

# DEPARTMENT OF PLANNING MEMO

**Prepared for:** Climate and Environment Policy Committee

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**RECOMMENDATION #1:** Reestablish Maryland as a leader on land use planning and smart growth.

**Context:** Maryland has been a national leader of smart and sustainable growth for decades. The Neighborhood Conservation and Smart Growth Act of 1997 was widely heralded as a bold and innovative initiative, and many subsequent efforts built on that program. In 2014, the Maryland Department of Planning (MDP) won the best planning department award from the American Planning Association. Unfortunately, the last eight years have not been kind to the department. The administration did not support much of the agency's mission, many staff left or were terminated, and correspondingly the department has reversed its progress. The department, and smart and sustainable growth in general, needs to be rejuvenated.

Multiple divisions within MDP suffered from sudden terminations of long tenured and highly qualified individuals who in turn were replaced by employees with comparatively little experience and expertise. A good example of this can be seen in the *Local Assistance and Training Unit*, where an AICP certified planner with decades of experience as a community planner at both the state and local levels was terminated and replaced by someone with only a M.A. in planning, no certification, and only 3-years of experience in the field of planning. Similar circumstances exist throughout the Department.

Maryland is a diverse state in terms of population, landscapes, environment, and communities — these resources are key assets for the state. Maryland is also a growing state that is the fifth most densely populated in the nation. These factors help explain why smart & sustainable growth is important to improve, protect, and sustain what is best about Maryland going forward.

## **Recommended Actions**

**First Year** • **Revive *PlanMaryland* or craft a new plan and vision to replace *A Better Maryland*.**

- *PlanMaryland* was the first statewide plan to be developed in Maryland in over a decade (deployed in 2012). Despite state plans typically having a lifespan of at least one decade, the Hogan administration replaced *PlanMaryland* in 2017 with *A Better Maryland*.
- *A Better Maryland* completely shifted MDP's focus from implementing smart growth policies to simply providing customer service to local jurisdictions "as needed."

- ◆ Regulations, enforcement, and actual guiding of planning efforts throughout the state has almost entirely ceased and MDP has taken a diminutive position wherein it no longer leads.
- ◆ The plan in place serves as the guiding document and mission statement of the Department and as long as *A Better Maryland* is serving this purpose, MDP will be viewed as customer service and advisory by request, not as the authority on planning in Maryland and not as a department which holds a cabinet level significance.
- *PlanMaryland* is almost entirely inaccessible today and should at the very least exist in an archive of important MDP documents.
  - ◆ *PlanMaryland* should be updated and work in conjunction with the state's climate and transportation plans.
  - ◆ A new state plan should provide a 4-8 year framework for implementing Maryland's smart growth agenda.

**First Year • Hire staff for a 10-year cycle review of local comprehensive plans.**

- State law requires local jurisdictions to update their current comprehensive plan or adopt a new one every ten years. Currently, 20 counties are slated for a 10-year cycle review between now and 2026.
- Nearly every municipality, of which there are over 100, in the state is slated for their 10-year review between 2022-2025.
- Current staffing levels are woefully inadequate for timely and thorough review of new plans and plan amendments. Given the importance of comprehensive plans for dictating growth and planning priorities and their need to be reviewed and approved by several bodies of state and local officials, timely review is of the utmost importance.

**First Year • Make smart & sustainable growth a priority for MDP (and all agencies).**

- Ensure MDP leadership is qualified, has experience in planning and is committed to smart & sustainable growth for the state. Under the most recent administration, the Secretary, Deputy Secretary, and Special Secretary of Smart Growth had very limited background in planning and were sometimes hostile to the agency's mission and duties.
- MDP should work with stakeholders including the General Assembly, local governments, the private sector, and the Administration— especially the Smart Growth Subcabinet and the Governor's Office, to reestablish MDP as a champion for smart and sustainable growth.
  - ◆ Review existing policies and programs for improvement including Priority Funding Areas, Rural Legacy Areas, Adequate Public Facility Ordinances, Single Family Zoning, and other key land use policy instruments.
  - ◆ Smart growth principles should also be represented in MDOT policies, and MDOT leadership should be committed to smart & sustainable growth. The Hogan Administration has been very road-focused and anti-transit, which are counter to smart & sustainable growth.
  - ◆ Require state agencies— especially Maryland Department of Housing and Community Development (DHCD), to address potential gentrification and displacement impacts in revitalization and redevelopment funding programs.

