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MACo Initial Comments for PlanMaryland Revised Draft

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This document constitutes the Maryland Association of Counties' (MACo's) initial comments on the PlanMaryland Revised Draft Plan (dated September 2011). In addition to the Revised Draft, this set of comments also references the first version of the PlanMaryland Draft Plan (dated April 2011) and MACo's PlanMaryland Comments on the first version (dated August 30, 2011).

This set of comments represents MACo's assessment of how our August 30 comments were incorporated into the Revised Draft. Our August 30 recommendations are replicated here *in italics*, but the accompanying explanations are not and if you wish more detail regarding a particular recommendation, please see the appropriate section of our August 30 comments. MACo may issue an additional set of comments on the Revised Draft if necessary.

As with the original draft of PlanMaryland, MACo again acknowledges the effort and work put into the Revised Draft by Maryland Department of Planning (MDP) staff and those in other State agencies. The Revised Draft is shorter, more understandable, and better organized than the original April draft.

1. PLACE DESIGNATION PROCESS AND SELECTION

- A. The place designation categories and criteria should be clearly defined through a collaborative process involving the State, local governments, and other stakeholders. The benefits and drawbacks of each designation category should be clearly explained.*

The Revised Draft addresses MACo's concern. The place designation criteria will be defined in a separate Place and Special Areas Designations Element and language on Page 4-12 of the Revised Draft states: "These criteria, which will be developed with local government input, are not a one-size-fits-all prescription that applies equally in all regions and jurisdictions. Instead, they are intended to apply in each jurisdiction in ways that are commensurate with size, population, economy and expected growth." MACo expects to participate throughout the entire criteria designation process.

- B. *PlanMaryland should clearly define a place designation process collaboratively agreed upon by the State, local governments, and other stakeholders. The process should be linked with local comprehensive plans and zoning. Growth areas should be designated by local governments, with collaborative feedback and comment from the State (analogous to the current system used for Priority Funding Areas (PFAs)). The State and local governments should also work collaboratively on other place designations. The State should not make any initial place designations.*

The Revised Draft does not address this concern. Under the Revised Draft, there are two general categories of designations: (1) designated places and (2) designated special areas. While local governments can nominate both places and special areas, they are contingent on State approval. Additionally, the State may nominate and approve its own slate of special areas, which could affect local place designations. As the Plan designations will effectively supplant existing PFAs, it is critical that local governments retain decision making regarding growth and land use (subject to collaboratively agreed-upon designation criteria).

- C. *The Plan should specify what happens when an area is subject to multiple designations.*

The Revised Draft does not address this concern. While areas can only be subject to one place designation, the same area can also have one or more special area designations. However, the Revised Draft does not describe how multiple designations will affect a particular area.

Language on Pages 5-9 and 5-10 alludes to the use of special area designations but offers little detail as any benefits or consequences: “During the first stage of Implementation Strategy development the lead State agencies with primary land and infrastructure responsibilities will be asked to report on their initial assessment of major plans, programs and procedures related to PlanMaryland, determine how the Place and Special Area designations could be used, and identify anticipated benefits when the associated Implementation Strategies are completed.”

At a minimum, language should be included in the Plan explicitly stating that the effects of multiple designations will be fully described prior to any designations. It should also be clearly stated if special area designations are expected to modify or limit the envisioned benefits of a place designation.

- D. *The Plan should specify that the place designation process will not occur until the designation criteria, State policies and implementation strategies, and local responsibilities are also developed.*

The Revised Draft partially addresses this concern. There is an acknowledgement in the Revised Draft of the need to identify at least some of the benefits of a particular place or special

area designation prior to the designation process occurring. As part of a discussion on the development of the initial implementation strategies, Page 5-10 states:

“This first round of Implementation Strategies will be coordinated with the designation process to ensure that:

- Local governments will understand generally how designations will be used and what some of the major benefits associated with the designation, prior to Implementation Strategies being executed;
- State agencies learn whether local governments may be interested in pursuing a particular designation or would likely take advantage of the prospective benefits of the Place and Special Area designation; and
- Local governments will be given a reasonable period of time to go through the designation process prior to any Implementation Strategies being executed where Place and Special Area designations are used in funding, regulatory or other State agency actions.”

However, it is clear from this language and other language in the Revised Draft that many “blanks” will remain even after the first round of the implementation strategies. MACo believes that these “blanks” must be filled in prior to the implementation of the Plan.

E. PlanMaryland should clarify that the three “Prints” – GrowthPrint, AgPrint, and GreenPrint, do not represent strict boundaries dictating where growth and preservation should occur. Rather, the “prints” are useful analytical mapping tools that can assist in, rather than determine, place designations.

The Revised Draft addresses this concern. Language on Page 2-22 specifically describes each “Print” as a tool that is useful for identifying and prioritizing redevelopment, agricultural protection, and land preservation efforts. Page 4-1 states: “GreenPrint, AgPrint, and GrowthPrint, (collectively referred to as ‘the Prints’ and discussed in Chapter 2, are GIS mapping tools that display many of these existing targeted State programs. As Places are designated in PlanMaryland, they will be reflected in future update to the Prints.”

