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Parris N. Glendening, Smart Growth: Maryland's Innovative Answer to Sprawl, 10 B.U. PUB. INT. L.J. 416 (2001).

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Parris N. Glendening, Smart Growth: Maryland's Innovative Answer to Sprawl, 10 B.U. Pub. Int. L.J. 416 (2001).

APA 7th ed.

Glendening, P. N. (2001). Smart growth: maryland's innovative answer to sprawl. Boston University Public Interest Law Journal, 10(3), 416-427.

Chicago 17th ed.

Parris N. Glendening, "Smart Growth: Maryland's Innovative Answer to Sprawl," Boston University Public Interest Law Journal 10, no. 3 (Summer 2001): 416-427

McGill Guide 9th ed.

Parris N. Glendening, "Smart Growth: Maryland's Innovative Answer to Sprawl" (2001) 10:3 BU Pub Int LJ 416.

AGLC 4th ed.

Parris N. Glendening, 'Smart Growth: Maryland's Innovative Answer to Sprawl' (2001) 10(3) Boston University Public Interest Law Journal 416

MLA 9th ed.

Glendening, Parris N. "Smart Growth: Maryland's Innovative Answer to Sprawl." Boston University Public Interest Law Journal, vol. 10, no. 3, Summer 2001, pp. 416-427. HeinOnline.

OSCOLA 4th ed.

Parris N. Glendening, 'Smart Growth: Maryland's Innovative Answer to Sprawl' (2001) 10 BU Pub Int LJ 416
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SMART GROWTH: MARYLAND'S INNOVATIVE ANSWER TO SPRAWL

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I. INTRODUCTION

Sprawl development is one of the most serious problems facing citizens across the United States. Unrestrained growth consumes forests, wetlands, farms and other natural resources as well as adversely affecting air and water quality. Taxpayers are forced to spend billions of dollars to fund the infrastructure – new roads, new schools, new water and sewer facilities that results from sprawl. Nothing that government leaders can do, with the sole exception of improving education, will have a greater, more lasting impact on the future of our citizens than ensuring that our future growth is smarter and more sensitive to the quality of life.¹

Too many policymakers believe they have to choose between growth management and economic prosperity. Maryland leaders have demonstrated over the years that this is a false dichotomy. Maryland has the highest family income in the nation;² the State's unemployment is near an all-time low because the State has a healthy business environment.³ Maryland's overall poverty rate is one of the lowest in the nation and the child poverty rate is second-lowest only to Utah.⁴ Since 1995, Maryland reduced or eliminated twenty-eight taxes, returning \$2.6 billion to

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¹ This year the National Governors Association is focusing on ways to help the nation's Governors better steer future growth, increase preservation of our natural resources, encourage community revitalization, assure that Americans maintain a high quality of life, and save taxpayers the infrastructure costs associated with poor planning. Information on the Chairman's Initiative, "Where Do We Grow From Here?" is available at <http://www.nga.org>. See also Joel S. Hirschhorn, *Growing Pains: Quality of Life in the New Economy*, NGA Report (2000).

² According to the most recent available data from the U.S. Census Bureau for 2-year-average median of household incomes, available at <http://www.census.gov>.

³ See Maryland Department of Labor, Licensing and Regulation Employment Statistics, available at <http://www.dlir.state.md.us>.

⁴ United States Census Bureau, available at <http://www.census.gov>.

Maryland taxpayers.⁵ Last year, the State had a \$1 billion surplus.⁶ At the same time, Maryland became a leader in protecting the environment and addressing the problems created by sprawl.⁷

Unrestrained growth is not just an urban issue or an East Coast issue, not just a Democratic issue or Republican issue. It occurs nationwide—in big states, small states, big cities and small towns.⁸ Last year more than half of the Governors in all parts of the country referred in their State of the State speeches to the problems of growth and traffic congestion.⁹ Increasingly, broad arrays of citizen groups are demanding that their leaders address growth problems.¹⁰

Maryland's effort to combat sprawl is called the Smart Growth and Neighborhood Conservation Initiative (hereinafter "Smart Growth"), which was the centerpiece of the Administration's 1997 legislative package.¹¹ This article describes Maryland's Smart Growth program. It explains that earlier growth management programs in Maryland, though imaginative and useful for yesterday,

⁵ A list of the tax cuts and the estimated impact is available at <http://www.dbm.md.state.us>.

