

Joint Statement on Anne Arundel County's General Development Plan, 2008
Submitted by
the Advocates for Herring Bay and the West/Rhode Riverkeeper
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Introduction

Anne Arundel County's draft General Development Plan (GDP) holds the promise of a new paradigm for land-use policy. Thanks to the exhaustive analyses done by staff, the county has now assembled the technical and analytical capability necessary to accord environmental factors equal status in the decision-making process. What remains unfinished is the challenging task of synthesizing those assessments into workable guidelines for development. The Advocates for Herring Bay and West/Rhode Riverkeeper urge the county to capitalize on this opportunity to forge a new, environmentally balanced framework for land-use decisions.

Observations on the Draft GDP

We applaud the GDP's emphasis on protecting the Chesapeake Bay watershed, particularly its emphasis on actions that would improve stormwater management; reduce nitrogen, phosphorous, and other effluents; and protect greenways, wetlands, and other areas of ecological significance. We also concur with the GDP's overarching policy of focusing new growth around designated Targeted Growth Areas, carefully redeveloping Managed Growth Areas, and preserving the communities and natural resources in Rural Areas.

Although very much in favor of the GDP, we believe that there are several substantive and procedural elements that need to be modified or improved. Our major concerns and recommendations include the following:

1. Unintentional Bias in Favor of Development – Weak standards and procedures for evaluating zoning changes devalue the policies in the GDP.

As noted in Chapter 7, the GDP is designed not to map each parcel in the county, but to provide benchmarks for evaluating future land use and zoning changes. Those criteria will be the nexus between the GDP and development rights. In our view, the approach proposed in the current draft would create a bias in favor of development due to the absence of clear and enforceable guidelines for determining consistency with the policies in the GDP. In addition, relying exclusively on county staff to judge the merits of proposed changes would exacerbate pressures to approve up-zoning requests.

The guidelines for approving zoning changes under the proposed plan are very weak. The draft plan proposes a two-step approval process. First, the land-use or zoning change would have to satisfy one of four discrete eligibility criteria.¹ Such findings

¹ The proposed policy would require that zoning changes satisfy one of four conditions: meet a community need, meet a countywide need, be consistent with the past or recent character of an area, or correct a mapping mistake.

would be relatively straightforward to verify since similar factors have been used in the past and tested in the courts.

Second, the change would have to be “consistent” with the “written policies in the GDP.” By our count, there are about 72 policy statements in the draft GDP, covering such matters as community preservation, public services, transportation, water resources, and environmental stewardship. However, the GDP does not provide any guidance as to how to determine “consistency” or which policies would take precedence in the event of an inevitable conflict. For example:

- What if a proposed zoning change conformed to some but not all of the policies; say the goals for affordable housing but not the goals of the Greenways Master Plan?
- Would a single inconsistency with GDP policies void the proposed rezoning? If not one, how many? How would decision-makers know where to draw the line?
- How would you gauge the compatibility between new development rights and GDP policies expressed in terms of governmental actions, such as “develop programs for wetlands creation and enhancement”?²

In short, how would county officials render defensible decisions on such a diverse array of policies? What is the practical value of this planning effort if, as noted in the GDP, the county does not “mandate that comprehensive zoning changes must be determined by the Land Use Plan or must specifically ‘match’ the Land Use Plan Category”? Without meaningful and transparent metrics for gauging consistency with the GDP, rezoning decisions will likely turn on the simpler four-part checklist, leading to the approval of projects that conflict with the spirit if not the letter of the GDP.

Finally, the plan lacks procedural safeguards. One of the most important elements of the Small Area Planning process was having citizens who were familiar with local conditions review and make recommendations on all requests for zoning changes. Their review provided critical expertise and judgment in translating the language of the 1997 plan into the substantive reality of zoning maps. A similar process is needed to ensure that the zoning changes that result from the 2008 GDP are legitimate expressions of this plan.

Recommendations: Ensure that the 2008 GDP process yields the desired result, namely more effective, balanced, and environmentally sound land use. Specifically: (a) make the terms of the General Development Plan, the Small Area Plans, and the Greenways Master Plan enforceable, not just advisory; (b) create a “scorecard” for evaluating compatibility with GDP policies on a subwatershed basis, synthesizing the excellent subject-matter analyses in the report. This scorecard must answer the question of whether a proposed rezoning is or is not consistent with the plan, with that verdict given equal weight to the four eligibility criteria. We recommend that the environmental rankings used to classify

² See actions to implement the policy to “Continue established policy of no net loss and strive for overall gain of tidal and nontidal wetlands,” page 70.

subwatersheds (see figures 10-3 and 10-4) be used to screen areas that generally should not be eligible for more intense land-use activities; and (c) create temporary citizen advisory boards similar to the Small Area planning groups to review and make recommendations on proposed land-use and zoning changes, perhaps organized on a watershed basis.

2. Overlooked assets – The plan ignores shoreline and other habitats that warrant stronger protection.

The discussion of the county's Environmental Stewardship mission in Chapter 5 rightly focuses on watershed protection. This is the fundamental underpinning of the environmental health of the county and the Chesapeake Bay. As directed by HB 1141, the GDP also addresses "sensitive areas." The plan covers the areas itemized by that 2006 act, such as Natural Heritage Areas, steep slopes, flood plains, and wetlands. As directed by law, the plan covers some "other areas in need of special protection," such as bogs and the Jabez Branch.