Language on Pages 4-12 and 4-13 further clarifies that GrowthPrint is a planning aid but that the map will not automatically determine place and special area designations: “The State will also publish updated PlanMaryland Designated Places and Special Areas maps periodically depict the location and boundaries of each Place and Special Area designation. In the case of GrowthPrint, once areas have been formally designated as Growth and Revitalization Areas they would also be added with other areas already targeted by State programs for growth and revitalization as shown on the GrowthPrint GIS map.”

2. STATE POLICIES AND IMPLEMENTATION STRATEGIES

State policies and implementation strategies should be developed through a collaborative process involving the State, local governments, and other stakeholders. Both the benefits and consequences of the policies and implementation strategies must be explicitly identified in the Plan prior to its implementation.

The Revised Draft partially addresses this concern. Two different sections of language on Page 5-5 indicate that there will be an opportunity for local government input:

“These are a few of the implementation mechanisms associated with Implementation Strategies believed to be important to achieving the Goals of PlanMaryland. With stakeholder input (i.e., State agencies, local governments, non-profit organizations, private developers and the public), other implementation mechanisms can be identified to support widespread achievement of Plan Goals in a manner that is unique to the character of Maryland’s regions, towns and communities. ...

In developing the Implementation Strategies and any associated implementation mechanisms, the following general guidelines for preparing Implementation Strategies will be followed...Parties or interests that may be affected by re-aligning the relevant program are involved in and have the opportunity to influence strategy development...”

However, given the potential impact of the implementation strategies on not just State funding, but also permits and regulatory approvals, the role of local governments in this process must be better defined.

3. LOCAL GOVERNMENT RESPONSIBILITIES

Any envisioned local government responsibilities should be developed through a collaborative process involving the State, local governments, and other stakeholders. Any mutually-agreed upon responsibilities should be explicitly identified in the Plan prior to its implementation.

The Revised Draft does not address this concern. Page 4-13 makes it clear that local governments will have certain responsibilities under the Plan: “Local government’s commitment to implement PlanMaryland in the Local/State designated Places and Special Areas is through its comprehensive plan, planning and zoning tools, capital improvement program, and other local implementation mechanisms. The effectiveness of State agencies and local governments to follow through with these commitments will be monitored as part of the PlanMaryland Oversight process discussed in Chapter 6.” However, the Plan does not state what those responsibilities may be or how they will be determined.

4. IMPLEMENTATION SCHEDULE

PlanMaryland should include a timetable outlining envisioned development and implementation milestones, including those concerning the place designation process, State policies and implementation strategies, indicators, and local government responsibilities.

The Revised Draft partially addresses this concern. Initial implementation schedules are included for both the place and special area designation process and the State implementation policies are included on Pages 4-14 and 5-10. However, further clarification is needed regarding indicators and local government responsibilities.

5. PLAN INDICATORS AND MONITORING

The Plan should detail the monitoring and annual review process of the Plan. Any indicators that will be used in relation to PlanMaryland, especially those envisioned to be collected by local governments, should be clearly identified.

The Revised Draft partially addresses this concern. While the Revised Draft does provide some detail concerning the process for measuring Plan performance in Chapter 6, there is little concrete discussion of specific indicators. Instead, indicators will be added in a subsequent Metrics Element. Chapter 3 does discuss a few actual or possible indicators for the three Plan Goals but even many of those constitute unfinished placeholders – “Increase by xx% the percentage of medium and high density land use in Maryland by 2030”, “Increase Tree Cover Statewide by xx% by 2030” or “Improve housing affordability by xx% in 2020.”

If finished indicators are not going to be included in the Revised Draft, then language should be included stating that the Metrics Element will be completed before the designation process begins and will identify any indicators envisioned to be collected by local governments.

6. PLAN OVERSIGHT

As key implementers of PlanMaryland along with the State, local governments should have a role in the oversight of the Plan in tandem with the Smart Growth Subcabinet. The advisory role and duties of the Sustainable Growth Commission should be better defined.

The Revised Draft partially addresses this concern. Page 6-1 does provide additional details regarding the anticipated advisory role of the Sustainable Growth Commission. However, primary oversight and management authority continues to rest with the Smart Growth Subcabinet (essentially departmental heads), including the place designation process and development of implementation strategies.

As Page 6-2 states: “It will be the job of the Smart Growth Subcabinet to oversee this effort in achieving a sustainable Maryland as characterized in the twelve Visions and by extension the PlanMaryland’s Goals and Objectives. The Subcabinet will provide the leadership

necessary to advance a collaborative effort among State agencies and local governments, directing available resources in a targeted manner to effectively promote smart growth. The Subcabinet's role also includes ensuring the consistency of the State's effort to put the Plan into practice, facilitating the resolution of policy and program conflicts that may arise, monitoring the Plan's progress, and recommending adjustments to achieve the Plan's Goals."