⁶ See Gady A. Epstein, *Hopes for Cut in Tax at End; Surplus Should go to Improving Schools, Key Lawmakers Say*, BALT. SUN, Mar. 15, 2000, at 1B.

⁷ In 2000, Maryland's Smart Growth and Neighborhood Conservation program was selected as one of ten winners from 1,300 entries for an Innovations in American Government 2000 Award by Harvard University's John F. Kennedy School of Government and the Ford Foundation. *Smart Growth and Neighborhood Conservation 2000 Winner*, available at <http://www.ksg.harvard.edu/innovations/2000/smargro00.html>. Maryland's Smart Growth program also received the 2000 Olmstead Medal from the American Society of Landscape Architects. Press Release, ASLA Oct. 19, 2000, available at <http://www.asla.org/nonmembers/press102500c.html>. See also Editorial, *Growing Smarter; Maryland Shows the Way*, MINN. STAR TRIB., Nov. 30, 2000, at A24; Lee Bey, Editorial, *Maryland Cracks Down on Sprawling Growth*, CHI. SUN-TIMES, Nov. 20, 2000, at 6.

⁸ See Oliver A. Pollard, III, *Smart Growth: The Promise, Politics, and Potential Pitfalls of Emerging Growth Management Strategies*, 19 VA. ENVTL. L.J. 247, 251 (2000) (noting that in November 1998, there were over 240 ballot measures in 31 states dealing with growth issues). See also Haya El Nassar, *Development Bursting Seams of Sprawl Laws*, USA TODAY, July 11, 2000, at A3 (reporting that "almost half the states have passed laws to control . . . sprawl in the past three years").

⁹ Timothy Beatley and Richard Collins, *Smart Growth and Beyond: Transitioning to a Sustainable Society*, 19 VA. ENVTL. L.J. 287, 291 (2000).

¹⁰ See Pollard, *supra* n.8 at 250 (indicating that environmental activists, historic preservationists, taxpayer groups, health, social and justice groups, farmers, religious groups and business communities are raising concerns about the adverse impacts of sprawl). A poll commissioned by Smart Growth America, a new nationwide coalition of over sixty public interest groups, shows that 78 percent of Americans support policies to curb sprawl. Smart Growth America Press Release, *Americans Want Growth and Green; Demand Solutions to Traffic, Haphazard Development* (2000), available at <http://www.smartgrowthamerica.com/release>.

¹¹ See generally Timothy B. Wheeler, *Governor urges Smart Growth at anti-sprawl conference*, BALT. SUN, June 5, 1997, at 2B.

lacked the scope and coordination of effort to meet the land use challenges of today and tomorrow. This article provides an overview of the Smart Growth package of coordinated initiatives and shows how the Maryland State government is now a more effective player in managing the State's growth.

Smart Growth is a Maryland success story. Nonetheless, it is critical to recognize that there is no "one size fits all" solution to managing growth.¹² Whatever approach a state chooses,¹³ the current patterns of growth across the country must change.¹⁴ Citizens are wasting far too many hours sitting in traffic jams. Older, established communities continue to suffer along with the slowly eroding environment. We must push forward with a different vision for a better America.

II. SETTING THE STAGE FOR A SHIFT IN GROWTH POLICIES IN MARYLAND

The premise of Maryland's Smart Growth is that government policy can curb sprawl by limiting public investment to projects consistent with sound growth management. Previously, government policies tended to encourage sprawl.¹⁵ Before Maryland's Smart Growth initiative went into effect in October 1998, projects (what projects?) often received State financing regardless of their location. Even State facilities located on the outskirts of towns or far from population centers received state funding??. Funding formulas made it easier and cheaper to build roads in undeveloped areas and little thought was given to their impact on future development patterns. Costly water and sewer surcharges in developed areas pushed builders to undeveloped land where the surcharge was lower.¹⁶ (need to conclude this paragraph)

Maryland, like most States,¹⁷ is facing growth pressures. Maryland is the eighth-

¹² *Planning Communities for the 21st Century*, A Special Report of the American Planning Association's Growing Smart Project, Dec. 1999, at 4 ("there is no one best way to modernize or reform land-use laws").

¹³ See *id.* at 2-4 (describing different categories of governmental land use reforms).