However, the draft GDP omits consideration of other ecologically sensitive habitats in the county. For example, no consideration is given to protecting and improving shoreline areas like those in Herring Bay that serve as breeding, nesting, and foraging habitat for horseshoe crabs, terrapins, and various colonial nesting shorebirds. Other biologically sensitive areas may also warrant protection, such as vernal ponds that support several species of amphibians and other wildlife. Ecologically valuable habitat will be lost if the county strives to protect only those places deemed to be of national or statewide significance.

Recommendations: (a) broaden the scope of Chapter 5 to include other biologically sensitive habitats. Such areas should include shoreline breeding areas, habitat for forest-interior dwelling species, vernal ponds, and other areas recommended by ecologists; (b) create special overlays for sensitive habitats in addition to those for the Critical Area, bogs, and Jabez Branch; (c) establish a Shoreline Preservation Program similar to the existing Agriculture and Woodland Preservation Program; and (d) use transferable development rights to preserve other sensitive habitats, as proposed for rural areas.

3. Greenways Preservation – Commitments fall short of what's needed to protect these high-priority tracts.

While the GDP reiterates support for the Greenways Master Plan that was established in the 2006 *Land Preservation, Parks and Recreation Plan*, it fails to quantify its goals in this regard. The most significant concern about the establishment of the Greenways Network is the amount of designated acreage that is not under any form of protective easement, which in some segments is as high as 90 percent.

Recommendation: Establish quantifiable goals in the GDP for protecting the Greenways Network and other sensitive areas, which could be used to prioritize tangible actions to protect them, including: (a) purchasing conservation easements; (b) establishing

Greenway Preservation programs similar to the Agricultural and Woodland Preservation and Rural Legacy Programs, and (c) using transferable development rights as an approach to preserving Greenways, as proposed for rural areas.

4. Guidance on Rural Areas – Sewer solutions should not dominate the description of “Rural Areas.”

Chapter 7 is the policy road map for future land-use decisions in Anne Arundel County. As a result, this 14-page chapter will carry huge weight in the years ahead and must clearly express core principles and ideals. One area where the current text falls short is the characterization of Rural Areas on page 113. This paragraph lacks any mention of the role of rural areas in preserving farmlands, forest habitats, and other natural resources. Instead, two-thirds of the 60 words written about Rural Areas discuss the policy of extending sewer to communities at risk of having failed septic systems.

The areas identified in Chapter 10 as prospects for sewers or community-based treatment systems—portions of the Severn, South, and Magothy and Bodkin Creek watersheds—represent a small fraction of the geographic area mapped as Rural Areas in Figure 7-3. Thus, sewer expansion should not dominate the description of Rural Areas. For the record, while we support the county’s effort to reduce nutrient loads, including targeted recourse to sewers, we oppose wide-scale expansion of sewers in rural areas.

Recommendation: Revise the description of “Rural Areas” on page 113 to include a discussion of their importance in preserving agricultural and natural resource functions and limit the discussion of sewers to the areas targeted in Chapter 10.

5. Policy Integration – Criteria are needed to make trade-offs among different priorities, especially in areas designated for Managed Growth.

The GDP meticulously maps the features of communities and watersheds throughout the county and lists the many legal tools available to implement various goals. What is missing are guideposts for making the inevitable trade-offs among competing interests. For example, portions of the village of Deale in South County have been concurrently designated as a priority funding area (targeted for managed growth and redevelopment) and as a subwatershed that warrants preservation. How will the county’s zoning, subdivision, grading, Critical Area, and other regulations be integrated to achieve those conflicting objectives? There are other similar inconsistencies between the goals of redevelopment and infill and the goals of watershed protection and preservation, especially in Managed Growth Areas.

Recommendation: Resolve the inconsistencies in the constituent plans and provide explicit policies addressing allowable land uses in Water Resource Preservation Areas.

The Way Forward

Local governance of land uses can be proactive or reactive. In the past, land use decisions were driven largely by market forces, with a presumption that any adverse impacts would be fixed by a patchwork of government regulations and taxpayer investments. Anne Arundel County now has the chance to get it right from the start: to balance market, environmental, and community needs *before* land is developed.

The draft GDP has laid a solid foundation for a better decision-making process, but more remains to be done. We believe that the most significant weakness in the GDP lies not with the plan itself, but with its implementation. As currently drafted, the GDP does not provide sufficiently clear guidance on prioritization and precedence of GDP policies, which is essential if we are to have consistent application of those goals to land use and other key decisions. Tests for consistency with the GDP must be expressed in metrics that are transparent, enforceable, and effective and reviewed by panels of citizens with expertise in their local area.

The Advocates for Herring Bay and the West/Rhode Riverkeeper appreciate the opportunity to contribute to this public dialogue, and look forward to assisting with the further refinement of the GDP. If you would like to discuss these issues with us further, please contact Stephen Marley at herringbay@comcast.net or Chris Trumbauer at riverkeeper@westrhoderiverkeeper.org.