

Guiding Growth in
Virginia: Local
Incentives for
Revitalization and
Preservation



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Summary

Land use patterns in Virginia follow a national trend of rings of new residential developments around existing community centers. These new residential developments typically are bedroom communities from which residents must drive long distances to work, school, and other activities. This type of land use consumes farm land and open space, damaging Virginia's rural economy and natural heritage. It also competes with existing towns and cities, turning economic investment away from Virginia's community centers. Virginia residents are increasingly aware of the effects of current land use patterns on their quality of life, including rising property taxes necessary to cover the costs of additional schools, roads and other public services needed by the new developments.

Developers tend to build where it is easiest and most cost-effective. Current implementation of Virginia land use policies typically makes rural lands the most attractive place for developers to build. This, in turn, puts pressures on rural landowners to sell their land. To guide development in a way that benefits all of Virginia's communities, the Commonwealth can implement a dual approach of incentives to make it more cost-effective for developers to build in existing communities, along with incentives to ease pressures on rural land owners to sell their land for low density residential or other unsustainable development purposes.

Revitalizing Communities

Virginia's localities have many tools for revitalization and redevelopment. Some of these tools, such as the ability to provide incentives to businesses who invest in designated "local enterprise zones," are already being used throughout the Commonwealth, but could be strengthened. For example, the job creation threshold to receive certain tax incentives in enterprise zones could be lowered to encourage investments in more small and medium sized businesses. Many Virginia localities are not using the available tools to revitalize existing communities, such as revenue-sharing agreements, designation of development regions, and tax increment financing for redevelopment of blighted areas.

Regional programs for strengthening cities, such as the Virginia Regional Competitiveness Program, have the potential to contribute to revitalization of urban centers; however, the goals need to be clearly defined to promote development of areas with existing public infrastructure and to reward regional partnerships that promote revitalization and curb sprawl development patterns. Finally, experience in other states has shown that affordable housing is an incentive for business investment, yet Virginia only authorizes certain localities to allow developers to build at higher than normally permissible densities in exchange for provision of affordable housing units.

Virginia localities could promote revitalization with increased use of these existing tools:

-
- Revenue-sharing agreements among localities to foster consideration of the regional impacts of new economic development.
-
- Local enterprise zones to foster cooperation among local economic development, community revitalization, land use planning, and conservation authorities.
-
- Tax increment financing to support investments that revitalize blighted areas, such as aging commercial districts.
-
- Targeting mass-transit corridors for mixed residential and commercial development, by permitting higher density development and other incentives.
-
- Permit or infrastructure fee reductions or waivers as an incentive for affordable housing.
-
- Designation of development regions with incentives for economic growth, residential development and capital improvement projects in those regions.

The General Assembly could consider the following Virginia Code changes to strengthen and add to localities' ability to promote revitalization:

-
- Authorize all localities to use density bonuses to encourage affordable housing.
-
- Lower the job creation tax credit threshold in local enterprise zones and economically distressed areas even further to encourage more small and medium size business investment. (The Code currently sets the threshold at 100 jobs for most areas and 50 jobs for local enterprise zones and economically distressed areas).
-
- Change the use of the word "blighted" to a term citizens would accept for their neighborhood, such as "revitalization areas."
-
- Include revitalization of areas with existing infrastructure in the goals of the Regional Competitiveness Act and add financial support qualification criteria that acknowledge regional partnerships that promote revitalization and curb sprawl development patterns.

Recycling Land and Buildings

An important aspect of revitalization is the reuse of land and buildings. Aging or abandoned buildings and former industrial properties often pose additional challenges for redevelopment, as well as decrease the property value and attractiveness of neighborhoods. There are a number of incentives to encourage reuse of buildings and land through building rehabilitation, historic preservation, and brownfields cleanup and redevelopment.

Virginia localities have the authority to offer basic tax incentives for property owners to recycle and restore buildings. Virginia could add a new tool of split rate taxes, whereby land and structures are taxed at different rates, to encourage recycling of buildings in areas with infrastructure that are already experiencing an upturn in growth. Virginia also has several programs for state assistance in cleaning up and redeveloping older commercial and industrial facilities, however, all of these programs could be strengthened. For example, the Virginia Clean Sites Program was a one-time appropriation directed only at the largest cities. Virginia's smaller cities and rural areas also have older commercial and industrial facilities in need of redevelopment; state matching funds could be even more important for these areas.

Although Virginia has established a viable voluntary program to clean up contaminated land, the program does not target brownfields (contaminated lands with redevelopment potential) in particular. Experience in other states demonstrates that special incentives are needed to encourage the redevelopment of brownfields properties. Virginia could intensify its efforts to develop a comprehensive state brownfields program that is part of or independent of the Virginia Voluntary Remediation Program.

Virginia localities could promote redevelopment with increased use of these existing tools:

- Programs for local rehabilitation tax exemptions and historic rehabilitation tax credits to encourage rehabilitation and restoration of older and historic structures.
- Programs to exempt local environmental restoration sites from local taxation to encourage cleanup and redevelopment of former industrial sites.

The General Assembly could consider the following Virginia Code changes to strengthen and add to localities' ability to promote recycling of land and buildings:

- Allow the application of split rate taxes (differing tax levels for land and buildings) by authorizing local governments to classify land separately from buildings in urban areas in need of revitalization.
- Renew the Virginia Clean Sites Program and extend its application to all localities, instead of just large cities. In addition, broaden the Clean Sites Program to include: (1) small grants that facilitate site assessment and support community participation in the redevelopment process; and (2) additional large grants that focus on completing redevelopment projects that are likely to create jobs.
- Develop a strengthened and comprehensive brownfields redevelopment program that packages together current initiatives and the following new incentives: (1) state grants for brownfields site assessments and cleanups by local authorities and private parties; (2) establishment of a low interest loan revolving fund for financing brownfields cleanup and redevelopment projects; and (3) coordination and strengthening of state technical assistance to brownfields owners for assessment and remediation of brownfields sites, as well as for evaluation of redevelopment potential and community participation strategies.

Ensuring Adequate Public Facilities

Ensuring that water and sewer services, schools, and transportation infrastructure are sufficient to meet development needs is a major concern of Virginia's local governments. Virginia localities already have the authorization to set clear standards in their comprehensive plan for the level of transportation, sewer, schools, and other services, the locality determines is

adequate for various types of development; using fiscal impact assessment to determine the effect of new development on the locality's fiscal capacity; and providing conditional or special use permitting for new residential developments. However, localities could benefit from explicit authority to make the connection between adequate public facilities and proposed new developments at all levels of decision-making. In addition, the Virginia system of allowing developers to make voluntary offers of mitigating conditions in rezoning cases (proffers) could benefit from clear guidelines and public participation. Localities also could use additional flexibility to require impact fees from new developments in order to have a standardized system for allocating the capital costs of additional public services required by new development.

Virginia localities could ensure adequate public facilities with increased use of these existing tools:

-
- Incorporation of level of service standards for roads, schools, sewer capacity, parks, open space, and other public services in local comprehensive plans.
-
- Fiscal impact analysis of planning, zoning, and administrative land use decisions both as a formal model and an informal guidance for decision-making.
-
- Special or conditional use permitting for residential developments that may adversely impact neighboring properties or the public.
-
- Public participation processes to discuss proposed development projects and possible impacts earlier than the usual public hearings on rezoning cases.
-
- Clear guidelines for calculations of proffers and public access to information and public participation during the proffer process.
-

The General Assembly could consider the following Virginia Code changes to strengthen and add to localities' ability to ensure adequate public facilities:

-
- Clarify localities' authority at the administrative level to fulfill their comprehensive plans by phasing development in a manner that allows them to ensure they can provide adequate public services and facilities.
-
- Authorize localities to consider during the conditional use permitting process the impact of proposed developments on public facilities and local financial capacity, in addition to the existing consideration of impacts on adjacent properties and the public.
-
- Expand the authorization of road impact fees to include all localities and encompass, at a minimum, the additional impacts of schools, parks, sewers, water supply, and health facilities.
-

Preserving the Rural Economy and Natural Heritage

Rural communities in Virginia share a need for compatible economic development and guided growth in ways that will protect and enhance the community's special resources. Recreation and tourism contribute to the health of Virginia's economy and the quality of life of the residents in its communities. Rural landscapes help protect water quality, air quality, and natural habitat; all of which are essential for the rural economy and for the health of the state. Virginia localities have tools for creative preservation of rural lands. Land use assessment and taxation programs, agricultural and forestal districts, purchase of development rights

and other creative uses of conservation easements could be used by every locality for rural land preservation. Virginia localities could also benefit from explicit authority to transfer development rights.

Funding remains a major issue for localities in using tools such as purchases of development rights and in providing for community open space and parks. Although localities can establish innovative programs to leverage revenue, state matching funds from a dedicated fund for land conservation would ensure that these endeavors could be planned on a long-term basis. Virginia could begin a process to develop a dedicated state fund for land conservation. The process could include consideration of inter-agency coordination, state-local coordination, and long-term revenue sources.

Virginia localities could preserve their rural economy and natural heritage with increased use of these existing tools:

-
- Promotion and support of the activities of private land trusts through funding and technical assistance.
-
- Programs regulating the purchase of development rights to preserve agricultural land using installment purchase agreements as one of the funding mechanisms.
-
- Land use assessment and taxation programs as an integral part of local rural lands preservation policies.
-
- Policies that encourage the creation and maintenance of agricultural and forestal districts.
-

The General Assembly could consider the following Virginia Code changes to strengthen and add to localities' ability to preserve Virginia's rural economy and natural heritage:

-
- Establish a dedicated state fund for land conservation to provide a continuing source of revenue for conservation, after a statewide process to determine potential revenue sources and how best to administer such a fund.
-
- Explicitly authorize localities to establish programs for the transfer of development rights.
-
- Explicitly authorize an agricultural "circuit-breaker tax" to provide qualifying farmers with a tax credit against state income tax when the amount of the property tax paid by a farmer exceeds a certain percentage of his or her income.
-

Conclusion

Increasing public concern about unsustainable land use patterns shows a need for the Commonwealth affirmatively to support local initiatives to guide growth. Virginia localities tend to use existing community revitalization, economic development, land use planning, and conservation tools in a piecemeal fashion, rather than developing approaches that emphasize the inter-relationship among these areas. Moreover, Virginia General Assembly authorization of approaches for guiding growth has been haphazard. In some cases the Virginia Code authorizes incentives only for specific localities. In other cases authorization for innovation approaches is ambiguous.

Virginia has the building blocks for a comprehensive and local approach to growth management. As the Commonwealth implements and strengthens its existing tools, it will build a locally-based growth management strategy that sustains vital urban and rural communities and preserves its natural heritage.

I.

Challenges Faced by Virginia Communities

Virginia seeks to provide a high quality of life for all of its citizens by encouraging economic development while preserving valued natural resources. Virginia is committed to attracting new businesses, supporting existing businesses, building vital and healthy communities, and enhancing the rural economy. Where this growth takes place, however, can greatly affect the health of Virginia's economy, communities, and environment. In many communities in Virginia, current patterns of growth have led to sprawling residential developments that place an increasing fiscal burden on local governments, undercut rurally compatible economic development, reduce the quality of life, and cause environmental degradation.

The Commonwealth can receive the greatest benefits when economic development occurs in a considered and common-sense manner that guides development to areas that make fiscal and environmental sense, such as existing neighborhoods and communities. It is possible for Virginia to grow and develop for its economic health, and yet preserve a high quality of life and protect natural resources at the same time. Achieving this goal, however, will take a new commitment by local and state government agencies to using a wide variety of existing and new tools that will guide growth in the future.

Virginia is experiencing sprawl development in most of its high growth localities - the Piedmont, Northern Virginia, localities along I-95 from Washington, D.C. to the Richmond metropolitan area and along I-64 from the Hampton Roads metropolitan areas to Charlottesville. Sprawl can be defined as low density residential development outside of the existing towns and cities, typically in the countryside where little supporting public infrastructure (roads, schools, sewers, transit, parks, and other public services) exists. Sprawl development consumes rural land and has many accompanying problems that are being faced by communities in Virginia and

What Can Cause Sprawl?

Planning and zoning policies of local government that have led to overzoning or zoning more land for suburban types of development than is needed.

Barriers presented by the regulatory and social complexity of building within an existing neighborhood, including cleaning up potentially contaminated lands.

Federal, state, and local transportation funding decisions aimed primarily at building new roads that precede development.

Federal, state, and local tax policies that affect the use of land, such as property tax and inheritance tax.

across the United States. Virginia shares many of the common drivers of sprawl with other states across the country, such as planning and zoning policies, economic decline in aging community centers, barriers presented by regulatory and social complexity of building within existing neighborhoods, transportation funding, tax policies, and decline in rural economic stability.

