

2002

MARYLAND'S NEXT SMART GROWTH INITIATIVE: THE NEXT STEPS

Parris N. Glendening

Follow this and additional works at: <https://ir.lawnet.fordham.edu/ulj>



Part of the [Land Use Law Commons](#)

Recommended Citation

Parris N. Glendening, *MARYLAND'S NEXT SMART GROWTH INITIATIVE: THE NEXT STEPS*, 29 Fordham Urb. L.J. 1493 (2002).

Available at: <https://ir.lawnet.fordham.edu/ulj/vol29/iss4/7>

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Urban Law Journal by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

MARYLAND'S NEXT SMART GROWTH INITIATIVE: THE NEXT STEPS

Cover Page Footnote

Has been governor of Maryland since 1995. Governor Glendening attended the Junior College of Broward County, Ft. Lauderdale, Florida, where he received an A.A. in 1962. He received a B.A. in Political Science in 1965 and a Ph.D. in Political Science in 1987 from Florida State University.

MARYLAND'S SMART GROWTH INITIATIVE: THE NEXT STEPS

*Parris N. Glendening**

In 1997, the State of Maryland ignited a national movement to improve land use and development decisions throughout the United States. This modest effort started with the passage of a series of new laws called the Smart Growth and Neighborhood Conservation Initiative.¹ These laws, which have been subsequently broadened and refined,² represent a new approach to managing growth while limiting its environmental, fiscal, and social impacts and channeling it towards improving the state's economy.

In the four years since its enactment, Maryland's Smart Growth initiative has received national³ and international⁴ recognition as the nation's first statewide, incentive-based program to reduce the impact of urban sprawl. In the year 2000, it was named one of the ten most innovative new government programs in the nation in an annual competition sponsored by Harvard University's John F. Kennedy School of Government, the Ford Foundation, and the Council for Excellence in Government.⁵ Maryland's Smart

* Parris N. Glendening has been the governor of Maryland since 1995. Governor Glendening attended the Junior College of Broward County, Ft. Lauderdale, Florida, where he received an A.A. in 1962. He received a B.A. in Political Science in 1965 and a Ph.D. in Political Science in 1987 from Florida State University.

1. The 1997 Smart Growth legislation included the following bills: Brownfields—Voluntary Cleanup and Revitalization Programs, 1997 Md. Laws 1; Job Creation Tax Credit Act, 1997 Md. Laws 756; Smart Growth and Neighborhood Conservation—Rural Legacy Program, 1997 Md. Laws 758; Smart Growth and Neighborhood Conservation—Smart Growth Areas, 1997 Md. Laws 759.

2. See, e.g., Michael Dresser, *Anti-Sprawl Program Gets More Muscle; Governor Announces Policy of Intervention in Land-Use Matters; Empowering Smart Growth; 'Aggressive' Support of Initiative Includes Possible Legal Action*, BALT. SUN, May 30, 2001, at 1B (reporting on the state government's policy of intervening in local zoning decision-making when it subverts the goals of the Smart Growth Initiative).

3. See, e.g., Jason Gertzen, *Learning How Not To Sprawl: Maryland Officials Offer Advice To Omaha Leaders and Developers on Controlling Growth*, OMAHA WORLD-HERALD, May 4, 1999, at 11 ("Maryland's 'Smart Growth' initiative is recognized as one of the more innovative and aggressive growth-management policies in the nation.").

4. Press Release, Governor of Maryland, Governor Glendening Appoints New Secretaries for Office of Smart Growth and Department of Planning (May 29, 2001) (on file with the Fordham Urban Law Journal), available at <http://www.gov.state.md.us>.

5. *Ford Foundation Honors EPA's Brownfields Program; Maryland's Smart Growth*, BROWNSFIELDS REP., Oct. 26, 2000 (reporting that Maryland's Smart Growth

Growth effort has received numerous awards from various organizations.⁶

The Maryland program has several objectives: support of the state's established communities; protection of the state's best remaining farms and natural areas; and saving taxpayers the high cost of building infrastructure to support increasingly dispersed development.⁷

States as diverse as Maine and Utah are using Maryland's program as a model for their own growth management efforts.⁸ Maryland's program has become a model for other states because the approach is incentive-based rather than regulatory. The program uses the state's budget, which in fiscal year 2002 totaled \$21 billion,⁹ as an incentive for growth within locally designated growth areas.¹⁰ By withholding state funding elsewhere, the Maryland program hopes to discourage growth outside of these designated growth areas. Before the Smart Growth plan was implemented, the state had no geographic restrictions on providing financial support for growth.¹¹

Maryland has also rejected the losing proposition that all growth is bad. Maryland's Smart Growth plan¹² is not a no-growth or even a

and Neighborhood Conservation program was selected one of ten winners from 1300 entries for an Innovations in American Government 2000 Award by Harvard University's John F. Kennedy School of Government and the Ford Foundation), *available at* www.mdp.state.md.us.