¹⁴ Bruce Katz, *The Unaddressed Issues of the 2000 Primaries: The Federal Role in Curbing Sprawl*, 572 ANNALS AM. ACAD. POL. & SOC. SCI. 66 (2000) (describing the destructive patterns of sprawl); Timothy J. Dowling, *Reflections on Urban Sprawl, Smart Growth and the 5th Amendment*, 148 U. PA. L. REV. 873 (2000) (noting the adverse impact of sprawl).

¹⁵ Pollard, *supra* note 8, at 259.

¹⁶ In 1993, the Washington Suburban Sanitary Commission proposed to raise significantly the water and sewer surcharge in developed areas, but leave a much lower surcharge in undeveloped areas. Fortunately, leaders in Prince George's County, Maryland, who Washington Suburban Sanitary Commission provides the water and sewer system, were able to prevent this surcharge scheme from taking effect.

¹⁷ Unrestrained sprawl is also an international problem. Since the passage of Maryland's Smart Growth legislation, officials in Sweden and South Africa invited Maryland officials to speak about our approach to growth management and urban revitalization. In addition, a delegation from Panama came to Maryland to learn how our efforts to protect the

smallest State in the country at 12,407 square miles.¹⁸ From 1970 to 1995, Maryland's population increased from four million to five million, a 25 percent increase.¹⁹ Maryland's population is expected to grow another 20 percent during the next twenty-five years.²⁰ From 1985 to 1990, Maryland lost 145,000 acres of farm and forest to suburban development, and lost two acres of farmland for each acre protected.²¹ If current land use patterns continue unchecked, Maryland will consume as much land in the next twenty-five years as it did since the State was founded more than 360 years ago.²²

Conscious of the consequences of sprawl, Maryland began taking steps to control it in the 1970s. In 1973, Governor Marvin Mandel²³ used his State of the State speech to call for land use reform, telling members of Maryland's Legislature, "[t]he character of Maryland will be shaped by what we do with our human resources as well as with our natural resources." He announced that the State should take the lead in defining areas in Maryland that improper and excessive development would damage. The following year the General Assembly passed the Land Use Act of 1974, which first established the State's interest in local land use.²⁴

The Chesapeake Bay, as the largest estuary in the United States,²⁵ is of great importance to Maryland, the surrounding states and the entire nation. By the early 1980s, the health of the Chesapeake Bay reached a crisis level. Habitat loss and disease, exacerbated by intense development along the shoreline of the Bay and its tributaries, reduced the oyster population to less than 1 percent of historic proportions.²⁶ In response, Governor Harry R. Hughes²⁷ championed efforts to protect the Bay. One result was the 1984 Chesapeake Bay Critical Area Protection

Chesapeake Bay could be used in their country. During a Maryland trade mission to South America, government officials in Brazil expressed the desire to use our success on the Chesapeake Bay as a model for their own Guanabara Bay.

¹⁸ *Maryland: So Many Things To Do So Close Together*, available at <http://www.50states.com/maryland.html>.

¹⁹ *Quick Facts About Maryland*, available at <http://www.mdp.state.md.us/info/facts/facts-frame.html>.

²⁰ *Projections of the Total Populations of States*, available at <http://www.census.gov/populations/projections/state/stpipop.txt>.

²¹ *The State of Maryland's Farmland*, available at <http://farmland.org/regions/midatl/md.html>. The American Farmland Trust reports that America loses 3000 acres of farmland a day, or 125 acres an hour to urban and suburban growth. *American Farmland Trust Factsheet*, available at <http://www.farmland.org/files/steward/factsheet.html>.

²² SIERRA CLUB FOUNDATION, *Sprawl Costs Us All*, (1997).

²³ Marvin Mandel, Governor of Maryland 1969-79.

²⁴ MD. ANN. CODE art. 88C, *repealed by* Acts 1985, ch. 11, § 1 (1985).

²⁵ *About the Chesapeake Bay*, available at <http://www.chesapeakebay.net/info/about.cfm>.

²⁶ *The State of the Bay*, available at <http://www.cbf.org/sotb/2000/index.html>.

²⁷ Harry R. Hughes, Governor of Maryland 1979-87.