Certain aspects of Virginia's governance and tax structure add to the drivers of sprawl. In Virginia, localities can take only those actions authorized by the General Assembly. This limitation is known as the "Dillon rule" and, although courts have found fairly broad authorization for planning and zoning by localities under the Virginia Code, the Dillon rule can have a chilling effect on a locality's willingness to undertake creative or new methods of guiding growth. In addition, Virginia's cities and counties are separate jurisdictions. Consequently, rather than approaching land use and economic growth planning from a regional perspective, each locality has tended to plan and zone much more area for residential and commercial development than it could realistically use in the next 20 - 30 years. This "overzoning," especially of rural areas, encourages sprawl development. Conversely, where one locality does take measures to guide growth, it can have the effect of pushing development to rural areas in neighboring localities. Finally, Virginia's localities depend primarily on property tax for revenue, which has led localities to encourage development as a source of local revenue. Only recently have localities begun to realize that the costs of infrastructure needed for new residential development are greater than the revenues gained from the new property taxes.

Common Effects of Sprawl

Lower quality of life for residents as they spend more time in congested traffic, worry about an increasing number of "ozone alert" days and see their property taxes rising.

Stagnation of community centers as towns and cities find it difficult to compete with rural areas for new developments and economic growth.

Damage to the rural economy as farmland and forest land converted into low density residential developments.

Environmental problems, such as increased water and air pollution and threats to wildlife from encroaching development.

Unguided growth and development have a number of tangible and intangible costs. The most apparent costs in Virginia are the costs to local governments and to taxpayers to supply public facilities, such as sewers, schools, and roads to new developments. Less direct tangible costs of sprawl development can include lower quality of life, economic decline in city centers, damage to the rural economy, and environmental harm.

As the Commonwealth's taxpayers and local governments have become more concerned about land development patterns that require widening rings of public infrastructure, Virginians have begun to focus more on local incentives already available to guide growth. Virginians also are asking themselves what additional authority and support local governments need from the state government to guide growth and create better communities. Encouraging community redevelopment is a key aspect of guiding growth. To facilitate redevelopment, local governments are establishing development incentives for new businesses and residences in areas where public services already exist. Redevelopment can be directed to former industrial lands, economically distressed areas,

vacant land, and areas with mass transit and other types of existing infrastructure. Maintaining the rural economy and green spaces is another key aspect of preserving traditional land uses and guiding growth. To facilitate preservation, Virginia's local governments are developing incentives to encourage landowners to maintain farms, forested land, and open space. Conservation easements, the purchase of development rights, and other tools can help to even the economic playing field for those who choose not to subdivide their land for sprawl development that is incompatible with the rural economy.

II.

Revitalizing Communities

Tools to guide development to specific areas are intended in part to encourage developers to redevelop underutilized sites and provide an incentive to reinvest in communities with existing infrastructure. These tools tend to focus growth in areas already served by public sewers, water, and schools, thereby limiting public costs to maintaining that infrastructure, rather than the much higher costs of building new infrastructure. Increasing reliance on the use of existing infrastructure reduces the need for new services on land outside of the areas designated for development. Although rezoning land and committing capital improvements to a specific area can be an incentive for economic development, often additional financial and density incentives are needed to encourage redevelopment of aging areas, and development on still vacant land in existing communities. This section describes a mix of density, tax, revenue-sharing and other incentives that can be used to encourage revitalization of aging or economically distressed commercial and residential neighborhoods, as well as the use of planning and zoning to encourage the completion of existing communities.

Investment in Cities and Towns

Definitions and Common Practice

Incentives to attract new businesses and retain and expand existing businesses are increasingly necessary as a community ages in order to maintain the tax base to support basic services and public infrastructure. Roads may need repair, sewer infrastructure may need upgrading, and design and open space concerns may need to be addressed. A common practice in Virginia and in other states is to designate older communities and economically distressed areas for revitalization and provide a package of state and local incentives for commercial and mixed use redevelopment. A series of tools can be

used to promote revitalization in specific areas, such as tax credits for real property improvement, capital investment, and job creation, as well as creative financing mechanisms, such as using future taxes gained from new economic development to help finance the redevelopment process.

Use of future taxes to help finance existing development is called tax increment financing and occasionally has been used in Virginia and elsewhere to revitalize older commercial areas. With tax increment financing, a locality applies the real property taxes generated by a specific economic activity or project development within a designated geographic area or district to support public improvements associated with the revitalization effort. The assumption is that the locality is not losing these taxes as the economic development would not have occurred in the first place without the ability to carry out the public improvements. Moreover, it is assumed that the locality will benefit from the additional revenues and commercial development that will follow the revitalization. Tax increment financing is authorized in 44 states, including Virginia, but has not been used by many Virginia communities.

States and localities are encouraging revitalization by providing tax credits for businesses that create jobs in targeted growth areas. In order to receive the tax credit, the state or locality typically imposes eligibility requirements regarding the number of jobs, types of business and/or wages paid. For example, Maryland's Job Creation Tax Credit Act promotes job creation by providing income tax credits to business owners who create at least 25 jobs in areas targeted by the State for public infrastructure funds. The jobs must be full-time, permanent and pay at least 150 percent of the minimum wage. The program is intended to encourage mid-sized and small businesses to invest in "smart growth areas" or areas targeted by the state for growth. The Maryland legislation also specifies the types of businesses that are eligible for the credit but a wide range of businesses qualify, including, among others, those primarily engaged in manufacturing, mining, communications, agriculture, forest, biotechnology, and real estate.

Tools that encourage regional cooperation may reduce the likelihood of sprawl by minimizing inter-locality competition for property tax dollars. Such tools can include revenue sharing among localities and incentives for regional economic growth cooperation. Some regions in the country are experimenting with different models of tax-base sharing to try to reach goals of equity, economic revitalization, and regional cooperation. In theory, tax-base sharing creates greater fiscal equity while preserving the integrity of local units of government. One model of tax-base sharing uses regional service districts financed by a portion of the commercial and industrial tax base. Direct tax-base sharing of this type has its longest history in the

Virginia localities can use revenue-sharing agreements to foster consideration of the regional impacts of new economic development.

Minneapolis - St. Paul region, which for twenty-five years has pooled 40% of the growth in the industrial and commercial property tax.

Virginia Practice

Tax Base Sharing: Virginia's cities and counties are authorized under the Virginia Code to develop revenue, tax base or economic growth sharing agreements.¹ These agreements enable localities to share the benefits of economic growth. The agreement may be limited to specific purposes, such as public services or economic development.

For example, the County of Albemarle and the City of Charlottesville, Virginia, entered into a revenue sharing agreement in 1982 as an alternative solution to annexation of county territory by the city.² Annexation has historically been effective as a method for cities to increase their tax bases. The revenue sharing agreement was negotiated as an alternative to annexation that would allow both jurisdictions to share in the property tax revenues created by future economic growth in the community regardless of whether that growth occurs in the city or the county. Under the Albemarle - Charlottesville agreement, both localities annually contribute portions of their respective real property tax bases and revenues to a revenue and economic growth sharing fund. The distribution of the fund is determined yearly by a procedure based on population and property tax rate. In practice, this formula has consistently resulted in a net transfer from the county to the city.

Regional Competitiveness Program: The Virginia Regional Competitiveness Program was created by the General Assembly in 1996 in order to enhance economic competitiveness on a regional basis.³ The program provides funds to localities implementing qualifying cooperative initiatives. Localities apply for the funds by outlining the regional problems they are trying to resolve and the actions they plan to use to resolve them. To qualify, the localities' regional partnership must earn a minimum number of points based on a scale of priorities set out in the statute. Once granted, the funds can be used at the localities' discretion. The funds are allocated for at least five year periods, as long as the partnership continues to exist and function effectively. The Virginia Regional Competitiveness Program grew out of a concern about the decline of central cities. The General Assembly determined that the health of cities depended on the health of the larger metropolitan region. The regional partnerships applying for the incentive funds are required to include as broad a representation as is practical of local government, elementary and secondary education, higher education, the business community, and civic groups. In order to be part of this program, regional partnerships must develop a regional strategic economic development plan, which identifies critical issues of economic competitiveness for the region. Within the list of the regional criteria to be addressed in the plan are: median family income, job creation,

and differences in median family income levels among the localities in the region. Under the weights assigned for functional activities, job creation or economic development and regional revenue sharing or growth sharing agreements have the highest number of points.

Enterprise Zone Program: The Virginia enterprise zone program was established by the General Assembly in 1982. The purpose of the program is to stimulate business and industrial growth to revitalize neighborhoods in distressed urban and rural areas. Zones are approved by the Governor on request of a locality and become both state and local enterprise zones with complementary incentive packages available for businesses.⁴ An enterprise zone is an area with low median income, high unemployment, or a high floor area vacancy rate of industrial and commercial properties. The Virginia Code allows the Governor to approve up to fifty areas as enterprise zones. Forty-six of these areas have been designated by a locality as a local enterprise zone. Each county, city, or town is only eligible for a total of three enterprise zones. The Virginia Department of Housing and Community Development administers the enterprise zone program.

Virginia's enterprise zone program offers several state incentives to businesses locating or expanding operations in a designated zone, including a general tax credit against state income tax based on employment practices; a refundable real property improvement tax credit for property rehabilitation; an investment tax credit for job creation; and grants for job creation.

Virginia's localities often provide additional incentives within an enterprise zone. Among the tools authorized for use by localities in local enterprise zones are incentives, such as reductions in user fees, license taxes, and other differential taxation programs. Localities are also authorized to use regulatory flexibility such as permit process reform, exemptions from local ordinances, and special zoning districts. For example, the town of Front Royal has one enterprise zone located in the industrial area along Kendrick Lane. The Front Royal zone became effective January 1, 1994 and will be in effect for 20 years. Warren County also has an enterprise zone located in Cedarville which became effective January 1, 1996, and will be in effect for 20 years. In addition to the state incentives, Front Royal and Warren County offer to businesses within their zones a five-year partial rebate of business license fees; cash grants; five-year partial credits of building, planning and zoning permit fees; accelerated permit review processes; a five year partial credit of real estate taxes for certain rehabilitation of older property; and a five-year partial credit of machinery and tools tax.

Tax Increment Financing: Since 1988, the Virginia Code has authorized local governments to use real estate tax increments to encourage private investment in development project areas (blighted areas).⁵

Virginia localities can use local enterprise zones to encourage cooperation among local economic development, community revitalization, land use planning, and conservation authorities.

Virginia localities can use tax increment financing to support investment revitalizing blighted areas, such as aging commercial districts.

The Virginia Code identifies “blighted areas” as areas with commercial, residential and industrial structures subject to dilapidation, deterioration, inadequate ventilation, and inadequate public utilities. The provision does not mandate any action, but (1) finds it in the public interest to provide public facilities such as roads, sewers, and parks to encourage development in such areas, and (2) calls on local governments to encourage private investment in development project areas and explicitly authorizes the use of tax increment financing. The blighted area redevelopment program has not been used by many localities, nor has the instrument of tax increment financing. In part, communities in Virginia may be reluctant to be branded as “blighted.” In addition, localities may be reluctant to use instruments like tax increment financing as long as they add to the total debt that cities in Virginia are allowed to accrue and as long as a referendum is required for counties taking on this type of debt.⁶ In 1994, at the request of the City of Virginia Beach, the Virginia General Assembly amended the Virginia Code to exclude tax increment financing from the annual debt limitation of the Virginia Beach City Charter.⁷ This provision applies only to Virginia Beach. In 1998, Virginia Beach then created a tax increment financing district, the Lynnhaven Mall Shopping Center district, which has a special Tax Incremental Financing Authority to encourage economic reinvestment.⁸

Job Creation Tax Credits: In Virginia, qualified companies locating or expanding in an enterprise zone or an economically distressed area have a lower threshold than elsewhere to receive the Major Business Facility Job Tax Credit.⁹ This is a \$1,000 corporate income tax credit for each new full time job created over a minimum threshold. While the standard threshold is 100 jobs, in enterprise zones and in economically distressed areas, the threshold is lowered to the creation of 50 jobs to encourage investment by smaller businesses.

Development through Density Bonuses

Definitions and Common Practice

In addition to zoning, localities can use a mixture of density bonuses and other incentives to encourage development in areas where the public infrastructure is geared towards a higher density, such as in mass transit corridors. When this is coupled with revitalization of aging commercial and residential districts, many community goals can be met at once. Density bonus incentives can also be used as safeguards in revitalization and redevelopment areas to ensure that affordable housing is preserved for residents from a wide range of income levels.