6. *Maryland Governor Parris N. Glendening Recognized for His Extraordinary Commitment to Transit*, U.S. NEWswire, Oct. 3, 2001; Am. Plan. Ass'n, *Maryland One of Six States Lauded in APA Report for Growing Smart Leadership* (Dec. 13, 1999), <http://www.planning.org>; Press Release, Am. Soc'y of Landscape Architects, *Maryland's Smart Growth program received the 2000 Olmstead Medal from the American Society of Landscape Architects* (Oct. 19, 2000) (on file with the Fordham Urban Law Journal), *available at* <http://www.asla.org>; Sierra Club, *Solving Sprawl*, *The Sierra Club Rates the States, Open Space Protection: Focus on Maryland* (last visited Feb. 8, 2002), www.sierraclub.org; World Wildlife Fund Hails Smart Growth Initiative as "Gift to the Earth" (Jan. 29, 1998), <http://www.op.state.md.us>.

7. *Governor Cites Four Areas of Accomplishment*, BALT. SUN, Jan. 17, 2002, at 8A.

8. *E.g., States Find Growth Is Problem for All*, DESERT NEWS, Aug. 6, 2001, at A01.

9. *GOP Wants Panel on State's Efficiency*, WASH. POST, Feb. 8, 2002, at B08.

10. Michael Dresser, *Anti-Sprawl Program Gets More Muscle: Governor Announces Policy of Intervention in Land-Use Matters*, BALT. SUN, May 30, 2002, at 1B (reporting that the Smart Growth Program uses the state's budget to channel development into established neighborhoods and to divert it away from rural areas); Molly O. Meara Sheehan & Peter Newman, *What Will It Take to Halt Sprawl?* WORLD WATCH, Jan. 1, 2002, at 1223.

11. John W. Frece & Andrea Leahy-Fuchek, *Smart Growth and Neighborhood Conservation*, 13 NAT. RESOURCES. & ENV'T. 319, 322 (1998) (explaining how past government policies contributed to sprawl).

slow-growth program. Instead, it recognizes the inevitability and value of growth to the Maryland economy. Indeed, the state has numerous programs designed to attract and encourage economic growth. The Smart Growth program, however, attempts to minimize the adverse effects of growth by channeling it to those areas of the state where existing or planned infrastructure and services are in place to support it.¹²

The Maryland initiative rejects the longstanding notion that society must choose between the economy and the environment and that for one to get stronger, the other must get weaker. This is a false dichotomy based on the old premise that society must be prepared to accept some level of environmental destruction in the name of economic growth.

In the long run, economic growth and environmental protection are inextricably intertwined. This fact is illustrated by the exceptionally strong state of Maryland's economy. Maryland has the highest family income¹³ and the lowest poverty rate of any state in the nation.¹⁴ Welfare cases are down sixty-eight percent with more than 155,000 people moving from dependency towards self-sufficiency.¹⁵ Maryland can claim all these accomplishments while being recognized as the national leader in environmental protection.

The Maryland effort is more than a fight against the unplanned or poorly planned development that we call sprawl. It is a fight for prosperity and a better quality of life, what we call Smart Growth.

A major part of any state's economic development strategy is to assure a high quality of life for workers. Under the old model of economic development, states attracted businesses by providing them with tax benefits or financial incentives. In a knowledge-based economy, however, the most important factors for a business

12. Margie Hyslop, *Smart Growth for Metro; Governor Backs Building Light Rail Inside Beltway*, WASH. TIMES, Oct. 30, 2001, at B1 (reporting that the Smart Growth policy aims to curb sprawl by targeting spending to projects that support development and growth in older communities that have the most infrastructure).

13. CARMEN DENAVAS WALT ET AL., U.S. DEP'T OF COMMERCE, MONEY INCOME IN THE UNITED STATES 12 tbl. E (2001) (indicating that in 2000, Maryland's median income was \$52,846, the highest in the nation), available at <http://www.census.gov/prod/2001pubs/p60-213.pdf>.

14. JOSEPH DALAKER, U.S. DEP'T OF COMMERCE, POVERTY IN THE UNITED STATES 11 tbl. D (indicating that in 2000, Maryland's poverty level was 7.3%, the lowest in the nation), available at <http://www.census.gov/prod/2001pubs/p60-214.pdf>.

