

## **IX. FINANCING OF INFRASTRUCTURE EXPANSION**

### **A. Guiding Standards**

The New Market Planning Area will accept a certain amount of residential growth and commercial and job creating uses in locations and patterns that enhance overall community character and sustainability.

Future planned growth in whatever quantity will be constrained to as small a "footprint" on the land as possible to limit environmental impacts and infrastructure requirements.

Development will be required to help repair past environmental damage as well as improve current environmental functions.

Development will be required to offset initial infrastructure costs and provide them in a manner that creates continuing and substantial revenues for the public.

In return for a possible increase in development costs, developers will receive such benefits as a better mix of uses or greater density on selected sites, a simple approval process for complying proposals, ability to market themselves as part of an enhanced New Market community with a higher quality of life, greater amenities, and less congestion.

The Town and County will work with the private sector and the State to plan, fund, and construct the community facilities, infrastructure, and transportation improvements necessary to correct existing inadequacies within the community and to facilitate development in the New Market Planning Area as a designated growth center within the County.

New development will pay its fair-share of the costs associated with community facilities, infrastructure, and transportation needs where demand is generated by the new development. Current residents, businesses, and property owners will not be required to fund capital improvement costs for community facilities, infrastructure, and transportation improvements necessitated by demands solely generated by new development.

No new development will be approved within the Planning Area unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period in conjunction with the proposed development.

The timing and phasing of community facilities, infrastructure, and transportation improvements requiring public investment will occur over time in conjunction with coordinated Town and County Capital Improvement Programs and priorities for Town annexation. Improvements recommended for areas within the Town and proposed Annexation Areas should receive the highest public-sector funding priority.

### **B. Financing Responsibilities**

#### **1. Financing Generally**

The Town's main sources of revenue are Real Property Taxes, Income Tax, Admissions and Amusement Taxes, Personal Property and other Business Taxes, Construction Permitting and other Development Fees. The Town's main expenses were Public Works, Salaries, Financial, and Legal Administration, and Public Safety.



The Town's Operating Budget is a cash budget. It does not account for amortization of capital expenses such as road, building, storm drainage, and other capital items. For this reason, the annual budget report contains a discussion of these items pursuant to an in-house fiscal impact of current development and infrastructure. The economic life of each item is estimated and broken into its annual amortization cost. Thus, the Town endeavors to ensure that its unappropriated reserve is always set above this amount. This ensures that as long-term capital items come due for replacement, the money is ready and available for funding.

## **2. Water Line Construction Financing**

The Town recently (2009) completed two major waterline projects with the County. The total cost of these projects was \$1.8 million. The Town funded \$900,000 from its General Fund and \$900,000 from developer Community Enhancement contributions. This demonstrates the importance of how developer contributions can be used the update facilities that are inadequate attributable to legacy issues.

## **3. Future Non-Development Infrastructure**

### **a. Streetscape**

The Town Streetscape Project (under construction in 2016) is a \$4 million dollar effort that includes stormwater drainage, sidewalk extensions, replacements and repair, lighting, landscaping, and Main Street repaving. In exchange for these improvements, the Town has agreed to take ownership of Main Street and its maintenance. This could add as much as \$50,000 to annual amortization cost.

Prior to this project's start, the poor condition of sidewalks in the Historic District was a significant impediment to pedestrian activity. Many were impassable for those in wheelchairs and a tripping hazard for those who are not. The Town could not have done this project without SHA funding. The alternative would be to adopt an ordinance placing sidewalk repair and maintenance upon adjacent property owners.

The Town must expand and diversify its tax base in order to find a permanent solution to this legacy inadequacy issue.

## **4. New Development Financing**

### **a. APFO Mitigation Funding vs. Municipal Annexation Funding**

The Town will use municipal annexation agreements and Development Rights and Responsibilities Agreements to both finance and achieve concurrency of infrastructure and public facilities with development. The Town prefers these tools for the purpose of financing infrastructure and achieving concurrency for the following reasons.