- ◆ Ensure smart & sustainable growth alignment with Administration community & economic development, environmental (including climate change), transportation (and other infrastructure), and equity priorities (see recommendation #1).
  - ◆ Reestablish MDP's role in leading smart & sustainable growth policy. The Department has not had any legislative agenda in eight years and staff has essentially been relegated to providing technical assistance and training.
- Fund programs to support sustainable and smart growth.
- ◆ Create and fund a joint partnership for Action Learning in Sustainability between the National Center for Smart Growth and state agencies.
  - ◆ Establish grant programs to support coalitions and neighborhood associations in transit corridors, underserved, and gentrifying areas.
  - ◆ Create a smart growth investment fund to catalyze redevelopment and revitalization projects.
  - ◆ Develop and fund a program that addresses social & environmental justice issues by targeting resources, partnerships, and strategies.
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## **RECOMMENDATION #2:** Revive and invest in data analytics.

**Context:** During the Hogan administration many staff were forced into early-retirement or outright terminated. Often, this would happen suddenly and without notice, requiring the now former employees to vacate the premises immediately. When this would occur, there was no opportunity for the preservation of institutional knowledge, documentation of methodologies, or training of remaining employees to assume functions. Not only does understaffing and the patchwork approach of hiring or transferring under qualified employees hurt the division and department, but it also hinders the technical competency and knowledge of the State. Additionally, local jurisdictions lacking the budget and infrastructure for technical analysis would often rely on assistance from MDP for planning related tasks and such assistance cannot be provided without a fully staffed and qualified division.

A primary example of this can be seen in the Development Growth Model. The developer and manager of this model, an employee with nearly two decades of experience at MDP, was “at will” and terminated without notice in 2017. Since then, the model has seen multiple attempts at being revived but as of 2022 is still not in a completed state. With little knowledge of the original development and the need to modernize this model, it merits a complete rebuild.

The Growth Model serves as a model for estimating where future growth can occur, at what densities and areas, by development type, and incorporates local jurisdictional data along with state data to develop local, regional, and statewide development forecasts. This model was very helpful for both informing state and local agencies.

### **Recommended Actions**

**First Year** • **Ensure MDP has adequate staffing**, particularly qualified, trained staff for key positions related to data and analysis including but not limited to the Growth Model and other

positions requiring advanced analytical capabilities. Technical gaps remain despite the best efforts and competence of remaining employees.

- With assistance from the National Center for Smart Growth, conduct a comprehensive review of existing MDP data resources and analytical capacities and identify needs for additional investments.
- Fill Current vacancies in the Research & Data division of MDP, including one specifically for developing and managing the Growth Model or a suitable replacement
- Assure that staff salaries are competitive relative to the technical expertise and experience needed for these positions.
- Conduct a review of salaries relative to experience, competency, and workload for existing employees.
- Review open positions to ensure job descriptions will attract qualified candidates capable of meeting technical requirements, and salaries are competitive in conjunction with the benefits of state employment.
- Reevaluate current statutes that require local governments to report smart growth “indicators” and “development capacity” estimates. Currently, these requirements do not produce useful information.

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### **RECOMMENDATION #3:** Resume policy analysis to inform public officials and residents and strengthen regulatory enforcement.

**Context:** During the Hogan administration actions were taken to decrease the veracity and frequency of analysis relative to state laws wherein MDP was tasked with oversight and review of compliance. Not only were such reviews hampered or undermined but at times did not occur at all, allowing local jurisdictions to skirt or outright defy state law and regulations and avoid enforcement penalties from partner agencies, like MDE.

As an example, in 2012, MDP was authorized and tasked with reviewing local governments’ “Growth Tier” maps, comparing local proposals against the criteria laid out in the code, and providing comments, assistance, and guidance to local governments throughout the drafting process. Once deemed acceptable, maps were adopted and utilized as a determining factor in the issuance of future development permits. These “Growth Tier” maps were intended to encourage growth adjacent to existing infrastructure (water/sewer), reduce the reliance on and prevalence of septic systems, and to promote the conservation of forest and agricultural land. MDE serves as the enforcement and regulatory arm of this policy.

Beginning in 2015, in depth analysis performed by MDP staff on draft maps found multiple instances of “violations” wherein local submissions were not in compliance with the official guidelines. However, MDP leadership waived their authority and did not recommend these violations for remediation. Maps were frequently approved with minimal compromises, or outright ignored. After raising these concerns with the Secretary and Deputy Secretaries, analysis was entirely halted and meetings to discuss tier map review became closed door and only between the

highest-level appointees of the department. Analysts and employees formerly tasked with performing analysis and presenting findings were no longer part of the review process or conversations.