15. Andrew S. Gruber, *Promoting Long-Term Self-Sufficiency for Welfare Recipients: Post-Secondary Education and the Welfare Work Requirement*, 93 NW. U. L. REV. 247, 249 (1998) (describing the reduction in welfare rolls and discussing the work requirement of the Personal Responsibility and Work Opportunity Reconciliation Act and how it promotes long-term self-sufficiency).

are a high-quality workforce, the availability of job training, and a commitment to education.

In addition, quality of life has emerged as a major factor in the new economy. In support of this view, a *Wall Street Journal* article¹⁶ highlighted ten factors that high-tech industry leaders consider when making location decisions. The most important factor cited was access to a skilled and educated workforce.¹⁷ The second most important factor was proximity to world-class research institutions, including colleges and universities.¹⁸ The third factor was access to a good quality of life.¹⁹ In contrast, financial incentives—long the mainstay of state economic development strategies—came in last.²⁰

In a quest for a better access to a quality workforce, the high-tech, info-tech and bio-tech firms driving the new economy look to various locations around the world.²¹ Firms are no longer limited by the boundaries of the United States; they no longer have to choose between Maryland or Virginia, Annapolis or Arlington. Companies are now looking at the relative merits of Illinois versus Ireland, Seattle versus Singapore, Maryland versus Milan.

Clearly, times are changing. For the past fifty years, in Maryland, as in the rest of America, many people associated moving up with moving out.²² In the process, we took our natural resources for granted as if they were unlimited. We took our communities for granted, too, wantonly tearing them down or simply abandoning them.²³ Our growth patterns were destroying the beauty of our state, leaving large parts of our cities boarded up and abandoned; worsening congestion; and forcing our citizens to pay higher and higher taxes to cover the infrastructure costs created by sprawl.

At the beginning of the twentieth century, most development in Maryland, as well as in most other states, was in or near major

16. "Chen May-Yee, *The Global Battle: "Let's Make a Deal"*, WALL ST. J., Sept. 25, 2000, at R.10.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. JOEL S. HIRSCHHORN, GROWING PAINS, QUALITY OF LIFE IN THE NEW ECONOMY 6 (2000), available at www.nga.org/cda/files/growingpains.pdf.

23. See, e.g., Parris N. Glendening, *Smart Growth: Maryland's Innovative Answer to Sprawl*, 10 B.U. PUB. INT. L.J. 416, 416-18 (2001) (discussing the nationwide tendency to falsely associate destructive sprawl with economic success).

cities such as Baltimore or Washington, D.C.²⁴ After World War II, this pattern began to change.²⁵ Prompted in part by public policies, such as G.I. Bill mortgage subsidies and construction of the Interstate Highway System, growth began to sprawl increasingly into suburban and rural areas.²⁶ This trend has, for the most part, gone unabated for the past fifty years.²⁷

Maryland's Department of Planning summed up the effect of this trend with this sobering prediction: If growth patterns do not change, development will consume as much land in central Maryland alone over the next twenty-five years as it has during the entire 368-year history of the State.²⁸ It is against that backdrop that Maryland felt the urgent need to develop the Smart Growth approach.

I. CHANGING THE "BOTTOM LINE"

The thrust of Maryland's Smart Growth effort is to change the "bottom line" for development decisions by making it more attractive and less costly to build in designated growth areas.²⁹ At the same time, the program is attempting to identify the most valuable rural areas in the state and protect them from new development. These twin objectives are accomplished primarily through companion measures enacted in 1997, such as the Priority Funding Areas Act³⁰ and the Rural Legacy Program.³¹

The Priority Funding Areas Act targets state funding for growth-related projects to designated growth areas known as Priority Funding Areas. These areas include Baltimore, the state's 156 other municipalities, and the heavily developed areas inside the Baltimore and Washington beltways.³² Additional areas designated by each county must meet minimum state criteria for the provision of public water and sewer service, minimum residential

24. See PETER CALTHORPE, *THE NEXT AMERICAN METROPOLIS: ECOLOGY, COMMUNITY AND THE AMERICAN DREAM* 15 (1993).

25. *Id.*

26. Margaret Kriz, *The Politics of Sprawl*, 31 NAT'L J. 332, 335 (1999).

27. Shelby D. Green, *The Search For A National Land Use Policy: For The Cities' Sake, "Loss of Agricultural Land,"* 26 FORDHAM URB. L.J. 69, 79 (1998).

28. Mary Gail Hare, *\$1 Million Granted to Preserve Land; Rural Legacy Funds Less Than One-Quarter of Amount Requested; "Better Than Nothing"; State, County Money Will Protect 380 Acres on Little Pipe Creek; Carroll County*, BALT. SUN, June 29, 2001, at 1B.

29. Glendening, *supra* note 23, at 420.

30. 2000 Md. Laws 303.

31. 2000 Md. Laws 646.