Density bonuses mean that the local government allows the developer to build at a higher than zoned density either to encourage development in a certain area, or in exchange for public benefits, such as

affordable housing guarantees. Although higher density in areas with infrastructure is an important tool to encourage development where public infrastructure already exists, increasing density can raise potential problems. Especially when adding density to existing communities, local governments and developers are often faced with community opposition to the change. The most successful density-increasing projects are based on plans that have been through an intensive community participation process and take issues such as the local need for open space, common places, and mixed use development into account. In addition, successful density seems to be based on encouraging mixed use from the beginning.

Many localities with mass transit systems, use density bonuses to encourage transit-oriented development. Transit-oriented development promotes compact development, mixed density housing, variable housing costs, and walkable neighborhoods. Several tools can be used to encourage developers to build near mass transit. Localities sometimes provide density bonuses above the normally zoned density for the area, thereby increasing the value of the land for developers. Localities can reduce requirements for parking places (typically from two per residential unit to one), thus lowering construction costs for developers. As further incentive for development, localities can expedite permit review through, for example, streamlined review of building permits.

Businesses often rate affordable housing as an important quality in a potential new location, so their employees can enjoy a high quality of life while living close to their workplace. As communities revitalize, their housing stock may become too expensive to maintain a diverse range of ages and income-levels. In general, a mix of tools is needed in providing affordable housing to ensure that it is dispersed throughout the community, that it reaches a range of income-levels, and that developers have the incentives that make providing affordable housing an economically viable proposition for them. The tools typically used to ensure affordable housing include density bonuses for developers, government loans for construction and redevelopment, mixed-use zoning, and tax and mortgage policy incentives for first time home owners.

Virginia Practice

Transit-Oriented Development: Starting with the placement of the public transit (Metro) stops along aging business corridors, rather than along major highways, Arlington County laid the groundwork for transit-oriented development in the 1980's. In choosing to designate the Metro corridors as the major focus for high density, mixed use development in the County and by choosing to preserve the green space and older residential development elsewhere, Arlington County created vital communities with high intensity commercial and residential development. Arlington County developed sector

Virginia localities can target mass-transit corridors for mixed density residential and commercial development, using density bonuses and other incentives to encourage development.

Virginia localities can enact affordable housing ordinances using incentives such as reduction or waiver of fees for permits and infrastructure.

plans within the corridors by involving citizens, developers and the business community. The sector plans clarify the zoning, transportation, utilities, community facilities, and design standards for each area. Incentives include a relatively high development density and a clarity about citizen and government expectations for projects that are in accordance with each sector plan. However, Arlington's experience with density illustrates the pitfalls of density without citizen participation and concurrent mixed uses. For example, in the Rosslyn neighborhood of Arlington County, high density commercial development was developed without the corresponding residential growth. The lack of a residential community is one of the aspects that has detracted from the quality of life in Rosslyn and that the County is currently trying to remedy.

Affordable Housing Density Bonuses: The Virginia Code enables counties using the "urban county executive" form of government to adopt zoning provisions designed to promote affordable housing by providing incentives for the construction of such housing through zoning density bonuses.¹⁰ The statute also sanctions affordable housing ordinances based upon optional density bonuses already in existence in other localities, prior to December 31, 1988. The Code extends the authority of all other localities to enact local affordable housing ordinances using incentives such as reductions or waiver of fees for permits, development, and infrastructure to encourage the provision of affordable housing.¹¹ Arlington County is one of the grandfathered counties under the Virginia Code that may continue to use density bonuses to promote affordable housing, and Arlington has done this with a fair degree of success. Arlington is also one of the localities in Virginia where revitalization, good schools, safe neighborhoods, and a high quality of life has caused housing prices to rise. Under its County ordinance, Arlington can give a 15% density bonus in residential units in exchange for affordable housing and a 10% density bonus for commercial units. Arlington uses the density bonus potential to negotiate with developers over the percentage of the development that will be for low-income residents. Arlington is also able to offer a transfer of density from one area to another in exchange for affordable housing units, and Arlington has an affordable housing investment fund, established in 1987, that can give low interest loans to developers to help defray the costs of including affordable housing units in a development. Arlington County does not have a Housing Authority, but instead offers these incentives to community-based non-profits and private developers to promote affordable housing throughout the County.

Designated Development Regions

Definitions and Common Practice

Traditionally, planning and zoning reflect a locality's determination of where and what types of growth promote the public good.

Designating development regions allows a community to nurture residential development, commercial economic growth, and the necessary capital improvements within areas with existing public infrastructure. Designating development regions also has the effect of conserving and nurturing rural economic growth and conservation in the remaining areas of the locality.

Designated development regions establish a dividing line between areas appropriate for urban and suburban densities and areas appropriate for agricultural, rural and natural resource uses. The regions serve as a way to guide growth and provide a legal basis for local decision-making on development. Regions are usually set for ten to twenty year periods to provide consistency over time for the development market and for budgeting capital improvements and infrastructure investment by local and state governments. The regions take into account growth expectations for the designated time period to ensure that the growth area is the appropriate size. Development regions are designated on local initiative in Virginia, but some states are starting to promote use of this tool by all localities. For example, in Tennessee, a new growth management law requires localities to designate growth areas.¹² Localities are expected to work together to take regional considerations into account in the designation of growth areas that will guide development for the next 20 years. In Tennessee, communities must develop plans that encourage compact and contiguous development in the planned growth areas, while protecting agricultural, forest, recreation and wildlife management areas. In addition, Tennessee's cities and counties must work together to coordinate their growth patterns.

Virginia Practice

City of Virginia Beach Green Line: One method of designating development regions in Virginia is to divide the locality into two main areas: one in which residential and commercial development will be promoted and one in which the traditional rural economy will be promoted. For example, in 1979, Virginia Beach adopted a comprehensive plan to guide future growth and development which resulted in a "Green Line" running east to west across the City's geographic center, following the area's natural development patterns. The Green Line was designed to separate the area of the city where facilities and services could be provided within a reasonable time period (and thus where urban development would be appropriate) from the area where there was no reasonable expectation of providing such services within a reasonable time. The Green Line is the basis

Virginia localities can designate development regions and provide incentives for economic growth, residential development and capital improvement projects in those regions.

for the City Council's formulation and implementation of the city's land use and capital improvement planning. Since the establishment of the Green Line and adoption of the 1991 Comprehensive Plan, Virginia Beach had added 160,000 residents in the commercial and residential area, and only a small handful in the rural area. However, in Virginia Beach, until 1997, most of the development and growth in the development area, occurred on vacant land. The City's 1997 Comprehensive Plan encourages development that converts previously developed land to a better use. Areas of aging residential and commercial development, as well as areas with aging infrastructure will be targeted.

Prince William County Rural Crescent: In August 1998, Prince William County finished restructuring its Comprehensive Plan dividing the county into two primary areas: a "development area" and a "rural area." The County found that sufficient vacant and underdeveloped land exists outside the rural area that the rural area is not needed to accommodate further residential growth for the next 20 years. The development area is that portion of Prince William County that has already been developed or is expected to be developed at residential densities substantially greater than those in the remainder of the County. The development area is divided into urban and suburban sub-areas. The Comprehensive Plan encourages economic growth in the development area to maximize the opportunities to provide public services in a cost-efficient manner and to provide an environmentally sound development pattern.

Analysis and Legislative Implications

Communities in Virginia have many tools for in-fill development and revitalization. Some of these tools, such as local enterprise zones, are already being used throughout the Commonwealth, but could be strengthened. Even in enterprise zones, however, the threshold for job creation could be lowered to encourage more small and medium sized business investment. For the most part Virginia localities are not using the available tools to revitalize existing communities. For example, the City of Charlottesville and Albemarle County are among the only localities in Virginia with a revenue sharing agreement. Although Virginia Beach designated a development area and a rural area many years ago, most localities are only just starting to turn to the planning tool of designated development regions for guiding growth. Tax increment financing has been authorized for some time in Virginia but also is not widely used. In the case of Virginia Beach, the tool became more attractive once the tax increment financing debt could be incurred outside of the statutory debt limitation, however the Virginia Code currently authorizes this only for Virginia Beach. Although most Virginia communities are unlikely to build a subway, the idea of combining mixed use and high density to revitalize aging commercial corridors

is viable for many Virginia communities. Localities can adopt these tools to reduce and shorten automobile trips by creating town centers that are accessible by foot, by bike, and by mass transit.

Virginia has few regional programs with the goal of strengthening cities. The Regional Competitiveness Program has the potential to contribute towards revitalization of urban centers, as localities join together to promote economic growth to benefit a wider metropolitan region. However, the goals of the Program are not clearly defined to promote development of areas with existing public infrastructure nor to reward regional partnerships that promote revitalization and curb sprawl development patterns.

Finally, experience in other states has shown that affordable housing is an incentive for business investment in an area. It has also shown that significant financial and other incentives are necessary to make it possible and attractive for private developers to produce homes that low and moderate income families can afford. The builders find it difficult to shift enough of the costs of producing such housing to the other, market rate units in their development to make it economically feasible to produce affordable units, without driving the prices of the market rate housing above that of competing developments. By only allowing counties with the “urban county executive” form of government to adopt zoning provisions designed to promote affordable housing through zoning density bonuses, the Virginia Code limits the ability of other localities to adopt this useful and effective incentive. Although density bonuses need to be coupled with other financial incentives, such as low interest loans, they are still an important and cost-effective way for a locality to encourage affordable housing. If Arlington County had not been grandfathered under the statute, it would not have the authority to use density bonuses. All Virginia localities should be able to use this tool as one of their methods of ensuring sufficient affordable housing in their communities.

Revitalizing Communities

Legislative Options

The Virginia Code could be amended to authorize all localities to use density bonuses to encourage affordable housing. (The Virginia Code currently authorizes only certain localities to use density bonuses in this regard.) *Code reference: Va. Code 15.2-2304 et seq.*

The job creation tax credit threshold in local enterprise zones and economically distressed areas could be lowered even further to encourage more small and medium size business investment. (The Virginia Code currently sets the threshold at 100 jobs for most areas and 50 jobs for local enterprise zones and economically distressed areas). *Code reference: Va. Code 58.1-439.*

The use of the word “blighted” could be changed to a term citizens would more readily be prepared to identify with their neighborhood, such as “revitalization areas” in the Virginia Code sections concerning the blighted areas program. *Code reference: Va. Code 58.1-3245 et seq.*

The General Assembly could include revitalization of areas with existing infrastructure in the goals of the Regional Competitiveness Act and add financial support qualification criteria that acknowledge regional partnership activities that promote revitalization and curb sprawl development patterns. *Code reference: Va. Code 15.2-1306 et seq.*

III.

Recycling Land and Buildings

In addition to encouraging growth to take place in designated areas, localities can also offer incentives that facilitate the reuse of land or buildings. Aging or abandoned buildings and former industrial properties often pose additional challenges for redevelopment, as well as decrease the property value and attractiveness of neighborhoods. This section discusses incentives to encourage reuse of buildings and land through building rehabilitation, historic preservation, and brownfields cleanup and redevelopment.

Building Rehabilitation and Historic Preservation

Definitions and Common Practice

Incentives to developers and individuals to restore and reuse buildings can be important tools in encouraging revitalization of older and historic areas of communities. Virginia has state-level building rehabilitation and historic preservation programs. Virginia localities are authorized to give certain incentives for rehabilitation and restoration. Incentives to reuse existing buildings not only encourage redevelopment in existing communities, but preserve traditional architecture and a community's sense of pride in its history and past development.

Differential assessment and taxation is a common tool used by states and localities to encourage rehabilitation of historic and older structures. Generally, the security of knowing that property will be assessed at its pre-rehabilitation value for tax purposes, and not at its renovated value, encourages property owners to rehabilitate. For example, Connecticut authorizes local governments to defer property tax increases attributable to improvements made to buildings of historic or architectural merit. Georgia provides for an 8-year freeze on the increase in property tax assessments of substantially rehabilitated historic buildings. In the year following the freeze, the property tax is increased by 50% of the difference between pre- and post-

rehabilitation values. During the 10th year, the property tax reaches its full post-rehabilitation value.

Tax credits are also used to offset the costs of rehabilitating residential or commercial properties. For example, in 1990, the Colorado legislature approved a 20% state income tax credit to offset the costs of rehabilitating residential or commercial historic properties. To qualify, the properties must be at least 50 years old and designated historic by the federal, state, or local government. Properties may also qualify if they are located in and contribute to the character of a historic district.