Act,²⁸ which set restrictions on development within a 1000-foot buffer along the shoreline of the Bay and its tributaries.²⁹

Governor William Donald Schaefer³⁰ also pushed for land use reforms. With his backing came the Maryland Economic Growth, Resource Protection and Planning Act enacted in 1992.³¹ This law required cities and counties to adopt comprehensive plans consistent with policy statements, or "visions," relating to economic growth, conservation of natural resources including reduction in resource consumption, stewardship of the Chesapeake Bay and concentration of development in suitable areas.³² Critics complained, however, that the 1992 Act was weak, in part because it lacked uniform standards and enforcement provisions. Many essential terms in the Act, such as "growth," were left to local governments to define. Moreover, local governments were given no incentive to improve growth management.

It was clear that these early attempts to manage sprawl, while well-intentioned, were inadequate. To halt destructive growth patterns it was necessary to find ways to change the economic "bottom line" driving development decisions. People make "bottom line" decisions; homebuyers do, developers do, and government officials do. As a first step, the State had to stop subsidizing sprawl and offer financial incentives to encourage growth in existing communities where the infrastructure and services already exist. It was decided to use gubernatorial powers over the State's budget³³ as an incentive to change growth patterns.³⁴ The goal was never to stop growth, or even to slow it down, but, instead, to halt the unplanned or poorly planned growth that was – and still is – eating up our countryside at an alarming rate. This led to the development of a series of policies that together formed the initial Smart Growth package.

III. OVERVIEW OF THE SMART GROWTH PROGRAM

If government policies over the past half-century or more have encouraged or contributed to sprawling development patterns, then government policies can begin to reverse those patterns. Smart Growth is a series of fiscal and programmatic initiatives designed to turn around current growth policies, which now are routinely tilted toward new suburban or ex-urban development. The approach is multifaceted and, importantly, incentive-based rather than regulatory-based. Smart

²⁸ MD. CODE ANN., NAT. RES. §§ 8-1801–8-1817 (2000). Measures such as those taken pursuant to the Act resulted in a 39% reduction in the total phosphorus pollution and 28% in total nitrogen pollution. *Excess Nutrients in the Chesapeake Bay Make Survival Difficult*, available at <http://www.dnr.state.md.us/bay/science/savecrab.html>.

²⁹ See *id.* § 8-1807(a)(2).

³⁰ William Donald Schaefer, Governor of Maryland 1987-95.

³¹ MD. CODE ANN., STATE FIN. & PROC. §§ 5-7A-01–5-7A-02 (Supp. 2000).

³² See *id.*

³³ Maryland's State budget was \$21 billion this last year.

³⁴ See MD. CODE ANN., CONST. art. III § 52(5) (1981) and MD. CODE ANN., STATE FIN. & PROC. § 7-213 (1995 & Supp. 2000) (granting the Governor vast State budgetary powers).

Growth provides a framework for decision-making by directing State spending into established communities. Smart Growth has three goals: preserve our most valuable remaining natural resources; target State resources to support existing communities and neighborhoods; and save taxpayers hundreds of millions of dollars by avoiding the unnecessary cost of building the often redundant infrastructure required to support sprawl.

A. Priority Funding

The cornerstone of our Smart Growth approach is the creation of Priority Funding Areas ("PFAs").³⁵ A PFA is a designated area targeted for future growth and, therefore, eligible for future State financial assistance. As of October 1, 1998, the State is prohibited from spending funds on growth-related projects outside a PFA.³⁶ Traditionally certain areas of the State have been population centers and were automatically designated as PFAs.³⁷ These areas include every municipality and the already heavily developed areas inside the Baltimore and Washington Beltways. Also, PFAs include areas previously designated as enterprise zones,³⁸ neighborhood revitalization areas,³⁹ heritage areas,⁴⁰ and existing industrial land,⁴¹

³⁵ MD. CODE ANN., STATE FIN. & PROC. §§ 5-7B-02—03 (Supp. 2000).

³⁶ See *id.* § 5-7B-04. Exceptions are permitted for projects necessary to protect public health or safety; projects involving federal funds that cannot be restrained by State law; or projects related to commercial or industrial activity that must be located away from other development. See *id.* § 5-7B-05.

³⁷ See *id.* § 5-7B-02.

³⁸ An enterprise zone is defined as an area where the population has decreased by 10%, employment in the preceding 18 months is at least 150% above the average rate of unemployment, or at least 70% of the population have incomes less than an amount equal to 80% of the median family income. MD. ANN. CODE art. 83A, § 5-403 (Supp. 2000). The Secretary of Business and Economic Development or the U.S. Government must designate the enterprise zone or the empowerment zone. See *id.* § 5-401(f) (Supp. 2000).