32. MD. CODE ANN., STATE FIN. & PROC. § 5-7B-02 (2001).

density (3.5 units per acre), and consistency with each county's twenty-year population growth projections.³³

The Rural Legacy Program is designed to protect large, contiguous tracts of rural land that contain valuable farms or forests; cultural areas such as Civil War battlefields; greenways around rural communities; and areas that can provide environmental protection to bays, rivers, drinking water reservoirs, and watersheds.³⁴ State funds are provided to willing landowners for the purchase of conservation easements or, in some cases, purchase of the property itself. Applications are often sponsored by land trusts, but must be endorsed by local governments.

To enhance the effectiveness of these two laws, the state provides incentives through dozens of other programs including tax credits, loans and grants, and technical and financial assistance for local governments, non-profit organizations, and private developers or builders.³⁵ Smart Growth has become the framework for decision-making by State agencies and, to some extent, local governments. Transportation projects, for example, are now jointly reviewed by the Department of Transportation and the Department of Planning for Smart Growth compliance.³⁶

Revitalization efforts that formerly would have been carried out unilaterally by a single state agency now regularly incorporate housing programs, economic development efforts, transportation improvements, or other multi-faceted assistance.³⁷

Compliance with Smart Growth has already become something of a test for projects and policies. On pending legislation, Maryland lawmakers now routinely ask the threshold question; "Is this consistent with Smart Growth?" Every major local government has mapped areas where it wants the state to provide financial support for growth and separate areas where it wants the state to pro-

33. MD. CODE ANN., STATE FIN. & PROC. § 5-7B-03(b) (2001).

34. Todd Shields, *Maryland Embraces Its Rural Legacy; New Preservation Program Draws Array of Proposals for Using First \$29 Million*, WASH. POST, March 15, 1998, at B05.

35. MD. ANN. CODE OF 1957 art. 83A, § 5-1408(b) (Supp. 2000) (providing grants for cleanup efforts); *id.* § 5-1405(b)(4) (providing grants for brownfield redevelopment); *id.* § 5-1101 (providing income tax credits to business owners who create at least twenty-five jobs in a Priority Funding Area); *see also* Frece & Leahy-Fuchek, *supra* note 11, at 322-24.

36. Glendening, *supra* note 23, at 420

37. Press Release, Office of the Governor of Maryland, Governor Glendening Announces Smart Growth Efforts Aimed at Helping More Working Families Achieve the American Dream (Oct. 23, 2001) (on file with the Fordham Urban Law Journal), available at <http://www.gov.state.md.us>.

vide financial support for permanent land preservation. This represents the start of a locally-drawn, statewide land use map. Even private developers, citizen groups, and municipal and county planners now argue the relative merits of projects in terms of their compliance with Smart Growth. For the most part, decision-makers in Maryland no longer ask whether Smart Growth is the right approach but rather how to best implement it.

As a result of the Smart Growth program, there has been visible change in the way business is done in Maryland. The state has ended the longstanding practice of financing new growth no matter what its effect on existing communities or the environment.³⁸ Under Smart Growth, location matters.

Long neglected older public schools in existing neighborhoods now receive eighty percent of new state school construction funds, up from thirty-eight percent a decade ago.³⁹ Contaminated and abandoned industrial sites, usually located in the heart of established communities, are now viewed as opportunities rather than liabilities and are being cleaned up and redeveloped.⁴⁰ The more we can reuse these long abandoned sites, the more we relieve the pressure for new "greenfield" development. The acreage returned to productive use within brownfield sites that have already been cleaned up is equivalent in size to the land that would be needed to build 800 houses on two-acre lots or 200 shopping centers, including the surface parking.⁴¹

Highway projects that would likely encourage more sprawl development and which, in another era, would have been routinely approved, are now being reassessed, redesigned, and scaled to fit the character of their communities, or stopped altogether.⁴² In 1998, five highway bypass projects that were inconsistent with the

38. John W. Frece, *Smart Growth: Prioritizing State Investments*, 15 NAT. RESOURCES & ENV'T 236, 241 (2001) (discussing the state's more discretionary view toward new growth).

39. Press Release, Office of the Governor of Maryland., Governor Glendening Announces Record-Breaking Investment in School Construction Throughout Maryland (May 10, 2000) (on file with the Fordham Urban Law Journal), *available at* www.gov.state.md.us.

40. The Brownfield Cleanup Initiative, MD. CODE ANN., ENVIR. §§ 7-501 to -516 (Supp. 2000) (establishing clean-up assistance for developers interested in recycling abandoned, contaminated commercial or industrial sites).