In other parts of the country, some communities are experimenting with split rate taxes. Split rate taxes are a way of taxing land differently from buildings. Split rate taxes impose higher taxes on land than on buildings in development areas thereby providing an incentive for redevelopment of land and older buildings in community centers. The fear is that without the incentive of a split rate tax, landowners might allow aging buildings or empty lots in areas undergoing revitalization to remain unused until the value of the property rises. Relatively higher taxes on land in designated growth areas can discourage speculation and encourage timely redevelopment. The value of the land is most likely to rise due to the public expenditures in revitalization and capital improvement efforts. Buildings, however, derive value from the owners' work in constructing and maintaining them. Reducing taxes on buildings reduces the cost of providing commercial and residential space. For example, Pittsburgh taxes building values less heavily than land values — in fact at one-sixth the tax rate on land values. Contrary to national trends, the pace of development within the city limits in Pittsburgh has exceeded development in the suburbs as a result of its split rate tax.

Virginia Practice

Rehabilitation Tax Exemption: The Virginia Code authorizes local governments to provide a partial exemption from taxation of real estate on which an older structure has been substantially rehabilitated for residential, commercial or industrial use.¹³ Local governments may also provide for local real property tax credits in the case of residential use. For example, Fairfax County provides a tax abatement incentive to improve and maintain the quality of housing and commercial building stock.¹⁴ In Fairfax, the structure must be at least twenty-five years old. Property owners apply to be part of the program and inspections are conducted prior to and after renovation work to establish the structure's base and final value. Market value must increase by a certain percentage over the base value due to renovation. Qualifying property owners receive an abatement of the taxes associated with the increase in structural value due to renovation, rehabilitation, or replacement. The owner receives a full abate-

Virginia localities can take advantage of the local rehabilitation tax exemption and historic rehabilitation tax credit programs by establishing their own programs to encourage rehabilitation and restoration of older and historic structures.

ment of the increase for 10 years and the abatement is phased out over the following four years. The tax abatement transfers with the property. As of 1997, eight counties (Chesterfield, Clarke, Fairfax, Hanover, Isle of Wright, Pulaski, Spotsylvania, and Stafford) had provisions exempting rehabilitated commercial or industrial real estate, while 22 cities had such provisions. Exemptions, eligibility, and qualifications vary widely by locality.

Historic Rehabilitation Tax Credit: In 1997, the historic rehabilitation tax credit (income tax) was adopted as Virginia's first state-wide tax incentive specifically targeted at historic buildings and sites.¹⁵ Eligible taxpayers include any individual, trust, estate, partnership, or corporation that rehabilitates a residential or commercial certified historic structure consistent with certain government standards. The property must be a certified historic structure — either listed on the Virginia Landmarks Register or specially certified as contributing to the historic significance of a historic district that is listed on the Register. The tax credit is for eligible rehabilitation expenses or those incurred in the material rehabilitation of the structure and added to the property's capital account. In order to be eligible, the cost of the material rehabilitation must amount to at least fifty percent of the assessed value of the building for local real estate purposes for the year prior to the initial expenditure of any rehabilitation expenses.

Localities have also traditionally used the rehabilitation tax exemption and credit authorization (as described above) to preserve historic buildings. For example, in 1985, the Stafford County Board of Supervisors designated 19 sites as historic and established a tax incentive program whereby property owners may restore historic residences without increasing property tax assessments for seven years.

Clean Sites Program: Virginia has a "Clean Sites" grant program managed by the Virginia Department of Housing and Community Development. The Clean Sites program was established for a two year period in 1994 to address the problem of inner city industrial and commercial buildings and sites that, due to various barriers to redevelopment, remain unused.¹⁶ Funds were appropriated by the General Assembly to assist Virginia's larger cities (population 50,000 or greater) in preparing such sites for new development activities. Selected through a competitive process by the Virginia Department of Housing and Community Development, the eligible locality had to provide a 50% match of the state funds. The original \$500,000 appropriation was committed to Lynchburg, Newport News, Norfolk, Portsmouth, and Roanoke. The funds were used in a variety of ways. For example, Lynchburg used the funding to convert the former Craddock-Terry shoe manufacturing facility to a museum and artists complex, including residential space. The facility is in a local enterprise zone and downtown historic district. There have not

been further appropriations to the Clean Sites program and the program has not been reauthorized since it expired in 1996.

Split Rate Taxes: Property tax reform can help create economic incentives to develop land adjacent to public infrastructure and amenities, while reducing development pressures at sites without public infrastructure. This reform recognizes that the property tax is really two different taxes, each with very different economic consequences. One part of the property tax is a tax on the value of buildings. The other part is a tax on the value of land. In early 1998, a letter from the Virginia Attorney General's Office reconfirmed an earlier Virginia Attorney General opinion that a split rate tax would be constitutional in Virginia.¹⁷ Virginia has not yet authorized localities to use split rate taxes. Because the Virginia Code does not explicitly authorize real estate to be classified for tax purposes separately from buildings and other improvements on the land, in order for localities to implement split rate taxes in Virginia, General Assembly authorization would be needed.¹⁸

Brownfields Cleanup and Redevelopment

Definitions and Common Practice

Another aspect of revitalization is encouraging cleanup and reuse of brownfields. Brownfields are urban industrial and commercial facilities that are abandoned or underutilized, in part, due to environmental contamination or fear of contamination. Many states have made special efforts in recent years to target brownfields for cleanup and reuse. The reasons for these efforts include the potential to revitalize distressed communities, increase tax dollars and provide new jobs. States' and localities' brownfields programs take a wide range of approaches and use an assortment of tools. They typically provide a package of incentives to encourage property owners and prospective purchasers of brownfields properties to clean up and redevelop the properties. The most common incentives are liability protection, expedited review processes for cleanup activities, technical assistance, tax credits, grants and low interest loans. State brownfields programs are often part of, or companions to, state voluntary cleanup programs. Voluntary programs encourage owners of a wide range of contaminated properties, as opposed to brownfields specifically, to remediate their properties voluntarily.

Liability relief is a key incentive provided by states to encourage brownfields cleanup and redevelopment. Typically, a state provides liability protection contingent upon state approval of the cleanup. Liability protection is usually limited to the contamination addressed by the cleanup activities, excluding unknown, preexisting contamination or new releases of hazardous substances. Liability relief is provided through a variety of mechanisms, including covenants not to sue, "no further action letters," and certificates of

completion that provide liability relief. Some states will only provide liability relief to parties that are not responsible for the contamination of the property. Expedited administrative review processes and permit waivers are another common incentive for brownfields cleanup and redevelopment. For example, Arizona must review applications for voluntary remediation within 90 days of submittal and approve, request modifications, or deny the proposals. In addition, remedial actions approved by the Arizona Department of Environmental Quality are exempt from certain permit requirements.¹⁹

Technical assistance is an important aspect of what are often technically complicated processes and issues involved in brownfields assessment and cleanup. Technical assistance can take several forms. For example, in Minnesota private parties interested in cleaning up a site may request from the Minnesota Pollution Control Agency technical assistance approval letters under the voluntary cleanup program. The volunteer may seek approval of the adequacy of an investigation or cleanup or request other types of technical support.

Grants and loans are another common tool used by many states to encourage brownfields cleanup and redevelopment. For example, Pennsylvania established the Industrial Sites Cleanup Fund to make available direct grant and low-interest loans to help innocent parties willing to conduct voluntary cleanups. Grants or low-interest loans can cover up to 75 percent of the cost of completing an environmental study and implementing a cleanup plan under the Pennsylvania program. Pennsylvania legislation also establishes the Industrial Sites Environmental Assessment Fund. The Fund provides grants to finance environmental assessments and cleanup activities in distressed communities. Municipalities, municipal or local authorities, nonprofit economic development agencies and similar agencies are eligible for the grants.²⁰

Tax incentives are used in many states to encourage brownfields redevelopment. The tax incentives take a variety of forms. For example, Texas enacted legislation in September 1997 that establishes municipal tax abatements for real property located in reinvestment areas that are subject to voluntary cleanup agreements.²¹ Tangible property located on the real property is also covered. In Texas, reinvestment zones may be designated by municipal ordinance to promote development or redevelopment of a contiguous geographic area, provided the municipality determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.²²

Tax credits for remediation costs are also used as incentives in some state programs. For example, under the Illinois State Brownfields Redevelopment Program, participants can obtain an Environmental Remediation Tax Credit for unreimbursed remediation costs that

the Illinois Environmental Protection Agency deems appropriate. In Illinois, taxpayers may claim a tax credit of up to 25 percent of eligible remediation costs in excess of \$100,000 incurred pursuant to the State site remediation program. For sites located in enterprise zones, the \$100,000 threshold does not apply. There are limits on the maximum allowable tax credit for the year (\$40,000 per year for the first three years) and on the aggregate allowable credit (\$150,000). The credit is transferable with the property.²³

In addition to state and local tax incentives, the 1997 Federal Tax Payer Relief Act provides that environmental cleanup costs for certain properties in targeted areas are fully deductible in the year in which they are incurred.²⁴ Targeted areas include EPA Brownfields Pilot Areas, Empowerment Zones, and others. Taxpayers must receive tax certification from the state environmental agency that the property is in a targeted area.

In addition to incentives, successful brownfields programs must also ensure that cleanups are protective of human health and the environment. Because more and more states are considering the future planned use of brownfields sites in determining cleanup standards, many states, including Virginia, require some type of institutional controls or mechanisms to ensure that the land use is maintained. For example, if a brownfield property is cleaned up to industrial use standards, deed restrictions and other mechanisms can be used to ensure that the property is not later used for residential purposes. Communities may be less likely to support brownfields redevelopments and property owners may incur additional liabilities if adequate institutional controls are not maintained by states and localities.

Virginia Practice

At the state level, Virginia has several programs for helping communities address the cleanup and redevelopment of contaminated lands.

Voluntary Remediation Program: The Virginia Voluntary Remediation Program was designed to encourage hazardous substance cleanups that might not otherwise take place.²⁵ This program was established in 1995 and provides a streamlined method for site owners or operators to voluntarily clean up properties. The program is open to all sites that are not subject to other state and federal regulatory and enforcement programs. When applicable cleanup requirements are met or the Virginia Department of Environmental Quality (DEQ) determines that no further action is required, DEQ issues a certificate of satisfactory completion that provides immunity from state enforcement actions, unless new issues are discovered after issuance of the certificate. The certificate transfers with the property. Virginia will also provide developers with certificates for property that has

Virginia localities can encourage the use of the state-authorized local tax exemption for environmental restoration sites, in an effort to promote cleanup and redevelopment of former industrial sites.

already been cleaned up to give lenders and potential buyers additional assurances.

The program provides for public participation through notice of the proposed or completed cleanup remedy to the local government and adjacent property owners, and through notice to the general public in a local newspaper. In addition, the public is given access to information about the sites. The program also provides for procedures to waive requirements for, or expedite issuance of, any permits needed to initiate and complete voluntary cleanups.

Tax Exemption for Environmental Restoration: As of July 1997, the General Assembly authorized local governments to exempt entirely or partially environmental restoration sites from local taxation.²⁶ Environmental restoration sites include areas that contain hazardous substances and that are subject to remediation under the state Voluntary Remediation Program. To date, the tax exemption has not been used.

Brownfields Initiative: Virginia also participates in a federal Environmental Protection Agency Brownfields Initiative. Virginia has a 1997 grant from EPA for \$497,000 to assist in identifying brownfields sites. The funds are used for site screenings and investigations. Virginia has earmarked the money for sites with redevelopment potential that are publicly owned, but it will also consider private property. The Brownfields Initiative is aimed at providing economic incentives for remediating urban industrial sites and making them productive again. To date, site assessments have been completed and cleanup options have been prepared for two sites.

Virginia does not have a state brownfields program and does not specifically target brownfields through its voluntary program.

Analysis and Legislative Implications

Virginia localities have the authority to offer basic tax incentives to property owners to recycle and restore buildings as part of revitalization efforts. The Virginia incentive programs for historic renovation and for rehabilitation of older structures are being used in various localities. However, Virginia's localities lack potentially significant tools such as authority to use a split rate tax. Although this tax would be constitutional in Virginia, the Virginia Code does not yet grant local governments the explicit authority to subclassify land separately from buildings. The ability to use a split rate tax to encourage recycling of buildings in areas with public infrastructure that are already experiencing an upturn in growth could be an important tool for Virginia communities.

In addition, localities need assistance from the state government to redevelop potentially complex sites, such as older commercial and industrial facilities. The Virginia Clean Sites Program made a good

start in this direction, but it was a one-time appropriation directed only at the largest cities. Virginia's smaller cities and rural areas also have older commercial and industrial facilities in need of redevelopment. State matching funds could be an even more important resource for these areas.

Although Virginia has established a viable voluntary cleanup program, the program does not target brownfields in particular but rather applies to all types of contaminated property, regardless of where the properties are located and whether they have redevelopment potential. Experience in other states demonstrates that special incentives are needed to encourage the redevelopment of brownfields properties. While Virginia's participation in the federal brownfields program is a step in the right direction, a great deal more could be done by the state government to facilitate brownfields redevelopments.