³⁹ The local jurisdiction designates a neighborhood revitalization area with the concurrence of the Secretary of the Department of Housing and Community Development after consideration of factors such as the "age and number of abandoned structures" and the "income of residents relative to State or regional median incomes . . ." MD. ANN. CODE art. 83B, § 4-203 (Supp. 2000).

⁴⁰ MD. ANN. CODE art. 83B, § 5-801 (Supp. 2000) (income tax); MD. CODE ANN., TAX-PROP. § 9-204 (Supp. 2000) (property tax). Maryland's Historic Preservation Tax Credit equals twenty-five percent of certified rehabilitation costs and is available for work on both owner-occupied residential and income-producing property. Eligibility for these credits requires listing the properties in the National Register of Historic Places, a designation as a historic property under local law, or a certification as a contributing resource within a National Register or local historic district. See MD. ANN. CODE art. 83B, § 5-801(a)(4), § 9-204.1(e). While this credit is not restricted to PFAs, generally most historic properties are located within the State's oldest communities, virtually all of which are now designated PFAs.

⁴¹ See MD. CODE ANN., STATE FIN. & PROC. § 5-7B-03(b) (Supp. 2000).

although in most cases these subsets are, by definition, already located within PFAs.

The law gives counties authority to designate other areas for future growth,⁴² although they are not required to do so.⁴³ Areas that are not municipalities, not inside the Beltways, or not otherwise defined in the law to qualify as a PFA, must meet certain criteria for a county to designate them as areas for future growth. Those areas must be served by existing public water and sewer service or be in an area where such service is planned, be of a minimum average density of 3.5 units per acre for new residential development, and be of a size that is consistent with the county's long-range growth projections.⁴⁴

In 1998, an Executive Order expanded the scope of our Smart Growth effort.⁴⁵ The Order requires all State agencies to adhere to a statewide Smart Growth policy when making discretionary decisions not otherwise covered by the PFA law.⁴⁶ For example, this Order gives priority to PFAs when funding projects or new facilities.⁴⁷

Focusing State resources in Priority Funding Areas has transformed the way State agencies conduct business. The Maryland Department of Transportation, for example, now uses Smart Growth principles in deciding which projects should receive construction funding.⁴⁸ The department, working in collaboration with the Maryland Department of Planning, assesses whether a proposed project is within a PFA or connects two PFAs. If the answer is "no," the department must determine whether there is a reasonable alternative for the project that is within a PFA, whether there is a demonstrated safety need for the project, or whether the project serves a commercial or industrial activity that by its nature must be located away

⁴² See *id.* at §§ 5-7B-03(d) - (e).

⁴³ As introduced in 1997, the Smart Growth legislation would have given the Office of Planning, now the Department of Planning, MD. CODE ANN., STATE FIN. & PROC. § 5-201 (Supp. 2000), the authority to reject county PFA plans it believed were not in compliance with Smart Growth. See *Smart Growth and Neighborhood Conservation – Smart Growth Areas*, H.B. 508, S.B. 389, 1997 Regular Maryland General Assembly Session. The legislation was amended, however, to remove that provision, leaving the Office of Planning only with authority to comment on county plans. MD. CODE ANN., STATE FIN. & PROC. § 5-7B-08 (Supp. 2000).

⁴⁴ See MD. CODE ANN., STATE FIN. & PROC. § 5-7B-03(b).

⁴⁵ Exec. Order No. 01.01.1998.04, MD. REGS. CODE tit. 1.

⁴⁶ See *id.*

⁴⁷ *Id.* Recently, we proposed the creation of the Governor's Office on Smart Growth to coordinate State policies to ensure that every department and agency is acting in accord with the principles of Smart Growth. See *Office of Smart Growth*, H.B. 302, S.B. 204, 2001 Regular Maryland General Assembly Session. The new office will also serve as a one-stop information center for builders, planners, local officials, committee groups, environmentalists, farmers and others who want to incorporate Smart Growth into their initiatives.

⁴⁸ See Md. Dep't of Transp. Strategic Plan, available at <http://www.smarttransportation.com>.

from a PFA (for example, a mining operation).