41. Press Release, Office of the Governor of Maryland., Governor Glendening Challenges Counties to Begin an Ambitious New Era in State's Landmark Smart Growth Initiative (Aug. 19, 2000) (stating "the State . . . has preserved 187,000 acres of land") (on file with the Fordham Urban Law Journal), *available at* <http://www.gov.state.md.us>.

42. Glendening, *supra* note 23, at 426.

state's Smart Growth policy were taken off the Maryland Department of Transportation's long-range construction plan.⁴³ One was later restored, but only after a new design agreement was reached that attempts to discourage sprawl that might have otherwise resulted.⁴⁴

By investing heavily in transit, the state is developing a more balanced transportation system that focuses on moving people rather than just moving cars. This is essential if the state is to meet or exceed its goal of doubling transit ridership by 2020. The state recently announced, for example, plans to construct a new inside-the-beltway transit line that will connect the Maryland terminus of each of the radial lines of Washington, D.C.'s subway system.⁴⁵ The fourteen-mile long, \$1.2 billion Purple Line connecting Bethesda and New Carrollton could become the first link in a circumferential transit line around Washington.⁴⁶

From the spring of 2000 to the end of 2001, Maryland invested \$1.5 billion in new transit spending.⁴⁷ This money will permit the state to add new bus and neighborhood shuttle routes; to buy new buses and rail cars; to expand service hours for the Baltimore subway; to encourage more compact, mixed use development around transit stations; and to install "Smart Card" technology that will provide commuters with one card universally accepted by all state transit systems.

To make communities more pedestrian friendly, emphasis is being placed on biking, walking, and the design of walkable communities.⁴⁸ The Department of Transportation now has an office developing a statewide bicycling and walking master plan.⁴⁹ The new Office of Smart Growth, in conjunction with the Department of Health and Mental Hygiene, is about to launch a statewide campaign to encourage walking as means of preventing obesity, cardiovascular disease, and other chronic diseases.⁵⁰ The University of

43. *Id.*

44. *Id.*

45. *All Aboard for the Purple Line*, WASH. POST, Nov. 11, 2002, at B08.

46. *Id.*

47. Parris Glendening, *Ending Urban Sprawl*, ST. GOV'T NEWS, Sept. 1, 2001, at 26.

48. Exec. Order No. 01.01.2000.20, MD. REGS. CODE tit. 1, §1 (2000) (creating the Transit-Oriented Development Task Force charged with making recommendations to encourage development around the State's transit systems).

49. MD. CODE ANN., TRANSP. § 2-603 (2001) (creating the Office of Bicycle and Pedestrian Programs within the Department of Transportation).

50. Lori Montgomery, *Suburbia's Road to Weight Gain; Land-Use Designs Discourage Pounding the Pavement, Some Say*, WASH. POST, Jan. 21, 2001, at C1.

Maryland's new National Center for Smart Growth Research and Education will be brought into this effort to help local communities better understand methods to design more walkable neighborhoods.⁵¹

Through the Rural Legacy program,⁵² funds have been allocated to protect more than 54,000 acres of farms and other rural land—well on the way to the program's goal of protecting up to 200,000 acres in fifteen years.⁵³ Twenty-five Rural Legacy areas have been designated in twenty of the state's twenty-three counties, and requests for financial assistance under this program have exceeded available resources by a three to one margin every year since its inception.⁵⁴

The new GreenPrint program⁵⁵ provides a scientific underpinning to the state's land preservation efforts by identifying and prioritizing the state's most ecologically significant lands. By emphasizing the sense of urgency needed to stave off sprawling development, the pace of land preservation is accelerating. In just the past seven years, the amount of protected land in Maryland has increased by forty percent, from 589,000 acres to 825,000 acres.⁵⁶

To educate federal, state, and local government officials about the Smart Growth approach, the new National Center for Smart Growth Research and Education at the University of Maryland, College Park, is beginning to research the effectiveness of various growth management strategies.⁵⁷ It is also offering both national and Maryland-specific Smart Growth Leadership Courses. The national course has already led to the creation of a similar course offered in the State of Maine.⁵⁸

A series of annual Governor's Youth Environmental Summits has carried the Smart Growth message to successive generations of

51. *Id.*

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

53. Glendening, *supra* note 23, at 425; Todd Shields, *Area Again Seeks Maryland Funds To Preserve Its Rural Legacy*, WASH. POST, Feb. 7, 1999, at M01.

54. Glendening, *supra* note 23, at 425.

55. Capital Budget, H.B. 255, S.B. 235, 415th Reg. Sess. (Md. 2001) (enacted); see also Joel McCord, *State to Buy Arundel Acreage; Woods and Wetlands Are to Be Protected From Development; Greenprint Program*, BALT. SUN, Aug. 12, 2001, at 1B (reporting on the state purchase of land under the new conservation program).