Virginia could intensify its efforts to develop a comprehensive state brownfields program that is part of or independent of the Voluntary Remediation Program. The state brownfields program could assist both in the cleanup and redevelopment of individual private properties, as well as assist localities in facilitating the redevelopment of large areas that include brownfields properties owned by numerous parties. Some of the building blocks of a successful brownfields program are already in place under the Voluntary Remediation Program and other state programs. For example, in addition to tax incentives for environmental restoration sites, incentives under the Voluntary Remediation Program such as liability relief, expedited permitting, and streamlined processes are important components of a state brownfields program. Tools discussed earlier in this report such as enterprise zones, job creation tax credits, density bonuses, tax increment financing, and rehabilitation tax exemptions — also provide incentives for brownfields redevelopment.

These approaches, along with some new legislative initiatives, could be packaged together to provide strong incentives for private property owners to redevelop their brownfields and provide additional means for localities to promote the redevelopment of brownfields areas. For example, Virginia does not currently provide grants or low interest loans to private parties or localities for site assessment or for clean up. In addition, a higher level of technical assistance could be offered to parties interested in cleaning up and redeveloping brownfields.

Recycling Land and Buildings

Legislative Options

The Virginia Code could be amended to allow localities to use a split rate tax in urbanized areas for purposes of revitalization. This can be done by authorizing local governments to subclassify land separately from buildings for the purposes of differential tax assessment. *Code reference: Va. Code 58.1-3008.*

The Virginia Code could renew the Clean Sites Program and extend its application to all localities, instead of just large cities. In addition, the Clean Sites Program could be broadened to include: (1) Small grants that facilitate site assessment and support community participation in the redevelopment process; and (2) Additional large grants that focus on completing redevelopment projects that are likely to create jobs.

The General Assembly could develop a strengthened and comprehensive brownfields redevelopment program that packages together current initiatives and the following new incentives: (1) State grants for brownfields site assessments and cleanups by local authorities and private parties; (2) Establishment of a low interest loan revolving fund for financing brownfields cleanup and redevelopment projects; (3) Coordination and strengthening of the Virginia Department of Environmental Quality and the Virginia Department of Housing and Community Development technical assistance to brownfields property owners for assessment and remediation of brownfields sites, as well as for evaluation of redevelopment potential and community participation strategies.

IV.

Ensuring Adequate Public Facilities

Ensuring that water and sewer services, schools, and transportation infrastructure are sufficient to meet development needs is a major concern of Virginia's local governments. Local governments are expressing increasing concern about meeting the financing obligations of building new schools, sewers and roads to meet demands caused by growth in areas where these services do not yet exist. Yet, many localities in Virginia have zoned their rural and agricultural lands for low density development, even though sufficient land exists around existing towns and cities to handle future residential development.

The faster growing Virginia communities, in particular, have learned hard lessons in recent years about the difficulties of keeping up with the demand for services required by new residential developments. For example, analysis of the gaps between revenues and costs of new residential facilities in Virginia counties found that the costs to the county after government revenues had been taken into account was still about \$1,700 per unit in Loudoun County and \$2,600 per unit in Fauquier County.²⁷

This section describes different tools available to localities to ensure that development does not outpace the ability of the community to provide the needed public facilities. These tools include setting level of service standards, using fiscal impact assessment, providing permitting programs for certain land uses, and requiring new developments to contribute towards additional public costs through impact fees.

Level of Service Standard and Fiscal Impact Analysis

Definitions and Common Practice

A first step in ensuring adequate public facilities is for the locality to establish rational and clear guidelines as to the necessary "level of service" for different types of developments and densities. Level of

service refers to a locality's decision regarding the adequacy of public facilities, such as sewers, water supply, roads, schools, libraries, public transit and parks required for new development to take place. A second step in ensuring adequate public facilities is for the locality to have analytical tools for assessing the fiscal impacts of new developments.

Level of service standards can be implemented through several mechanisms. They can be a part of the comprehensive plans, or a mandatory consideration in zoning and administrative decisions. For example, in some states, adequate public facilities provisions are found in subdivision ordinances, or administered as a special permit or other discretionary review process for new residential developments. Level of service or adequate public facilities ordinances typically condition development approval upon a finding that community infrastructure can sustain a project's anticipated impacts. The types of public facilities covered usually include water and sewer services, educational facilities, and transportation infrastructure. Adequate public facilities requirements or guidelines may set quantitative levels of service for public facilities and services that can serve as a basis for evaluating proposed projects.

As discussed below, many Virginia localities incorporate level of service standards in their comprehensive plans. Other states have taken it upon themselves to ensure adequate public facilities. For example, Florida requires "concurrency" between public facilities and new developments. Concurrency means that roads, sewers, schools and other public services must be available at the same time as new developments and must be able to fully meet or exceed the needs generated by the residents of the new developments. The public facilities subject to the Florida concurrency requirement are: roads, drainage, solid waste, potable water, sanitary sewer, parks and recreation, and mass transit, if applicable. In addition, Florida localities cannot issue a development order or permit if the development will degrade service levels of public facilities below adopted standards.

Fiscal impact analysis is a tool to help determine the public costs of a new development. It usually entails an assessment of the additional, direct costs a development would place on the local governments for public facilities, such as sewers, roads, and school capacity. A fiscal impact analysis also looks at the revenues the development would bring to the locality, such as property taxes. Both states and localities use fiscal impact analysis at the planning, zoning, and administrative decision-making stages.

Virginia Practice

In Virginia, localities can consider whether or not adequate public facilities are available during the planning and zoning process.²⁸ Zoning is carried out by the elected local body and is a legislative

process. Implementation of the existing zoning is done by the local administrative body. It is less clear under Virginia law what authority communities have to phase development according to the existence of adequate public facilities once the requisite zoning is already in place. The Virginia Code authorizes decisions at the administrative level to consider the effects of the development on neighbors and to require mitigating conditions.²⁹ It does not authorize decisions at the administrative level to consider effects of the development on the available local public services. This lack of authority makes it difficult for localities in Virginia to fulfill their comprehensive plans through “phased” development.

Local governments in Virginia have been taking a hard look at how best to ensure that new developments have adequate public facilities. A common approach has been to incorporate level of service standards into the comprehensive plan to act as a basis against which future rezoning decisions are made. Level of service standards are typically set out in a guidance document for public facilities such as schools, roads, libraries, parks, public transit and sewer systems. The standards set out the level of service needed for different densities and types of development in an effort to facilitate determination of the adequacy of the public facilities for any particular development.

Virginia localities can incorporate level of service standards for roads, schools, sewer capacity, parks, open space, and other public services into their comprehensive plans in order to provide a clear standard for decision-making.

City of Chesapeake Level of Service Standards: For example, the 1997 amendment to the City of Chesapeake Comprehensive Plan section on planning and land use policies provides that planned unit developments are subject to level of service standards for roads, schools, and sewer capacity. It provides an exemption from the level of service standards where the proposed rezoning will have minimal impact on roads and schools. The Chesapeake Zoning Ordinance states that in applications for rezoning, the report of the Planning Commission must contain findings on a number of issues concerning the adequacy of public facilities, including the impact that the proposed new uses would have on the volume of vehicular and pedestrian traffic and traffic safety.³⁰

Prince William County Level of Service Standards: As a part of the 1990 Comprehensive Plan, Prince William County first established level of service criteria for various chapters of the Comprehensive Plan. Level of service criteria were established for the Transportation, Parks and Open Space, and Fire and Rescue Plans. The County’s Library Plan adopted in 1994 also includes level of service criteria. The 1998 Prince William Comprehensive Plan links the demand for public services created by new development and the County’s fiscal ability to provide those services at the level of service standards set forth in the plan. Specifically, the level of service standards provide an objective justification for mitigation requests in connection with “proffers”. Voluntary proffers from developers are offers intended to

offset or mitigate the negative effects of a particular zoning application. If a proposal does not meet the established level of service criteria for a particular chapter of the Plan, either a monetary proffer or a proffer to offset the impact on the level of service is expected to be provided. While the County is still responsible for funding service operations, proffers provide a valuable source of capital funding so that service demands from new development can be offset by service costs.

Fiscal Impact Analysis: Under Virginia law, any locality may carry out a fiscal impact analysis at the planning, zoning, or project-level stage. A few localities have purchased fiscal impact models to use in planning, budget projections, and project review. For example, Loudoun County uses a locally-specified, per capita cost-based model which is driven by demographic assumptions such as persons and school children per dwelling unit. Loudoun's model was developed in the 1980's when the county was going through a period of rezonings. In Loudoun County, the Board or Planning Commission can call for a fiscal analysis of a plan or project. Whether or not Loudoun County conducts a full analysis, the model can be used as a basis for more informal ad hoc growth and capital improvement projections. Albemarle County also uses a fiscal impact model, although different from the Loudoun model in complexity and design.

Virginia localities can incorporate fiscal impact analysis into their planning, zoning, and administrative land use decisions both as a formal model and an informal guidance for decision-making.

Special or Conditional Use Permitting

Definitions and Common Practice

Once land is zoned for specific uses, a locality may wish to keep some control over how and when those uses are implemented. A tool such as conditional use permitting provides an opportunity to assess and mitigate potential adverse effects of a zoned use of the land. Conditional use permitting is a common administrative land use tool for localities throughout the country. In general, zoning has been moving away from allowing any use within a broad category, such as residential or commercial, to a system based on case-by-case review, where necessary.

Conditional use permitting is a process by which a locality can conduct a use-specific review on a case-by-case basis of a particular type of use that meets the zoning restriction for that area, but nevertheless requires a higher standard of review to avoid negative impacts on the public. Localities typically identify such uses that are likely to have an impact and designate them as "special" or "conditional" uses for zoning purposes because they have: (1) a tendency to generate excessive traffic, (2) a potential for a large number of persons to be attracted to the areas of the use, (3) a detrimental effect upon the value or potential development of other properties in the neighborhood, or (4) an extraordinary potential for danger to public

Virginia localities can institute a special or conditional use permitting process for residential developments that may adversely impact neighboring properties or the public.

health or safety. The conditional use permit allows consideration of the site-specific impacts of a development and allows approval of the proposed development to be conditioned to mitigate the effects of the new use.

Virginia Practice

In Virginia, localities are using the conditional or special use permitting process to provide for case-by-case reviews of proposed new residential developments. The rationale is that placing a large number of new homes at once in a neighborhood can substantially impact adjacent property owners and the public in general, thereby making conditional use permitting a valid tool for review of these types of residential developments.

The Virginia Code authorizes localities to use a case-by-case permitting process for proposed developments to insure compliance with standards designed to protect neighboring properties and the public.³¹ The locality may require certain uses, which it considers to have a potentially greater impact upon neighboring properties or the public than those uses permitted as a matter of right, to undergo the special exception or use process. Under the permitting process, each case is examined by public officials and guided by standards set forth in the applicable ordinance, to determine the impact the use will have if carried out on that site. Although the general category of use is permissible, the permit is granted subject to such limitations and conditions as are necessary to reduce the impact on neighboring properties and the public. Virginia courts have held that the exercise of use permits is a legislative rather than administrative function, thereby giving localities the benefit of the doubt in any legal challenge.³²

Virginia law places some limitations on a locality's ability to conduct case-by-case reviews of all proposed developments. A 1998 amendment to the Virginia Code provided that localities may not impair a landowner's "vested rights" in certain property uses, even when amendments to zoning ordinances have been adopted that change the permissible uses.³³ A landowner's right to develop his or her property in a certain way vests when government carries out "a significant affirmative act" and when a landowner has incurred an extensive obligation of resources in diligent pursuit of the project.

Fauquier County Conditional Use Permitting: Since the late 1970's, Fauquier County has relied upon the authority provided in the Virginia Code to analyze the impact of large residential developments on adjacent lands and require that certain conditions be met before that development takes place. Fauquier County is zoned in districts that allow for urban, residential, commercial, and industrial development (service districts) and areas that provide for rural, agricultural and conservation uses. To exceed the density requirements

in the rural, agricultural and conservation districts, a developer must go through the residential conditional use permit process. To exceed a 50 unit development in most service districts (100 in the town of Warrenton), a developer must also go through a residential conditional use permitting process. This mechanism allows Fauquier County to mitigate impacts on adjacent property through establishing conditions such as best management practices, buffers, or easements.

City of Virginia Beach Conditional Use Permitting: The City of Virginia Beach requires a conditional use process within the so-called “transition zone” in the part of the rural district directly south of its growth boundary, the Green Line.³⁴ In order to build more densely than is normally allowed in the rural zone, the proposed development is subject to a conditional use process and must meet certain standards: (1) the infrastructure costs must be borne by the developer; (2) residential units must be tax neutral or tax positive for the City; and (3) over 50% of the land must be designated as open or recreational space.