Another example is the new Smart Growth philosophy of the State Highway Administration, which has become known as "Thinking Beyond the Pavement."⁴⁹ Officials note that under this new approach, "[h]ighway planners in Maryland are encouraged to take as much pride in a finely wrought crosswalk as they once found in" building curving highway lanes.⁵⁰ For the last six years, funding to support this effort quadrupled from \$50 million to more than \$200 million for the Transportation Department's new Neighborhood Conservation Initiative.⁵¹ This program uses traditional highway construction funds for new uses such as landscaping, sidewalk construction, ornamental lighting, park benches and other "streetscaping" amenities that make older downtown business districts more attractive places for Marylanders to live or work or shop.

To make even more progress in reducing road congestion, we set a goal of doubling transit usage in Maryland by 2020.⁵² To achieve this goal, in 2000 we announced \$1.75 billion in new construction and operating funds to improve the quality of mass transit.⁵³ This increased funding will add new commuter bus routes, more neighborhood shuttles, and universal "Smart Card" technology so riders can easily transfer from one part of the network to another. It also will help purchase new buses and rail cars and better information technology for buses. In addition, we established an Office of Bicycle and Pedestrian Programs within the Department of Transportation⁵⁴ and created a Transit-Oriented Development Task Force.⁵⁵ The goal of all of these efforts is to develop a balanced transportation system that is concerned with moving people, not just moving cars.

The State refocused other State programs and policies to promote Smart Growth. The Legislature directed school construction funds toward renovations of older schools. The State covers about half of public school construction costs and counties pick up the balance. At the start of this Administration in 1995, about 43 percent of the State school construction budget went to older schools; that number today is 84 percent, even as the overall size of the State's school construction

⁴⁹ Lori Montgomery, *Md. Going 'Beyond the Pavement': State Shifting Focus From Roads to Pedestrians and Transit*, WASH. POST, Sept. 15, 2000, at A1.

⁵⁰ *Id.*

⁵¹ A summary of the State Highway Administration's Smart Growth Programs is available at <http://www.sha.state.md.us>.

⁵² Press Release, Office of the Governor of Maryland, Oct. 2, 1998, available at www.gov.state.md.us/gov/press/1998.

⁵³ Press Release, Office of the Governor of Maryland, Dec. 7, 2000, available at www.gov.state.md.us/gov/press/2000. See also www.mdot.state.md.us/news/TransitVision (outlining mass transit initiatives and identifying funding sources).

⁵⁴ MD. CODE ANN., TRANSP. § 2-603 (2000) (creating the Office and directing that it report to the Legislature measurable performance goals for bicycle and pedestrian transportation).

⁵⁵ Exec. Order 01.01.2000.20, MD. CODE REGS. tit. 1 (charging the Task Force with making recommendations to encourage development around the State's transit systems).

budget has nearly tripled.⁵⁶

Maryland's Department of Housing and Community Development directs federal Low Income Housing Tax Credits and other federal housing and community development funds to Smart Growth areas.⁵⁷ Moreover, the department recently amended its regulations to implement Smart Growth across nearly all of its programs in an effort to allocate scarce State resources to PFAs.

This year we proposed a Community Legacy Program⁵⁸ to expand neighborhood revitalization. This fund will provide flexible financing for specific revitalization projects not covered by existing programs. The purpose is to have a program that fits specific projects rather than try to make projects fit into specific programs. Modeled after our successful land conservation program, Rural Legacy, the Community Legacy Program will be a competitive program that rewards those jurisdictions showing the greatest commitment to making Smart Growth happen in their communities. Another new incentive designed to make our PFAs more attractive places to live is the Community Parks and Playgrounds Program.⁵⁹ This program will provide funding to restore and create parks and playgrounds in established communities all across the State.

The Live Near Your Work Program provides incentives for employees to buy homes within biking or walking distance of their place of employment.⁶⁰ The State partners with private or public employers and the local government to offer homebuyers up to \$3000 for down payments or closing costs. By the end of 2000, at least eighty employers participated in the program and more than 360 employees bought homes under the program, most of them first-time buyers.⁶¹ The Department of Housing and Community Development also offers a low-interest mortgage loan to new teachers in the public school system so long as the home is purchased within a PFA.⁶² This program supports Smart Growth and addresses the teacher shortage problem in cities by encouraging the influx of sorely needed new teachers.

⁵⁶ Press Release, Office of the Governor of Md., May 9, 2000, *available at* www.gov.state.md.us/gov/press/2000.