56. Press Release, Office of the Governor of Maryland, Oct. 12, 2001 (on file with the Fordham Urban Law Journal), available at <http://www.gov.state.md.us>.

57. Press Release, Office of the Governor of Maryland, Oct. 12, 2001 (on file with the Fordham Urban Law Journal), available at <http://www.gov.state.md.us>.

58. Tom Bell, *As Maryland Grows . . . So Might Maine, If Planners Here Decide to Borrow From the Old Line State's So-Called "Smart-Growth" Approach to Development*, PORTLAND PRESS HERALD, Mar. 11, 2001, at 1A.

high school students and their teachers. In 2001, a Teachers' Resource Guide on Smart Growth⁵⁹ was produced to help teachers provide instruction on land use and Smart Growth issues in the classroom.

To coordinate all this and serve as a "one-stop-shop" for Smart Growth resources, Maryland has established within the Governor's office a new cabinet-level Office of Smart Growth,⁶⁰ perhaps the only office of its kind in the nation. This office is coordinating Smart Growth policy and implementation; working with developers and local governments to encourage and assist with the development of genuine Smart Growth projects; and engaging decision-makers and the public through a broad public education and outreach effort.⁶¹

II. NEXT STEPS

Despite this significant progress, much more must be done if Smart Growth is to change our future. The Smart Growth program assumes that it matters where the state spends money in support of growth. While state expenditure often does have a direct effect on land use decisions by both the public and private sector, it is also true that considerable development is not dependent on or influenced by the availability of state financial support. With the acquiescence of local governments, such development continues to spread far outside the boundaries of designated growth areas. A recent examination by a citizen group of planned residential development in the five suburban counties surrounding Baltimore concluded that every jurisdiction but one is projecting that at least 5000 new houses will be built outside its Priority Funding Area over the next two decades.⁶² That development will convert at least 10,000 acres from farm and forest land to residential development.⁶³ If Smart Growth is to be successful over the long run, one of its next steps must be to tackle this problem.

59. MD. DEP'T. OF NATURAL RES., A TEACHERS' RESOURCE GUIDE ON GROWTH AND ITS IMPACT ON MARYLAND: WHERE DO WE GO FROM HERE? (2001), available at <http://dnrweb.dnr.state.md.us/smartgrowth/Home.htm>.

60. MD. CODE ANN., STATE GOV'T, §§ 9-1401 to -1406 (2001) (establishing Office of Smart Growth overseeing smart growth programs).

61. Glendening, *supra* note 47, at 24.

62. Joel McCord, *Studies Find No End To Sprawl; Smart Growth Adherence Lacking in Baltimore Area; Baltimore County Gets High Marks*, BALT. SUN, Oct. 10, 2001, at 1B.

63. *Id.*

There are broader, more over-arching concerns that relate to Maryland's program as well as those of other states. The nation's population is growing older and much more diverse. The U.S. Census Bureau predicts that the nation's population will double by the end of this century, largely due to an influx of immigrants who will broaden the cultural diversity of our country.⁶⁴ Our growth policies, therefore, will have to address not only population increases, but the shifting demands of an ethnically complex nation. Meanwhile, the information age continues to revolutionize our society, transforming the spatial relationships between employers and employees, homes and businesses, time and travel. Against this backdrop, it appears there are at least three significant "next steps" the Smart Growth movement must take: social equity; linking transportation and land use; and developing a Smart Growth ethos.

A. Social Equity

Smart Growth must broaden its reach to address the needs of those who may not be aware of its existence, much less its relevance to their lives. This implies renewed efforts to realize the Smart Growth principle of providing housing opportunities for people of all income levels within individual communities. It recognizes the disproportionate effect transportation costs have on working families of low or modest incomes and the need to provide them with accessible, affordable, realistic transportation alternatives to the private automobile. It also recognizes the importance of developing housing opportunities in proximity to real job opportunities. Smart Growth will never succeed without addressing the problems created by economic and racial segregation, high concentrations of poverty, a poor job-housing mix, and limited transportation options. A smarter pattern of development can begin to address each of these challenges.

One step we must take is to assure that Smart Growth provides housing for working families—firefighters, police officers, teachers, and others of modest incomes. The state provides Smart Growth projects with significant support: low-cost loans, tax credits, and

64. FREDERICK W. HOLLMANN ET AL., U.S. DEPT. OF COMMERCE, METHODOLOGY AND ASSUMPTIONS FOR THE POPULATION PROJECTIONS OF THE UNITED STATES: 1999 TO 2100, at 24 tbl. A (2000) (estimating that in 2100, the U.S. population will reach 570,954), available at <http://www.census.gov/population/www/projections/natsum.html>.

other assistance.⁶⁵ We need to consider the social impact of these projects, as well as their economic impact. Smart Growth cannot mean gentrification and segregation. Rather, it must foster inclusion and economically diverse communities.