Bedford County Conditional Use Permitting: The Bedford County “Land Use Guidance System” ordinance establishes a single county-wide district for land use regulation that allows and prohibits certain uses. All other developmental uses are authorized only pursuant to a compliance permit or special use permit process. The permitting process consists of (1) a “Growth Guidance Assessment” to determine whether the proposed use is acceptable and satisfies the Comprehensive Plan goals and (2) a “Compatibility Assessment” to identify what steps should be taken to ensure the compatibility of proposed development activities with surrounding uses of land. If a proposed development site scores 100 points or more in the growth guidance assessment, the site gains “permitted use status.” In this case, the process determines that the development contributes to the fulfillment of enough of the comprehensive plan and ordinance goals to warrant approval subject to compatibility with surrounding uses. If the proposal scores less than 100 points, it gains “special exception status” and mitigating conditions are discussed with the developer.

In Bedford County, the developer submits an application for a compliance permit to the Community Development Department. The developer and staff meet to discuss the proposed project and the staff performs the Growth Guidance Assessment scoring to determine the project’s compatibility with the county’s Comprehensive Plan. The staff then conducts an informal compatibility meeting with developers and surrounding property owners to discuss the project and its possible impacts in an attempt to make the project more compatible. Although most counties have a system of public hearings on rezonings, the Bedford system provides for public

Virginia localities can establish a public participation process to discuss proposed development projects and possible impacts earlier in the process than the standard public hearing in rezoning decisions.

involvement at an earlier stage and creates a process to take the public concerns into account in the conditions set on the property development. By the time of the public hearing, most of the local concerns with the project have been aired and citizens come to the hearing with specific proposals and better informed comments.

The Virginia Attorney General, in reviewing the Bedford County system, determined that the goals and objectives of the comprehensive plan may be used as an element of compatibility assessment and the provisions of the comprehensive plan can be an important factor in land use decisions.³⁵ The Attorney General noted that the Supreme Court has specifically approved zoning ordinance provisions governing the grant or denial of special exceptions that require the consideration of the comprehensive plan or the general purposes of the local zoning ordinance as part of the special exception process.

Proffers and Impact Fees

Definitions and Common Practice

Finding methods for developers to contribute to the additional public capital costs attached to new developments is a common concern of localities throughout the country. Impact fees are charges imposed on new development to help pay for the capital costs of development. In most cases, impact fees must be allocated to growth-related infrastructure needs rather than facility maintenance or backlog needs. Fees can be a component of a local government's capital facilities program and a part of the implementation strategy of the comprehensive plan. Impact fees assist localities in meeting the additional costs of providing public services for the proposed development. Impact fees can lessen community-wide fiscal burdens and provide indirect incentives for in-fill development in areas with infrastructure capacity. Although impact fees are not a common tool in Virginia, approximately half of the states have some form of impact fee legislation. For example, the Arizona Code authorizes an impact fee for roads, sewer, water, neighborhood parks, and flood control.³⁶ The West Virginia Code authorizes impact fees for roads, sewer, water, parks, stormwater, drainage, flood control, police, fire protection, emergency medical rescue and schools.³⁷ Impact fees typically are assessed on developments whether or not a rezoning was involved.

A proffer is a voluntary offer by a developer to a locality in a rezoning case. The purpose of the proffer is to mitigate the impacts of the new development on the locality through various tools, such as best management practices, buffers, off-site improvements, or cash.

Virginia Practice

In Virginia, voluntary proffers of reasonable conditions, and in some cases cash or the construction of off-site improvements by a develop-

er, are the standard way to incorporate some of the additional costs of public facilities into the costs of development. These voluntary proffers apply only in rezoning decisions. Impact fees are very limited in Virginia: the Virginia Code only authorizes impact fees for roads and then only for certain localities. As a practical matter, road impact fees have not been implemented in Virginia. One of the reasons that road impact fees are not common in Virginia is that between the proffer system and the Virginia Department of Transportation funding, localities do not bear direct fiscal responsibility for most of the new road costs.

Proffer System: In Virginia, any locality may accept voluntary proffers of reasonable conditions, as a part of a rezoning, as long as the conditions do not include a cash contribution to the locality, real property, or the construction of off-site public improvements.³⁸ Only a few localities specified in the Code may accept proffers of cash, real property, and construction of off-site public improvements as long as they are voluntary and reasonable.³⁹ The Virginia Code does not contain any requirements about public participation or access to information in the proffer process. The Code also does not require localities using a proffer system to develop clear guidelines for proffers.

Certain localities in Virginia have tried to connect the proffer system to standardized calculations of the necessary levels of service. For example, the Prince William 1998 Comprehensive Plan provides a guide to the methodologies used for monetary contributions for schools, fire and rescue, libraries, and parks and open space. Chesterfield County has a specific proffer policy for schools that outlines clear guidelines for the County to determine the needs generated by new development.⁴⁰ Chesterfield is one of the localities authorized to accept cash proffers for schools, roads, parks, libraries, and fire stations in the case of rezoning decisions. Loudoun County's Comprehensive Plan has a set of proffer guidelines for all of its service plans, including mental health facilities.

Road Impact Fees: The only authorization for impact fees in the Virginia Code is for the assessment of road impact fees in counties with a population of 500,000 or more and adjacent localities.⁴¹ Under the statute an impact fee is a charge or assessment imposed against new development in order to generate revenue to fund or recover the costs of reasonable road improvements necessitated by and attributable to the new development. Impact fees may not be assessed and imposed for road repair, operation and maintenance, or to expand existing roads to meet demand which existed prior to the new development. The local Board must establish an impact fee service area within which to use the impact fees. Prior to adopting impact fees, a county must assess the road improvement needs within the service district and adopt a road improvement plan as part of

Virginia localities can improve the proffer system by requiring clear guidelines for calculations of proffers and by including public access to information and public participation during the proffer process.

Ensuring Adequate Public Facilities

Legislative Options

The Virginia Code could clarify that localities have the authority at the administrative level to fulfill their comprehensive plans by phasing development in a manner that allows localities to ensure that they can provide adequate public services and facilities.

Code reference, Va. Code 15.2-2286.

The Virginia Code could authorize localities to consider, during the conditional use permitting process, the impact of proposed developments on the public facilities and financial capacity of the locality, in addition to the existing consideration of impacts on adjacent properties and the public. *Code reference, Va. Code 15.2-2286.*

The Virginia Code section authorizing certain localities to assess road impact fees could be expanded to authorize all localities to assess impact fees and to include, at a minimum, the additional impacts of schools, parks, sewers, water supply, and health facilities. *Code reference, Va. Code 15.2- 2317 et seq.*

the comprehensive plan. The impact fees may be paid at the time building permits are issued or at occupancy in lump sum or installment payments.

Analysis and Legislative Implications

Virginia law provides for consideration of adequate public facilities in planning and zoning. The Virginia Code contains many references to the importance of ensuring that communities have adequate public facilities and that these are consonant with the efficient and economical use of public funds. In developing a comprehensive plan, a local planning commission must study “existing conditions and trends of growth, and of the probable future requirements of its territory and inhabitants.”⁴² The comprehensive plan has the goal of achieving “coordinated, adjusted, and harmonious development.” The zoning provisions in the Code echo this concern about adequate public facilities. In addition, local planning commissions are required to prepare annual capital improvement programs based on the comprehensive plan, including estimates of the costs of facilities and the means of financing them.⁴³

It would greatly facilitate the ability of Virginia communities to implement these statutory goals if they had clear authority to phase their development, including authority to allocate the costs of the development. It would also greatly facilitate the implementation of these statutory goals if the current system of addressing adequate public facilities was more open to public scrutiny and participation. In Virginia, the conditional use permitting system provides an opportunity for ensuring adequate public facilities. Impact fees also provide an opportunity to ensure adequate public facilities, however in Virginia, this tool is limited to roads and is authorized only for certain localities. Finally, the current proffer system in Virginia also has certain limitations: (1) it is a closed system with little public access, participation or accountability; (2) only infrequently are there guidelines as to the calculation of proffers; (3) proffers only apply in the case of rezoning applications, not in the case of new developments for which the zoning is already in place; and (4) not all localities are able to accept proffers of cash, real property, and construction of off-site public improvements.

V.

Preserving the Rural Economy and Natural Heritage

For the last twenty years, Virginia has been one of the fastest growing states in the nation. However, the bulk of the population and labor force increases occurred in the metropolitan areas in the eastern third of the state. Many of Virginia's rural regions face declining populations, inadequate infrastructure, and low wage and income levels. Some rural communities in Virginia are experiencing high growth pressures from low density residential development and commercial investment that may not be compatible with rural economic needs. Other rural communities in Virginia are losing population and sources of employment. All rural communities in Virginia share a need for compatible economic development and to guide growth in ways that will protect and enhance each community's special resources. The rural economy is an important component of the economic health of most counties in Virginia. As a general rule, a thriving rural economy is a net revenue generator for a locality. The taxes paid by a strong rural economy will generally exceed the cost of services provided.

Virginia's natural heritage contributes significantly to the state and localities. Recreation and tourism contribute to the health of Virginia's economy and the quality of life of the residents of its communities. Rural landscapes help protect water quality, air quality, and natural habitat; all of which are essential for the rural economy and for the health of the state.

This section looks at incentives that can help land owners to keep their land as part of the rural economy, such as conservation easements, purchase of development rights, transfer of development rights, differential land use assessments, and special agricultural and forestal districts.

Conservation Easements and Purchase of Development Rights

Definitions and Common Practice

Conservation easements — whether they are agricultural, historic preservation, riparian, scenic, public recreation, or wildlife habitat easements — are valuable tools for designing conservation strategies. Conservation easements are a voluntary partnership between landowners and either a private land trust or a government agency. These characteristics have made conservation easements a widely used and highly successful tool for ensuring that land is used in a fashion most compatible with meeting the needs of the landowner and the community. A conservation easement is a legal agreement between a landowner and a private land trust or government agency that limits certain uses of the land in order to protect its conservation value. The landowner continues to own and use the land, while a private land trust or government agency holds, monitors and enforces the terms of the conservation agreement. The conservation easement is recorded with the deed and transfers with the property to any future owners. The terms of easements are determined by the land owners and prospective easement holders. It is possible in some cases for the owner of the land to add residential buildings, provided the use does not conflict with the conservation purpose of the easement.

Conservation easements are typically donated by individual land owners. In addition to guaranteeing preservation of their land, the land owners receive significant financial benefits, such as reduced federal and state income taxes, estate taxes, and capital gains taxes. In jurisdictions that do not have differential land use assessment programs for taxing real property, easements can also reduce annual real property taxes. Private and public land trusts play an important role in promoting, holding and monitoring conservation easements. There are a variety of national, state, and local land trusts throughout the country.

Local programs for the purchase of development rights (PDR) have been implemented successfully in conjunction with conservation easements in Virginia and in many jurisdictions throughout the country to establish agricultural reserve areas, protect natural resources, reduce residential densities, and retain tourism assets. PDR programs typically entail the voluntary sale and legal retirement of the land's development rights through a conservation easement. Typically, the farmer or other land owner voluntarily sells the rights to develop the land to a private conservation organization or government agency, while retaining title to the land and other property rights, such as the right to farm. The owner does not retain the right to develop the property. In exchange, the owner is compensated by the state or private organization for the difference between

the value of the land on the open market and the value as restricted for farmland or open space. The legal mechanism of the conservation easement transfers with the land. Easements usually restrict residential development other than for the immediate family or employees. In establishing a PDR program, several issues must be addressed. Most PDR programs establish standards that specify the type of land to protect and what, if any, priority to give to individual parcels of land. Specific criteria can be applied and/or targeted land can be identified on a map. Some states require that PDR purchases are consistent with local land use plans. In Delaware, the state is using its computerized GIS system to establish its strategy of statewide farmland protection priorities. Other jurisdictions use point systems to select and rank applications to PDR programs.

Funding mechanisms are an important aspect of any PDR program. Ideally, a locality or state will package a variety of funding sources in the form of a dedicated funding source that is not wholly dependent on appropriations. States are recognizing that a dedicated state fund for land conservation is an approach that allows for long-term planning and priority-setting for conservation. For example, the Maryland Rural Legacy Program redirects existing state funds into a land protection program specifically designed to limit the adverse effects of sprawl on agricultural land and natural resources. For fiscal years 1998 through 2002, the Governor and the General Assembly have authorized a total of \$71.3 million to purchase conservation easements for large contiguous tracts of agricultural, forest and natural areas subject to development pressure, and for fee interests in open space where public access and use is needed. States establishing dedicated conservation funds typically cover conservation needs in different areas, such as natural, historic, agricultural, and recreational areas. They often establish some type of collaborative mechanism among the existing state agencies responsible for these different areas. When funds are meant for both state and local initiatives, a process can be established to direct a portion of the funds through local mechanisms to match local needs.