⁵⁷ The U.S. Department of Housing and Urban Development offers assistance to local governments for community and economic development in urban areas, which is key to sustainable development. As Maryland's housing financing authority, the Department of Housing and Community Development has a federal mandate to serve low and moderate-income people for whom compact, mixed-use, transit-oriented development can facilitate a better life.

⁵⁸ Smart Growth and Neighborhood Conservation – Community Legacy Program, H.B. 301, S.B. 202, 2001 Regular Maryland General Assembly Session.

⁵⁹ Capital Budget, H.B. 255, S.B. 235, 2001 Regular Md. Gen. Assembly Session.

⁶⁰ MD. REGS. CODE tit. 5, § 05.03.07 (1998).

⁶¹ Robert Nusgart, *Homeowner Program Gets More Popular*, BALT. SUN, Dec. 10, 2000, at L1 (reporting the success of the program).

⁶² MD. ANN. CODE art. 83B, § 2-201 (Supp. 2000).

B. Preserving Natural Resources

While we encourage growth within our existing population centers, we also preserve Maryland's best remaining farmland and natural resources. Under our 1998 Rural Legacy Program local counties work with citizens and willing landowners to identify their most valuable areas and help them apply for State funds to buy the development rights or, in some cases, buy the land outright.⁶³ Lands targeted for protection include large, contiguous tracts that feature endangered species habitats, valuable agricultural uses, forests, stream buffers and historic villages and/or battlefields.

The goal of the Rural Legacy Program is to permanently protect from development 200,000 to 250,000 acres during the program's first fifteen years. We are well along the way toward achieving that goal. Since 1998, the State has committed \$100 million for twenty-five Rural Legacy areas in twenty of our twenty-three counties.⁶⁴ In just the past six years, taking all of our preservation efforts together, the State has permanently protected or preserved over 214,000 acres all across Maryland. This is one reason the Sierra Club ranked Maryland first in the nation in land conservation.⁶⁵

This year, we proposed the GreenPrint Program to take land preservation efforts a step further.⁶⁶ This program will use sophisticated computer mapping techniques to identify and map the most ecologically sensitive areas remaining in the State. The GreenPrint Program will coordinate at the State level with other land preservation programs that operate independently at the county level.⁶⁷ The goal is to create Green Hubs of 100 acres or more and Green Links that connect them to foster habitat trails and protect threatened species of animals and plants.

One of the original parts of the Smart Growth initiative is a brownfields cleanup initiative.⁶⁸ Important as an economic development tool within our PFAs, this program establishes clean-up assistance for developers interested in recycling abandoned, contaminated commercial or industrial sites. Most of these sites are, by definition, located within our older areas and typically provide the economic advantage of existing infrastructure, such as water and sewer service. In the past, these brownfields were not attractive to developers because of possible future liabilities. Developers opted instead to build on previously undeveloped land not already equipped—as brownfields are—with roads, utilities and other needed

⁶³ MD. CODE ANN., NAT. RES. § 5-9-9A-01 (2000).

⁶⁴ Data about the Rural Legacy Program and other land preservation efforts is *available* at <http://www.dnr.state.md>.

⁶⁵ Sierra Club, *Solving Sprawl, The Sierra Club Rates the State*, 1999, at 5, *available* at www.sierraclub.org/sprawl/report99.

⁶⁶ Capital Budget, H.B. 255, S.B. 235, 2001 Regular Maryland General Assembly Session.

⁶⁷ In the Rural Legacy and Open Space Programs, the counties identify areas for preservation, then apply to the State for funds. In the GreenPrint Program, the State will identify the areas for preservation.

⁶⁸ MD. CODE ANN., ENVIR. §§ 7-501 – 7-516 (Supp. 2000).

infrastructure.

The important breakthrough in Maryland's program is that the State releases from liability the buyers and redevelopers of brownfields who never previously owned the property and therefore did not contribute to the original contamination, unless they exacerbate the contamination or create new pollution.⁶⁹ Maryland offers financial incentives for buyers of brownfields. These incentives include tax credits and financial assistance for site assessment and other cleanup efforts.⁷⁰ The State also provides grants and low-interest loans to fund brownfields redevelopment.⁷¹ Under the brownfields program, at least thirty sites have been completely cleaned up and returned to productive use.⁷²

One of the first sites to be cleaned up under the brownfields program was the American Can Company property in the Canton section of East Baltimore.⁷³ The site is located in a PFA where sewer, water and other infrastructure services already exist. The site had been abandoned for years and the area around it suffered. The developers were able to take advantage of the brownfields program as well as the Heritage and Job Creation Tax Credits to revitalize the site. Now the Can Company is home to forty separate businesses, including high-tech companies, restaurants, cafes and bookstores – and 700 jobs.⁷⁴ As a result of this project and other development nearby, this neighborhood is one of the few in Baltimore where the percentage of home ownership is rising.