Kentlands, a well-known example of "New Urbanist" development in the Maryland community of Gaithersburg, is an example of a mixed-use, mixed income community.⁶⁶ Places like Kentlands offer the possibility of more inclusive and economically diverse communities. Yet even in Kentlands, due to the forces of supply and demand, prices have become so high that working families are beginning to be priced out of home ownership.

Economic disparities will persist. Everyone is affected by the cost of disinvestments—unused or underused infrastructure; higher police and criminal justice costs; the drain on resources to prop up failing schools; the strain on under-funded health agencies to treat drug abuse and chronic diseases; and the expense of providing social welfare support, job training, rent subsidies, and other revitalization assistance. In most places in this country, however, the principal burden for filling this seemingly bottomless void falls on the jurisdictions least able to afford them. These problems demand regional solutions. The challenge of Smart Growth is to identify the mechanisms that can make such regional approaches acceptable in a turf-conscious political world.

Under its Smart Growth umbrella, Maryland has begun to address some of these concerns. It is establishing a new program to offer \$40 million at four percent interest for home mortgages in targeted revitalization areas.⁶⁷ It is expanding its small, but successful Live Near Your Work program so that any of the State's 80,000 employees can take advantage of a \$3000 incentive if they buy houses in targeted neighborhoods closer to their place of employment.⁶⁸ To address the housing needs of working families—police officers, teachers, firemen and others with moderate or even

65. See *supra* note 35 and accompanying text.

66. Roger K. Lewis, *Principles of New Urbanism Are Gaining Wider Acceptance*, WASH. POST, Jan. 12, 2002, at H07.

67. Daniel LeDuc, *'Smart Growth' Mortgages Further Two of Glendening's Defining Goals*, WASH. TIMES, Nov. 4, 2001, at T05; see also Press Release, Office of the Governor of Maryland, Governor Glendening Announces Smart Growth efforts Aimed at Helping More Working Families Achieve the American Dream (Oct. 23, 2001) (on file with the Fordham Urban Law Journal), available at <http://www.gov.state.md.us>.

68. Lisa Rauschart, *Employers Today Help Workers Buy Homes*, WASH. TIMES, Sept. 21, 2001, at F1; Press Release, Office of the Governor of Maryland, Governor Glendening Announces Smart Growth Efforts Aimed at Helping More Working Fam-

low incomes—Maryland has established a new task force to develop potential solutions.⁶⁹

B. Linking Transportation and Land Use

The location of roads and other modes of transportation such as ports and railroads has always been the driving force behind growth decisions. During most of the twentieth century, however, development in the United States has revolved around the automobile.⁷⁰ That has affected the design of residential, retail, and industrial buildings and led to the development of the most massive, sophisticated road network on earth. This road network and overdependence on the automobile have drastically altered the pattern of development in America, propelling it farther and farther from the centers of our historic communities to the most distant reaches of our states. It has left the interiors of our cities and towns abandoned and created new communities where walking is not a viable option. In the wake of this sprawling pattern of development, enormous amounts of farm and forest land have been lost; air and water quality have been adversely affected; and the cost of providing roads and infrastructure has siphoned away tax dollars that could have been used for other beneficial purposes.

A central challenge of Smart Growth is the need to reach a new accommodation between transportation planning and land use planning that recognizes the effect one has on the other. Like the social equity issues raised above, transportation planning must be viewed from a regional perspective, where it ties directly to efforts to improve the economic vitality of the metropolis, as well as ongoing regional or watershed-based efforts to protect the environment. It also requires that governments reassess their long-range assumptions to take into consideration changes in land use or transportation planning rather than continue to plan for a future that is no longer desired.

ilies Achieve the American Dream (Oct. 23, 2001) (on file with the Fordham Urban Law Journal), *available at* <http://www.gov.state.md.us>.

69. Daniel LeDuc, *Md. Home Loan Plan to Aid Working Families*, WASH. POST, Oct. 24, 2001, at B03; Press Release, Office of the Governor of Maryland, Governor Glendening Announces Smart Growth Efforts Aimed at Helping More Working Families Achieve the American Dream (Oct. 23, 2001) (on file with the Fordham Urban Law Journal), *available at* <http://www.gov.state.md.us>.

70. See generally Michael Lewyn, *Suburban Sprawl: Not Just an Environmental Issue*, 84 MARQ. L. REV. 301, 318-19 (2000) (arguing that U.S. urban and suburban development and the development of highway systems have been inextricably intertwined).