States have used a variety of sources for their dedicated conservation funds. For example, general obligation and special purpose bonds can be authorized by legislatures or by voter referendum. Although some jurisdictions authorize expenditures from general or discretionary funds, this approach does not have long term certainty because authorization is generally required on a year-to-year basis. Some states use real estate transfer taxes to fund the purchase of development rights. In Maryland, revenues generated by a 1/2 percent sales tax on the value of all real estate transfers is divided between parkland and farmland protection. Conversion tax revenues on land removed from agricultural production are also used in Maryland and in Michigan to fund PDRs.

Many localities depend entirely on local resources to fund PDR and other conservation easement programs. In addition to a dedicated local funding source, such as a percentage of local tax or fee revenues, localities can try to leverage their revenue sources by using a debt instrument, such as an installment purchase agreement with landowners, as is described below in the Virginia Beach example.

Virginia Practice

Conservation Easements: Virginia law provides for conservation easements under several mechanisms. The Virginia Open Space Land Act allows any public body to acquire a conservation easement in land for the preservation or provision of open space.⁴⁴ The minimum term for the easement is five years. Land acquired under the Open Space Land Act is not guaranteed to remain under the conservation easement. The government may develop the land when it is “essential to the orderly development and growth” of the locality and there is a substitute piece of property of the same or greater market value. The Virginia Conservation Easement Act allows certain private, non-profit organizations to hold conservation easements.⁴⁵ There are certain limitations on these private land trusts: they must be established as a land trust for at least five years or in the case of a national organization have an established Virginia office for at least five years. Conservation easements are recorded on the deed and landowners can be compensated through tax incentives, such as income tax deductions and property tax assessments based on the fair market value of the land, given its permitted uses.

The Commonwealth and Virginia localities can better promote and support the activities of private land trusts through funding and technical assistance.

Virginia is one of the few states with a statewide public land trust. The Virginia Outdoors Foundation is a quasi-governmental land trust established by the General Assembly in 1966. The Foundation is able to hold conservation easements and has the ability to monitor and enforce the terms of the easements. It often works in partnership with local conservation organizations and local private land trusts. As a governmental agency it has several advantages: it has greater resources to monitor and enforce the terms of conservation easements and it is harder for other state agencies to condemn land held by another government agency. Still, the Virginia Outdoors Foundation is a public entity with a Board appointed by the Governor that approves the designation of conservation easements. It does not currently have sufficient resources for public outreach. Furthermore, individual land owners are often more comfortable working with local private land trusts. For these reasons, it is important that the role of private land trusts in holding and promoting conservation easements be facilitated as much as possible in Virginia.

Purchase of Development Rights: In Virginia, local governments are authorized to create special service districts to purchase development rights that are then dedicated as easements for conservation

or open space.⁴⁶ Such service districts allow the locality to impose special assessments on a specific area in its jurisdiction for the purpose of acquiring development rights that may be beneficial to the area. The City of Virginia Beach Agricultural Reserve Program was enacted in 1995 as the first PDR farmland preservation program in Virginia. The Agricultural Reserve Program is a non-development option available on a voluntary basis to property owners in the designated rural area. It works by purchasing development rights from property owners at fair market value.

The Program has several dedicated funding sources: a dedicated \$0.015 property tax; partial revenues of a local cellular phone tax; and a payment in lieu of taxes from the U.S. Fish and Wildlife Service. These three sources provide approximately \$3.5 million in annual funding. Landowners participating in the program are paid through an installment purchase agreement of twenty-five years maturity. The City purchases Treasury strips, at a fraction of face value, which mature in twenty-five years. In the interim, the City pays the property owner a semi-annual interest payment equal to the yield of the note. The interest payment is tax-free. The land owner may sell the note after one year. The obligation counts against the City's statutory debt limitation and, therefore, although installment purchase agreements leverage local resources, many localities may be reluctant to use them.⁴⁷

Virginia localities can develop their own purchase of development rights programs to preserve agricultural land using installment purchase agreements as one of the funding mechanisms.

Transfer of Development Rights

Definitions and Common Practice

Transfer of development rights (TDRs) facilitate protection of agricultural, forested and environmentally sensitive lands. TDR programs are market-driven, incentive-based mechanisms that allow the sale of development rights without actual sale of land. TDR programs are designed to transfer the development potential from lands to be protected to areas designated for growth. Typically a preservation district and a development district are established. Property owners in the preservation district are not permitted to develop their property, but may sell their development rights to landowners with land located in the development district, who can use the rights to build at a higher density than otherwise would be permitted under the zoning guidelines.

TDRs permit a property owner who owns property that has been restrictively zoned to recover his economic loss on the restricted property by selling the property's development rights to owners of land in receiving districts. In addition, TDRs can allow developers to build at higher densities, resulting in higher profit margins. In order to succeed, a market for TDRs must be established. Accordingly, an analysis of market conditions and market receptivity is necessary prior to designating districts. In addition, the preserva-

tion areas should be consistent with comprehensive planning goals and the receiving areas should be large enough to support the development and provide adequate infrastructure. Some jurisdictions include all areas within a community in either the sending or receiving areas to increase the demand for TDRs and eliminate competition with new development outside the TDR area.

The allure of the TDR model is its ability to accomplish in one transaction two complementary goals: open space preservation and development of designated areas. However, the promise of TDR programs has been stalled in some jurisdictions by a variety of political, economic and administrative obstacles. Some TDR experiences have been widely acclaimed as success stories, as in Montgomery County, Maryland (1980) and the New Jersey Pinelands (1981). Others have encountered obstacles in developing community support, finding communities that will house receiving areas for higher density development, calibrating values for development rights, and creating programs that are simple to administer and understand, but complex enough to be fair. Some of the components of successful TDR programs include: (1) conformance with existing local regulations; (2) financial institutions to facilitate transactions; and (3) effective state enabling legislation.

Virginia Practice

Virginia law does not explicitly authorize the use of transfer development rights by local governments. As a result, Virginia jurisdictions have experimented with TDR programs although they implicitly may do so under the Virginia code.

Land Use Assessment and Taxation

Definitions and Common Practice

Assessing and taxing land at the value of its use, rather than its commercial value, is a common tool for easing the tax burden of owners who farm agricultural lands. As land prices rise in an area, farmers can be forced to sell because they lack the cash flow necessary to pay the rising taxes. Differential land use assessment and taxation programs reduce the market pressure on rural land owners to sell or subdivide their land for new residential developments.

Land use assessment and taxation is the assessment of land for property tax purposes based on the value of its current use. All states have in place some type of property tax assessment at current use value rather than market value for agricultural lands and many states cover other types of lands such as open space. Some states have a minimal acreage requirement or a requirement that the land be in its qualifying use for a certain number of years, or both. Other states require that landowners recover a percentage of their yearly gross income from their land. Some states also have additional prior

use and productivity requirements for agricultural lands. In order to assure that land use assessment and taxation programs are not abused, states employ a variety of penalties. A common penalty is to impose a rollback tax when the land is converted to a non-qualifying use. The deferred tax is equal to the taxes that would have been paid without the preferential assessment. The average rollback period ranges from four to seven years.

Circuit breaker taxes are another instrument used in some states to relieve farmers' tax burdens. With circuit breaker taxes, the state provides a tax credit against state income tax if the amount of the property tax paid by a farmer exceeds a certain percentage of the farmer's income. For example, Wisconsin, Michigan, and New York have circuit breaker tax programs which offer tax credits to offset farmers' real property tax bills. Each state takes its own approach to setting eligibility criteria and determining the amount of the tax credit. For example, in order to qualify for tax credits Michigan requires farmers to sign a "farmland development rights agreement" that voluntarily restricts their properties to agricultural uses. The size of the credit depends on the farmer's income and the amount of real property tax owed. When land is removed from the program before a development rights agreement has expired, the landowner must reimburse the state for the total amount of the credit received plus interest. In addition, owners who do not renew their agreements when they expire are subject to a roll back tax — the difference between the tax actually paid and the tax that would have been paid at the fair market value of the property, for the past seven years.

Virginia Practice

Land Use Assessment and Taxation Program: Localities in Virginia are authorized under the Virginia Code to adopt an ordinance providing for land use assessment and taxation.⁴⁸ The program provides that a parcel of land may be valued at use value based on a prescribed set of values provided by the Commonwealth, rather than the market value as determined by the last reassessment. To prevent land from being held for speculation and to promote long term preservation, if a zoning change subsequently is requested and received by the land owner, the difference in taxation must be paid retroactively. The rollback period is five years from the time of the rezoning, including interest. Failure to report changes in land use and substantial misstatements in applications are subject to payment of all taxes with any penalties and interest as determined by local ordinance. If the misstatement was made with intent to defraud, the landowner will also be assessed an additional penalty of 100 percent of the unpaid taxes.

Many Virginia localities — though not all — have established land use assessment and taxation programs. For example, in Fauquier

Virginia localities can establish land use assessment and taxation programs as an integral part of their rural lands preservation policies.

County, under the County land use program, taxes are deferred on property that is farmed for agricultural or horticultural purposes, kept as forest or in an open space program. The difference between the use value and the market value at the last reassessment is the deferred value of the property. Taxes are computed and extended on the use value as long as the property meets the qualifications of the program. Each parcel is annually revalidated based on the prior year's production statistics. If the property changes to a more intense use or is rezoned at the request of the landowner, the roll-back tax or tax deferral for the preceding five years must be paid to the County, including a 10% simple interest charge per year. There are approximately 3,700 qualified parcels in Fauquier County, representing approximately 157,000 acres.

Agricultural and Forestal Districts

Definitions and Common Practice

Allowing farmers or foresters voluntarily to create special districts achieves a number of goals and is used in many states throughout the country. Agricultural and forestal districts can facilitate the use of conservation management practices, encourage collaboration among a community of farmers or foresters, and open the door to the discussion of further types of land use protection.

Agricultural and forestal district programs provide incentives to farmers to join in the voluntary creation of districts to resist the pressure of development. Farmers are eligible for an array of benefits that vary from state to state. Formation of a district is typically initiated by one or more farmers and approved by a government agency, usually for a set term of years.

Incentives offered can include differential assessments, limits on public investments for non-farm improvements, prohibitions on the government's use of its eminent domain authority to take or condemn properties for public roads or other purposes, protection from subdivisions and non-farm development on adjacent land, purchase of development rights programs and agricultural zoning. Sanctions may be imposed for withdrawal from the district before expiration of the established term for the district.

For example, Illinois provides several types of protection to landowners under its Agricultural Districts Act.⁴⁹ Farmers in agricultural districts are exempt from paying special assessments for services that do not directly benefit them. In addition, no local ordinance may be passed within agricultural districts that would unreasonably restrict or regulate farming practices, unless the regulations protect health and safety. The regulations and policies of state agencies must encourage the maintenance of viable farming and agricultural districts.

Virginia Practice

Agricultural and Forestal District Program: Since 1977, Virginia has provided special benefits for land voluntarily placed in Agricultural and Forestal Districts.⁵⁰ The districts are created through voluntary agreements between landowners and their local governments to protect prime agricultural areas from incompatible development.

Landowners who join together to form the district agree to certain terms for future land use. In return, the state and local government grant the landowners certain tax and regulatory incentives. Districts offer the financial incentive of land use assessment and taxation, whether or not the local government has independently implemented such a program. Participation in this program incurs the standard penalty of roll-back taxes for early withdrawal, as discussed in the prior section.

Districts also provide a haven for farmers where the powers of local and state government are somewhat restricted.⁵¹ Landowners are protected against local nuisance ordinances, unless these bear a direct relationship to public health and safety. Local zoning ordinances only apply to the extent that they do not conflict with the purposes of the district and the district must be taken into account in planning and zoning of adjacent lands. The Commonwealth has a positive duty to encourage the maintenance of farming and forestry in all districts, including review of its own regulations. Finally, to condemn land in a district for public utilities construction or other non-farm construction, the government must meet a higher burden than it would otherwise be required to meet and it must go through a process that includes local notice and public hearings, resulting in a final, binding determination by the local government.

For example, the Albemarle County Code provides for the creation of agricultural and forestal districts in the County that contain land of statewide or local significance.⁵² A land owner or a group of landowners apply for the designation of agricultural and forestal district. Land within the district is prohibited from development to a more intensive use, without prior approval of the Board of Supervisors. Zoning and subdivision ordinances only apply in the districts to the extent they do not conflict with the conditions of creation or continuation of the district. The County is required to take the district into consideration in its comprehensive plan, ordinances, land use planning decisions, administrative decisions, and procedures affecting the district. Ten years is the typical review period in Albemarle County.