IV. TRANSFORMING COMMUNITIES THROUGH SMART GROWTH

In the few years since its inception, Smart Growth has already had an impact on Maryland's landscape. The State cancelled five highway bypass projects that were inconsistent with Smart Growth, with one being restored only after the bypass was redesigned in a way that will not encourage more sprawl development. The sale to a developer of a 550-acre surplus State hospital tract was stopped because it was not in a county's designated growth area. Two courthouses and a new county office building were relocated to the downtown sections of three communities rather than to the outskirts of town where they would be reachable only by car and would do nothing for the revitalization of their host communities. A new Social Services building was moved from the outskirts of town into the heart of the downtown area. Similarly, a site selection committee directed that a satellite campus of the University of Maryland be located in a renovated building in a

⁶⁹ MD. CODE ANN., ENVIR. § 7-501(j) (Supp. 2000).

⁷⁰ MD. ANN. CODE art. 83A, § 5-1408(b) (Supp. 2000).

⁷¹ See *id.* at § 5-1405(b)(4).

⁷² See Maryland Department of the Environment Brownfields Report, available at <http://www.mde.state.md.us/environment/was/brownfields/vcpstates.pdf>.

⁷³ Daniela Deane, *Baltimore's Past Isn't Etched in Stone*, WASH. POST, June 10, 2000, at G1.

⁷⁴ Tom Pelton and Kurt Streeter, *Industrial Heart of Baltimore Beats to a New Rhythm*, BALT. SUN, May 7, 2000, at 1A.

downtown area rather than constructed on a farm at the town's edge.

Smart Growth principles have revitalized established, older communities, confirming that this policy is having the intended results. In a rural Eastern-shore county with a population of merely 2,200, the State offered \$1.5 million in State funds if the county built its new offices downtown rather than outside the town.⁷⁵ Once the county agreed to stay downtown, the business district was rejuvenated. A drugstore reversed its plans to close; a local eatery tripled its space; and numerous storefronts are undergoing renovation.⁷⁶

In Eastwood, a neighborhood located on the Baltimore City-Baltimore County line, a \$1.5 million beautification project along a main thoroughfare breathed new life into the community. When officials toured the area last August, the residents—many of whom were sitting on their porches and steps—spoke in glowing terms about the difference the new sidewalks and landscaping made in their community.⁷⁷ On a similar tour in the Hillendale community of Baltimore County, we met an elderly woman sitting on the front steps of her house. She and her husband purchased their home after World War II. She watched as, through the years, the once vibrant neighborhood slowly declined. She had tears in her eyes as she saw the children playing outside. She said there was a time when she thought she would never again see children riding bicycles through the neighborhood. Smart Growth is responsible for making these and other communities more livable.

V. CONCLUSION

Prevailing patterns of uncontrolled growth must end. One effective way to accomplish this is to change government policies that inadvertently foster sprawl. As Albert Einstein said, "[t]oday's problems cannot be solved by thinking the way we thought when we created them." Sprawl did not spread overnight and cannot be stopped overnight. Changed behavior and priorities today, will shape a better world for tomorrow. What happens at the local level affects the livability of communities, the State, the nation and the world. This nation's policymakers must embrace the tools and techniques of their office to make government a key player in stopping sprawl, as Maryland did with Smart Growth. Our children and their children can expect nothing less of us.

⁷⁵ Maryland Department of Budget and Management, *available at* <http://www.dbm.state.md.us>.

⁷⁶ Michael Dresser, *Smart Growth takes root in Md.*, BALT. SUN, Dec. 4, 2000, at A1.

⁷⁷ Joe Nawrozki, *State, County Leaders on Hand to Dedicate Eastern Ave. Project; \$1.5 million renewal praised as example of Smart Growth*, BALT. SUN, Aug. 30, 2000, at B3.