytime it deems necessary, as long as the new PFA meets the minimum state criteria.

Under the legislation originally introduced in 1997,[52] the Maryland Department of Planning would have been given authority to deny local PFA plans if they failed to meet state criteria. The approval authority was stripped from Maryland counties, leaving the department of planning only with authority to "comment" on local PFA plans. Stronger state authority over PFA plans would likely result in the production of more meaningful plans.

8. Even though a substantial amount of money was spent on land preservation, and a large amount of acreage was protected, it has yet to be demonstrated that this effort changed or even affected broader land use patterns.

One of the most successful elements of the Maryland Smart Growth

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49. *Id.*
50. *Id.*
51. MD. CODE ANN., STATE FIN. & PROC § 5-7B-02 (2000).
52. Smart Growth and Neighborhood Revitalization Act, Md. Laws 4335, ch. 759 (1997) (S.B. 389).

effort was the state's ability to identify and protect undeveloped rural lands threatened by development. As of April 2004, the state had preserved 217,461 acres with its farmland preservation program; 48,223 acres through the Rural Legacy Program; and another 21,814 acres of environmentally sensitive lands protected through the GreenPrint program.[53] In addition, another 110,176 acres were protected through various county purchase-of or transfer-of-development rights programs.[54] These programs were so successful that by the end of the Glendening administration, land was being protected at a faster rate than it was being developed.[55]

Although these land preservation programs were, and continue to be popular with the public, little work has been done to determine whether such an expenditure of taxpayer dollars actually changed development patterns (other than by halting development on the specific parcels from which development rights were purchased).[56] Like many other aspects of the Smart Growth initiative, policymakers investigate whether the land preservation programs are working. This is necessary because it must be determined if the programs are having the desired effect of stemming the spread of sprawl development.

9. The problem with the state's original brownfields cleanup legislation was bifurcated between two state agencies, inefficient and under funded.

The task of reclaiming, cleaning, and redeveloping contaminated properties is not for the faint at heart. Maryland is fortunate not to have the plentiful supply of brownfield sites found in larger, more industrial states, but each parcel is a cleanup challenge nevertheless.[57]

The Maryland brownfield cleanup program did well, but would have done better had it not been chronically under-funded. The state failed to provide sufficient resources to serve as genuine incentives to attract serious

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53. *See* GreenPrint, *supra* note 14.

54. Capital Grants and Loan Administration, Maryland Department of Natural Resources, LandacadevchartFINAL2004 (chart showing "Land Preserved and Developed"), June 24, 2004 (on file with author).

55. Maryland Department of Planning, Total Acres Preserved, Converted and Developed in Maryland Counties, (chart showing the total acres of land preserved, converted and developed in Maryland counties), Apr. 20, 2004 (on file with author).

56. Lori Lynch & Sabrina J. Lovell, *Local Land Markets and Agricultural Preservation Programs*, National Center for Smart Growth Research and Education, University of Maryland, *available at* http://www.smartgrowth.umd.edu/research (last visited Apr. 24, 2005).

57. Marie Howland, *The Legacy of Contamination and the Redevelopment of Inner-City Industrial Districts*, National Center for Growth and Education (July 2002), *available at* http://www.smartgrowth.umd.edu/research/researchpapers-landuseandenvironment.htm.

private investors to brownfield cleanup and redevelopment projects. Additionally, the program was hampered by a division of responsibilities among state agencies. Maryland's brownfield cleanup legislation was the hard-won product of negotiations between two feuding interest groups—the state's business community, and its environmentalists. Reflecting the high level of mistrust between these two groups, the legislative compromise ultimately approved by the General Assembly, and signed into law by the governor, divided responsibility for brownfield cleanup between two separate and very different state agencies. The Maryland Department of Environment was given responsibility for regulating the assessment of contamination on suspected brownfield properties and overseeing any subsequent cleanup efforts. The Department of Business and Economic Development was delegated the task of helping promote the marketing and redevelopment of brownfield properties after they have been cleaned.[58]

In practice, this bifurcated system was inefficient to administer, and businesses found it difficult to coordinate between the two agencies. Failure to properly finance the initiative resulted in a slower pace of cleanup and redevelopment than what might otherwise have been possible.