Virginia localities can establish local policies that encourage the creation and maintenance of agricultural and forestal districts.

Analysis and Legislative Implications

Virginia localities have many tools available to them for creative preservation of rural lands. Tools such as land use assessment and

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Legislative Options

A dedicated state fund for land conservation could be established under the Virginia Code to provide a continuing source of revenue for conservation, after a statewide process to determine how best to administer such a fund and potential sources of the revenue.

The Virginia Code could explicitly authorize localities to establish programs for the transfer of development rights.

The Virginia Code could explicitly authorize an agricultural “circuit-breaker tax” to provide a tax credit against state income tax if the amount of the property tax paid by a qualifying farmer exceeds a certain percentage of the farmer’s income.

taxation programs, agricultural and forestal districts, purchase of development rights and other creative uses of conservation easements could become a part of every locality’s program for rural land preservation. Virginia localities could also benefit from explicit authority to use transfer of development rights. Other states have shown that transfer of development rights programs can be successful with the proper safeguards.

Funding remains a major issue for localities in using tools such as purchase development rights and in meeting the needs for community open space and parks. The financing of tools like purchase of development rights can be difficult for local governments to assemble on their own. Although localities can establish innovative programs to leverage revenue, such as installment purchase agreements, a dedicated revenue source for state funding would ensure that these endeavors could be planned on a long-term basis.

Many states are establishing dedicated funds for land conservation. Virginia could begin a process to develop a dedicated state fund for land conservation. The process could address how state governmental agencies would coordinate management of the fund, what the state - local relationship would be for grant making from the fund, and what long-term revenue sources would be dedicated for the purposes of the fund.

Endnotes

1. Revenue Sharing Agreements, Va. Code, Section 15.2-1301.
2. Annexation and Revenue Sharing Agreement of February 17, 1982, County of Albemarle and City of Charlottesville.
3. Regional Competitiveness Act, Va. Code, Section 15.2-1306 et seq.
4. Enterprise Zone Act, Va. Code Section 59.1-270 et seq., Local Enterprise Zone Program, Va. Code Section 58.1-3245.6 et seq.
5. Tax Increment Financing, Va. Code, Section 58.1-3245 et seq.
6. Cities and counties in Virginia have differing debt limitations under the Virginia Code. For most types of debt, cities have a specific debt ceiling, while counties need to hold a public referendum to incur debt. See, Bonds Issued by Municipalities, Va. Code Section 15.2-2632 et seq. and Bond Issues by Counties, Va. Code Section 15.2-2638 et seq. Also see, Virginia Constitution, Article VII, Section 10. In addition to limitations under the Virginia Code, local governments can set their own, more restrictive, annual debt limitations. Counties may also elect to be treated as cities for the purpose of issuing bonds. See, Va. Code Section 15.2-2639.
7. Tax Increment Financing – No annual debt limits for certain cities, Va. Code, Section 58.1-3245.4:1.
8. Virginia Beach Ordinance to Establish a Tax Increment Financing District and to Authorize the Issuance of a Tax Increment Financing Obligation, July 1, 1998.
9. Major Business Facility Job Tax Credit, Va. Code, Section 58.1-439.
10. Affordable Housing Density Bonuses, Va. Code, Section 15.2-2304.
11. Affordable Housing Density Bonuses, Va. Code, Section 15.2-2305.
12. Tennessee Comprehensive Growth Plan, Tenn. Code, Section 6-58-101 et seq.
13. Tax Exemptions and Credits for Rehabilitated Residential, Commercial, or Industrial Structures, Va. Code, Section 58.1-3220 et seq.

14. County Code, Fairfax, Virginia, Codified through Ord. No. 05-98-69, enacted March 30, 1998 (Supplement No. 71, 3-98), Chapter 4, Article 24 Partial Property Tax Exemption for Certain Rehabilitated Property.
15. Historic Rehabilitation Tax Credit, Va. Code, Section 58.1-339.2.
16. The Clean Sites Program funding authorization comes from the 1995 Virginia Acts of Assembly, Chapter 853, amending and reenacting the 1994 Virginia Acts of Assembly, Chapter 966. Clean Sites is listed as a "site clearance fund" in Section 103K. The 1995 amendment lowered the requisite city population from 75,000 to 50,000.
17. 1971-1972 Op. Va. Att'y Gen. 421.
18. Different Rates of Levy on Different Classes of Property, Va. Code, Section 58.1-3008.
19. Ariz. Rev. Stat. Ann. Sections 49-282.05 and 49-290.
20. Act 2 of 1995, The Land Recycling and Environmental Remediation Standards Act, Pa. Stat. Ann. Tit. 35 Sections 6026.101 - 6026.908; Act 4 of 1995, The Industrial Sites Environmental Assessment Act, Pa. Stat. Ann. Tit. 35 Sections 6028.1 - 6028.5.
21. Texas Tax Code, Section 312.211.
22. Texas Tax Code, Section 311.003(a).
23. Illinois Brownfields Program, 415 Ill. Comp. Stat. § 5/58.14, 5/201(1) (1997 Ill. S.B. 939).
24. Federal Taxpayer Relief Act, Pub. L. 105-34 (Aug. 5, 1997), § 312, 111 Stat. 836-841, codified at 26 U.S.C. §121.
25. Virginia Voluntary Remediation Program, Va. Code, Section 10.1-1429.1 et seq.
26. Environmental Restoration Sites, Va. Code, Section 58.1-3664.
27. M. Siegel, Fiscal Impact of Proposed Waterfield Development on Fauquier County Government the Vint Hills Economic Development Authority and Water and Sanitation Authority, July 1998.
28. Planning and Zoning Declaration of Legislative Intent, Va. Code, Section 15.2-2200 ("... new community centers be developed with adequate highway, utility, health, educational, and recreational facilities ...; ... growth of the community be consonant with the efficient and economical use of public funds.")
29. Special or Conditional Use Permits, Va. Code, Section 15.2-2286(3) and Section 15.2-2297.
30. City of Chesapeake Zoning Ordinance, Section 16-106(B) (3).
31. Special or Conditional Use Permits, Va. Code, Section 15.2-2286(3) and Section 15.2-2297.
32. Board of Supervisors of Fairfax County vs. The Southland Corporation, 224 Va. 514, 297 S.E. 2d 718 (S.Ct. 1982).
33. Vested Rights, Va. Code, Section 15.2-2307.
34. City of Virginia Beach Code, Section 405 (Conditional Use Permits).

35. 1989 Op. Atty. Gen. p. 116, 1987-88 Op. Atty. Gen. p. 214.
36. Arizona Counties, Arizona Rev. Stat. Ann. § 11-1101 et seq. (Supp. 1993).
37. W. Va. Code § 7-20-1 et seq. (1993).
38. Proffers, Va. Code, Section 15.2-2297.
39. Proffers, Va. Code, Section 15.2-2303 and Va. Code, Section 15.2-2298.
40. Chesterfield County, Virginia, Cash Proffer Policy, Revised June 24, 1998.
41. Impact Fees, Va. Code, Section 15.2-2317 et seq.
42. Comprehensive Plan, Va. Code, Section 15.2-2223 et seq.
43. Capital Improvement Programs, Va. Code, Section 15.2-2239.
44. Virginia Open Space Land Act, Va. Code, Sections 10.1-1700 through 10.1-1705.
45. Virginia Conservation Easement Act, Va. Code, Section 10.1-1009 et seq.
46. Purchase Development Rights Authorization, Va. Code, Section 15.2-2403.
47. Bonds Issued by Municipalities, Va. Code Section 15.2-2632 et seq. Also see, endnote 6 above for a more detailed discussion of city and county debt limitations.
48. Land Use Assessment and Taxation, Va. Code, Section 58.1-3230 et seq.
49. Illinois Agricultural Districts Act, 505 Ill. Comp. Stat. Ann. § 5/20.
50. Agricultural and Forestal Districts, Va. Code, Section 15.2-4300 et seq.
51. Va. Code, Section 15.2-4312.
52. Albemarle County Code, Section 3-100 et seq.

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Internet Resources

American Farmland Trust

<http://www.farmland.org>

This national nonprofit conservation group works to stop the loss of productive farmland. Their website features information on farm protection tools and organizations. The Farmland Information Library, a linked site (<http://www.farmlandinfo.org>), provides agricultural statistics, related statutes, and contact information for government resources, in cooperation with the U.S.D.A. Natural Resources Conservation Service and the National Agricultural Library.

American Planning Association

<http://www.planning.org>

The American Planning Association (APA) is a national nonprofit organization that works to encourage planning that will contribute to the public well being. APA's Growing Smart Initiative helps states modernize statutes affecting planning and growth management. The website contains extension publication lists and a draft legislative guidebook on planning statute reform.

Environmental Law Institute

<http://www.eli.org>

ELI, a nonprofit research and education organization devoted to advancing environmental policy, addresses sprawl at the state and national level as it relates to the sustainable use of lands, brownfields, wetlands, non-point source pollution, public infrastructure, and other issues. The ELI website includes links to government and nonprofit organizations and partnerships as well as policy papers, books, and periodicals on the topic.

Lincoln Institute of Land Policy

<http://www.lincolninst.edu>

The Lincoln Institute is an educational institution whose goal is to integrate theory and practice of land use and taxation. The Institute's website features abstracts of policy reports, working papers and books, some of which focus on controlling sprawl, and an online newsletter which includes sprawl-related articles.

National Trust for Historic Preservation

<http://www.nthp.org>

The National Trust for Historic Preservation focuses primarily on community and open space preservation. Resources relating to sprawl are available through the National Trust's Law and Public Policy Department. The Department's homepage features sprawl-related newsletter articles and publications. The Department has also established the Sprawlwatch Clearinghouse resource center, which has a separate website, <http://www.sprawlwatch.org> (see below).

Virginia Sierra Club

<http://www.geocities.com/RainForest/Vines/7077>

The Sierra Club, including the Virginia Chapter, have launched a nationwide campaign on sprawl-related issues. This site contains information on the latest activities in Virginia, including connections to recent Sierra Club regional and national reports on sprawl.

Piedmont Environmental Council

<http://www.pec-va.org>

The Piedmont Environmental Council is a non-profit rural land conservation organization serving nine counties in the Virginia Piedmont. They are committed to protecting farms, forests, wetlands and open spaces in addition to promoting a rural economy. The site contains information related to sustainable use of lands, conservation, and transportation throughout the Piedmont region, as well as links to other Virginia and national organizations focusing on these issues.

Smart Growth Network

<http://www.smartgrowth.org>

This coalition of public, private, and citizen partners coordinated by the U.S. EPA's Urban and Economic Development Division, helps to create national, regional and local partnerships to encourage environmentally, economically and socially "smart" development. The site features background information on best practices in development and national affairs concerning growth management. It also contains links to news and news archives, publications, case studies, state and local organizations.

Sprawlwatch Clearinghouse

<http://www.sprawlwatch.org>

This newly established resource center is based at the National Trust for Historic Preservation. The website presents fact sheets and policy papers on the latest developments as well as links to outside resources (books, reports, websites, and organizations) listed by topic.

Surface Transportation Policy Project

<http://transact.org>

The Surface Transportation Policy Project (STTP) is a coalition of over 200 organizations and individuals whose focus it is to ensure that transportation policy and investment protect the environment, the economy, and community. TransAct, a project of the STTP and the U.S. EPA's Transportation Partners Project features online resources to this end. Included are a document library (containing handbooks and STTP's publications, Progress and Transfer), and a resource guide with links to other organizations and a state-by-state listing of successful ISTEA projects.

Sustainable Communities Network

<http://www.sustainable.org>

The Sustainable Communities Network (SCN) is a partnership of national research and education groups, local environmental and community alliances, and government commissions. Its primary mission is to encourage economically and environmentally sustainable, thriving communities. The website provides resources on growth-related issues, such as updates on grants and conferences, links to national and local organizations, books, and relevant articles.

Urban Land Institute

<http://www.uli.org>

Smart growth is a top policy priority of this nonprofit educational and research institution. Its membership includes professionals and academics committed to responsible leadership in urban planning, growth, and development. The Urban Land Institute website's sprawl resources include publications and conference updates as well as articles in Urban Land Magazine.

U.S. Environmental Protection Agency

<http://www.epa.gov>

The EPA website contains in-depth information on brownfields redevelopment projects and sustainable development projects, often listed under the region in which they are taking place. More generally, the EPA website provides copious links to current legislation, U.S. Codes, other government offices and programs which may be of interest.