Page 6-2 also notes that local governments will be invited to offer advice "in order to ensure adequate consideration of their perspectives." As described in MACo's August comments, local governments need greater inclusion in the oversight process.

7. SCOPE AND BOUNDARIES OF THE PLAN

PlanMaryland should clearly define its scope and boundaries. The Plan should include the following language from the MDP pamphlet What PlanMaryland Is/What PlanMaryland Isn't:

[PlanMaryland] is not a:

- *Substitute for local comprehensive plans nor will it take away local planning and zoning authority.*
- *Top-down approach to force compliance with a statewide land-use plan.*
- *Silver bullet that will solve all of our problems, but it is a strategic plan to address issues such as community disinvestment, sprawl development and inefficient use of existing resources.*
- *"One size fits all" approach. PlanMaryland recognizes that different areas of the state have different characteristics, problems, issues and opportunities.*
- *Mandate to spend more. On the contrary, if PlanMaryland helps local governments implement their existing comprehensive plans, it will save money by avoiding expenditures for unnecessary infrastructure and other costs.*
- *Conclusion, but the beginning of a collaborative process between the State and local governments to address critical issues of environmental and fiscal sustainability.*

Additionally, the Plan should list what state actions, such as the issuance of specified permits and approvals, will and will not be considered part of the Plan.

The Revised Draft partially addresses this recommendation. The bulleted list is included on page 1-3 of the revised draft, but the draft remains silent on which State-issued permits or approvals will or will not be considered part of the Plan. Language in the Plan clearly envisions that the Plan will control more than simply where State funding is directed. While this language is repeated in various areas throughout the Plan, Pages 5-1 and 5-2 present the most detailed list:

"State programs and procedures considered in developing Implementation Strategies may include but are not limited to:

- capital and non-capital budgeting;

- construction, rehabilitation, and repair projects;
- licenses, permits, loans, loan guarantees, and grants, to some degree;
- expenditures of public funds for land and resource conservation;
- regulatory procedures and priorities, to some degree;
- technical assistance, planning and support for infrastructure, schools, recreation, economic development, housing and other community-related enhancements;
- leases and State property transfers; technical assistance and training; and
- allocation of capital and non-capital resources to geographic areas and programs.”

Either more detail must be provided on what will be covered by the State implementation strategies or in an addendum subject to local government input prior to the Plan taking effect.

8. TIME TO COMMENT ON SECOND DRAFT

The Governor’s approval of the second draft of PlanMaryland should be delayed for a period beyond the recently-announced 60 day comment period to allow adequate public and stakeholder review and input. The delay is necessary to refine the second draft into a viable framework for the Plan’s future implementation.

The Revised Draft does not address this concern. The deadline for commenting on the Revised Draft remains November 9. Implementing a viable and useful State land use plan will take years to accomplish. However, the schedules for the designation process and State implementation strategies in the Revised Draft assume that the first proposal for the strategies will be submitted by March 2012 and the first round of place and special area designations will begin in April 2012. These schedules are unrealistic, especially if the designation criteria and implementation strategies will be developed collaboratively.

If the approval of the Revised Draft will not be delayed to allow for additional comment time, then the schedules for designation and implementation strategies should be extended to allow for appropriate comment and participation.

9. FUTURE PARTICIPATION IN THE PLANMARYLAND DRAFTING PROCESS

PlanMaryland should contain language stating that all stakeholders will be afforded an adequate amount of time to review and comment on any future changes to PlanMaryland and that local governments be able to collaboratively participate in the drafting of those changes.

The Revised Draft partially addresses this concern. Page 6-4 of the draft does acknowledge the importance of local government participation:

“Given the diversity of issues that will affect PlanMaryland’s success, there is no one outreach approach or public hearing process that can ensure participation by all the

stakeholders that should be involved in PlanMaryland's implementation. A number of public participation techniques will be used based on the subject matter and the potentially impacted community. This includes an ongoing collaboration among the members of the Smart Growth Cabinet and representatives of counties and municipalities throughout Maryland. Regardless of the approach, the public participation process must be as open and transparent as possible."

However, it is unclear from this language whether local governments would be true collaborative participants helping to draft future changes of PlanMaryland or whether they would be relegated to simply commenting on proposals drafted by the State. MACo believes that many of the initial failings of the first draft of PlanMaryland could have been avoided had local governments been part of the drafting process from the start.

CONCLUSION

In conclusion, MACo considers the Revised Draft of PlanMaryland to be an improvement over the original April draft, but many of our concerns either remain unaddressed or only partially addressed. In particular, MACo remains concerned about: (1) State control of the designation process; (2) the role of local governments in collaboratively creating the designation criteria, State policies and implementation strategies, and indicators; and (3) the need to fill in all of the existing "blanks" in the Plan before the designation process occurs.

As noted in our August comments, MACo believes there is merit to PlanMaryland if the Plan fosters better communication between local governments and the State and helps resolve conflicting State policies. MACo remains willing to work with the State and other stakeholders to address our outstanding concerns.