10. There was never sufficient emphasis placed on housing.

One of the most difficult land use problems facing the Baltimore-Washington region is a general shortage of housing, a sharp rise in housing costs, and an acute shortage of so-called "workforce housing" for moderate income citizens.[59] While it does not seem fair to blame the "Smart Growth" program for causing the housing shortage, it does seem fair to blame the program for doing little to improve the situation.

A number of state housing programs that pre-date the "Smart Growth" initiative were targeted to support PFAs, but in general the Maryland Smart Growth initiative failed to develop a strong housing component because of the overarching concerns of equity, gentrification, and elitism.

The "New Urbanist" style developments that Smart Growth advocates promoted on greenfield sites were well-received, but often so pricey they were out of the range of moderate or low income Marylanders. Similarly, some redevelopment projects in older communities displaced long-time residents with higher priced housing that those older residents could not

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58. *See* Brownfields Revitalization Incentive Program, MD. CODE ANN. art. 83A, § 5-1408 (2000).

59. *See generally* ULI Land Use Policy Forum Report, *Workforce Housing: Barriers, Solutions and Model Programs* (2002), *available at* http://www.uli.org/AM/Template.cfm?Section=Home&CONTENTID=11041&TEMPLATE=/CM/ContentDisplay.cfm.

afford; raising issues of equity and gentrification.

V. CONCLUSION

Maryland's experiment with Smart Growth was unquestionably a move in the right direction. It represented the logical next step in the state's long history of progressive land use and environmental protection efforts. For the first time, it harnessed the power of the state budget to pull the state toward a smarter pattern of development. It made the goal of achieving smarter growth the framework within which other developments and facility decisions by state agencies could be made. And it produced an unprecedented level of cross-departmental cooperation.

The Smart Growth initiative focused public attention on the needs and potential of long-neglected older towns and cities. It raised awareness of the environmental and fiscal costs of a dispersed development pattern. It generated a healthy dialogue at all levels of government, among students, and with the public-at-large about growth and development, and its connection to the quality of life experienced by all Marylanders.

Maryland's "Smart Growth" initiative probably represented as much change as was politically possible to achieve at the time. However, it wasn't enough. Maryland did an exceptional job packaging and promoting its "Smart Growth" program, but in some ways, its national reputation exceeded the actual results on the ground.[60]

To be truly successful, the Maryland program—or any program that attempts to emulate it—needs to go farther and for a longer period of time. Successful programs must have a clear sense of where they are headed so they aren't blown off course with every dip in the economy or shift in the political winds. Since land use change takes time, the Maryland experience demonstrates that patience and determination is a prerequisite to keep the program headed in the same direction.

For a statewide, incentive-based program to succeed, incentives must be large, meaningful, and continuous to be dependable. Growth boundaries need to be stronger, less porous, and more effective than the PFA concept developed as part of the Maryland program.

While an incentive-based approach may be politically popular, to be effective it must be more integrated into county and municipal plans. Incentives that are not intentionally intertwined with local land use planning processes can be wasted, or worse, can be counterproductive.

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60. Gerrit-Jan Knaap, *An Inquiry into the Promise and Prospects of Smart Growth*, National Center for Smart Growth Research and Education (2002), *available at* http://www.smartgrowth.umd.edu /research/pdf/SmartGrowthProspects-610.pdf.

States cannot do it alone. The Maryland experience demonstrates the value of a statewide approach and the importance of assuring that local government decisions do not undercut the statewide smart growth goal. A state-only approach is as flawed as a local government-only approach. States and their local governments must become committed partners.

To that end, they must be committed to the same regional or statewide vision. State and local governments need to agree on where they are going and develop a set of specific goals and objectives to get there. Finally, these goals and objectives must be monitored and measured over time to determine if, how, and why growth patterns are changing. Without that, it will never be possible to determine if new development patterns are any smarter than the ones they replaced.