In Maryland, every proposed transportation project is already reviewed for Smart Growth compliance.⁷¹ Highway engineers and other transportation officials are being trained to “Think Beyond the Pavement,”⁷² an approach to projects that takes into account community perspectives, on transportation projects and promotes designs that are compatible with the needs, character, and scale of the communities through which these projects will pass.⁷³ To provide more transportation options, Maryland has budgeted millions of dollars to expand transit service to make it a realistic, affordable, and convenient alternative for millions of Marylanders.⁷⁴ The Department of Transportation is also developing Maryland’s first statewide bicycling and walking master plan and is aggressively retrofitting existing roads with long-needed sidewalks.⁷⁵

But much, much more needs to be done. The upcoming transportation reauthorization by the U.S. Congress is a clear opportunity to reward smarter land use that improves the efficiency and utility of government investment. If this opportunity is seized at the national level, it could serve as a template for incorporating similar incentives for smarter growth in federal authorizations for other purposes.

C. A Broader Federal Role

Another “next step” is the need to involve the federal government as a strong and active partner in these efforts. Federal policies—good, positive, well-intended policies—often fueled the exodus from established communities and the spread of sprawl. The G.I. Bill and the interstate highway system made life better for people across America. But these government creations had the unintended impact of creating a climate that supported, even rewarded, sprawling development.

The federal government could play a critical role in helping states implement Smart Growth programs. Just as the state is pay-

71. MD. CODE ANN., STATE FIN. & PROC. § 5-7B-01 (2001) (including all transportation-related capital projects in the definition of growth-related projects).

72. Lori Montgomery, *Maryland Going ‘Beyond the Pavement’; State Shifting Focus From Roads to Pedestrians and Transit*, WASH. POST, Sept. 15, 2000, at A01.

73. *Id.*

74. Press Release, Office of the Governor of Maryland, Governor Glendening Adds Millions to State’s Budget for Major Transportation Projects Throughout Maryland (Oct. 2, 1998) (on file with the Fordham Urban Law Journal), available at www.gov.state.md.us/gov/press/1998.

75. MD. CODE ANN., TRANSP. § 2-603 (2000) (creating the Office of Bicycle and Pedestrian Programs within the Department of Transportation).

ing more attention to where it locates state facilities or makes state expenditures, so could the federal government. Federal court-houses, offices, and quasi-federal facilities—like post offices—must be built in established neighborhoods. Federal programs, such as small business loans, can be targeted at or restricted to businesses in existing communities. This will strengthen our downtowns and demonstrate a real commitment to Smart Growth.

D. Developing a Smart Growth Ethos

None of this will happen, of course, if the public does not understand the issue and support a change in direction. In Maryland and many other states, segments of the public have begun to recognize the detrimental effects of post-World War II development. That recognition, however, is not broad, the understanding is not deep, and it is unknown how substantial a change the public will be willing to support.

Even those who support the theoretical concept of Smart Growth often do not support the specifics of implementation. Smart Growth must better engage the public, stakeholder groups, and governmental institutions in understanding the relationship between land use issues and our overall quality of life. It must reach out to those who may not realize that their quality of life could be improved if the Smart Growth approach is allowed to reach its potential. In short, if Smart Growth is to be successful, a fundamental shift in public thinking about what is acceptable development must occur.

To achieve any of the goals of Smart Growth over the long term, a new Smart Growth culture or ethos must be developed in which the public consciously and willingly chooses Smart Growth options. Success in meeting this challenge is an essential prerequisite to meeting all the other challenges of Smart Growth.

CONCLUSION

There are two very different visions for the future of Maryland and America. Consider the possible consequences if we fail: almost every farm plowed under and practically every forest paved over; growing and destructive traffic congestion; the progress we have seen in the Chesapeake Bay reversed, with oyster, rockfish, and crabs again on the decline towards extinction; cities all-but abandoned, with houses and businesses boarded-up, like gated communities in reverse, where our impoverished citizens are trapped just as surely as if they were imprisoned; people moving

farther out, and farther apart; our sense of community—our very soul—irretrievably lost.

This is a future we cannot accept. It is within our power to prevent it. Maryland and America are in a tremendous position of strength, both fiscally and environmentally. Imagine a different future, based not just on economic prosperity, but community prosperity as well. People could spend evenings having dinner with the family or at a daughter's soccer game, instead of sitting in traffic jams. Our communities could be vibrant, viable, and walkable, where people can work, have dinner, visit a museum, or attend the theater in safety and comfort. Not only could our precious natural resources be protected, but restored for future generations. Our children will be able to take their children to catch rockfish and go crabbing in the Bay, as I did with my son, Raymond.

This represents a better vision for our future—a future that it is within our power to create.