## **Recommended Actions**

### **First Year** • Resume policy analysis and make the process transparent.

- Allow analysts and pertinent personnel to be involved in presenting findings to decision makers.
- Restore webpages related to policy to MDP's homepage and ensure background data, including official letters from MDP, draft and final maps, and other related media is publicly available, and when appropriate, available for comment.
  - ◆ Currently, all webpages and information about the Septic Growth Tier legislation and MDP's role within it have been removed from the MDP website. This information can only be found via a web search.
  - ◆ Comment letters are the official communication from MDP to the local government during the map review process. These letters and the tier maps are supposed to be publicly accessible and hosted via MDP's website. Currently, the website exists but can only be found via search results and the information within is out of date. For some jurisdictions, such as Calvert County (a jurisdiction whose map was allowed to proceed despite known violations), no comment letter is posted. For others, such as Wicomico County (another map known to MDP as being in violation), only the communications and map regarding a single amendment to the map exists and not the initial map and communication.

## **Sources & Supporting Resources:**

- [Septics Law Implementation](#) (Maryland Department of Planning)
- [Septics Law Implementation Local Government Tier Maps and MDP Response](#) (Maryland Department of Planning)

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## **RECOMMENDATION #4:** Dissolve the Office of Smart Growth and Special Secretary of Smart Growth position.

**Context:** The Office of Smart Growth became redundant and ceased to operate in 2004. Then, in 2017, the office was revitalized after acting Secretary of Planning Wendi Peters was unable to be confirmed by the State Legislature (citing lack of experience and concerns over ongoing purge of employees and ideas at MDP). The “special” status of the position and status as a non-cabinet position meant that in this position Sec. Peters would not need confirmation. A long vacant position and office was revived to staff a single employee. Subsequently, this office served a key role in the deployment of *A Better Maryland*, which encourages economic interests above all else and does not adhere to smart growth principles and tenants.

**History:** In July 2001, the [Office of Smart Growth](#) was created (Chapter 566, Acts of 2001). The Office oversaw the coordination and implementation of Smart Growth policy statewide. With the Smart Growth Subcabinet, the Office recommended to the Governor changes needed in State law or regulation to advance Smart Growth policy. Through outreach and assistance to local jurisdictions, the Office articulated policy and informed citizens, developers, home-owners associations, and others who needed help in applying Smart Growth principles to their own projects.

Concepts of "smart growth" were enacted into law in 1997 and were built upon the Economic Growth, Resource Protection, and Planning Act of 1992 (Chapter 759, Acts of 1997; Chapter 437, Acts of 1992). Through smart growth, Maryland is committed to limiting sprawl development by revitalizing older neighborhoods and redirecting growth to already developed areas, thereby saving the State's farmland, open spaces, and natural resources. State funds target projects in Priority Funding Areas, those locations approved for growth and redevelopment.

Smart growth as a State policy encompasses so many programs administered by different State agencies, including the departments of Agriculture, Business and Economic Development, the Environment, Housing and Community Development, Natural Resources, Planning, and Transportation. For this reason, the Office of Smart Growth served as a centralized clearinghouse as well as an impetus for smart growth action.

The Office was headed by the Special Secretary of Smart Growth who was appointed by the Governor; however, in June 2003, the Office moved to the Department of Planning, and the Secretary of Planning took over the leadership of the State's smart growth efforts. Department staff supports the work of the Smart Growth Subcabinet.

**First 100 Days • Dissolve the Office of Smart Growth and Special Secretary of Smart Growth position and restore smart growth as a central responsibility of MDP.**

- The Office of Smart Growth was absorbed into MDP several years ago. Its functions and staff were made part of MDP, meaning the role it played and services it provided already are part of MDP's staffing and priorities. This office was revitalized simply as a matter of political gamesmanship.
- Ensure smart growth is embodied in MDP's executive leadership by appointing a Secretary and Deputy Secretaries with community planning experience and credentialed and qualified staff.
- Redirect fiscal savings from dissolving the office and no longer employing multiple secretary-level positions to address other needs within the department.
- Alternatively, replace the Office of Smart Growth with an Office of Equitable Development.

### **Sources & Supporting Resources**

- [Office of Smart Growth](#) (Maryland Governor's Coordinating Office)
- [Smart Growth Priorities in the New Administration - National Center for Smart Growth, November 2022](#)