Adequate Public Facilities Ordinances do not efficiently take into consideration legacy issues. These legacy issues create a complex set of equations that APFO alone cannot solve. APFOs often resemble moratoria. They therefore do not always achieve their intended purposes of achieving concurrency of development and public facilities as well as providing affordable housing.<sup>1</sup> As APFOs restrict available land where the highest and best use is for housing, the price

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<sup>1</sup> William C. Wantz, "A Comparison of Adequate Public Facilities Ordinances with Other Infrastructure Concurrency Techniques in Municipal Annexation", December 2003, p. 2



of housing increases. As development patterns generally occur in concentric rings from previously developed areas, APFO restrictions push market demand to someone else's community or rural areas without solving the larger public facilities problem.<sup>2</sup>

APFOs have other weaknesses. Impact fees derived from the construction of new homes are collected after the development passes an APFO test. These fees can only keep you current; they cannot solve the legacy shortcomings. Furthermore, Judge Cathell in *Steel vs. Cape* observed that the County cannot disproportionately place the burden of adequate public schools upon the developer. Also of concern is the questionable validity of APFO waiver payments.<sup>3</sup> In *Halle Development Co. vs. Anne Arundel County* the Court intimated that these fees not only resembled illegal taxes but questioned the impropriety of allowing developers to buy land use accommodations. Essentially, those with money can buy extraordinary land use accommodations while those who cannot must wait.<sup>4</sup>

There are other concurrency tools that should be considered. They include, but are not limited to, municipal annexation agreements, DRRA's, WSAA's and Joint Planning Agreements. These tools may be more appropriate for "underbounded" jurisdictions like New Market. We have very little undeveloped land to which to apply an APFO. Annexation presents an opportunity to create a contractual relationship with a municipality premised on crossing the annexation threshold. Municipal annexation agreements provide concurrency by contract. They have several advantages over concurrency by regulation or APFO. First, they are judicially proven such as in *Mayor & Council of Rockville vs. Rylyns*. Secondly, they are flexible and thus not "one size fits all" as is the Frederick County-imposed APFO.<sup>5</sup> Third, they allow for payment in advance for public facilities. These payments are financed through the 30-year mortgage market at the prevailing rate of interest. Thus local government "piggy backs" on the mortgage industry. Lastly, municipal annexation agreements are binding upon the developer and its successors.

The County controls our utilities through a WSAA. The Town recognizes that concurrency can only be reached incrementally as we overcome legacy issues. Only then can we provide a model to achieve the goals of Smart Growth, concurrency of public facilities, and affordable housing.

Using the identified concurrency tools, we can create a model that uses the County APFO to drive development to currently developed areas such as municipalities. The municipalities can then negotiate an annexation agreement with the developer that arranges for the provision of funds for needed public facilities. Since the current WSAA only allows extension of services to New Market to serve an annexed property after the annexation is final, the annexation agreement must meet the approval of the County BOCC before services may be extended. Finally, no construction phasing can be set, nor any development occur, until after the annexation is final, the WSAA amended, and a phasing schedule set in a DRRA executed with the WSAA amendment.

Memorializing this model in a Joint Planning Agreement ensures that the County and municipalities will work cooperatively, not competitively. By using such an agreement, the County cannot develop property contiguous to the municipality without annexation, but neither can the municipality develop the property without satisfying the County. This model offers a collaborative method of accomplishing our mutual goals.

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<sup>2</sup> Ibid., pp. 3-7.

<sup>3</sup> Ibid. pp. 8-9.

<sup>4</sup> Ibid. pp. 13-1

<sup>5</sup> Ibid. pp. 14-15.



#### **b. Countywide School Construction Mitigation Fee**

The recitals to this Plan cite the Frederick Board of County Commissioner's desire to enter a Joint Planning Agreement with the Town. The County has asked the Town to consider a uniform Countywide school construction fee. This proposes to provide for additional developer funding above and beyond the current impact fee for any school or combination of schools that do not pass the County APFO. This funding could provide for 115% of the actual per dwelling student impact. The Town is willing to investigate adopting this fee as part of a Joint Planning Agreement. The Town would not adopt an APFO for the reasons stated above. However, it would consider setting a reasonable threshold for school capacity. The Town would then have a tool that is stronger than an APFO and it would have a concurrency agreement with the County that is a legally binding contract.



## **X. RELATIONSHIP OF NEW MARKET'S LONG-TERM DEVELOPMENT POLICY TO THE VISION OF ITS FUTURE CHARACTER**

### **A. New Market's Current and Future Character**

To assure new construction is consistent with adopted growth policies, and expansion of development is balanced, the Master Plan shall be evaluated by the Town every ten (10) years.

Areas chosen for annexation/development shall be subject to public facilities concurrency and have an adequate level of school facilities; fire, rescue, and police protection; water and sewer facilities; transportation support; recreational opportunities; and other public facilities as identified. Future development will be on community water and sewer.

New Market has long had a reputation for its high standards of architectural style and authenticity in its Historic District; this same attention to detail shall be applied uniformly to future annexed areas as well as through the use of architectural guidelines. New development shall not adversely affect the character of existing areas.

Implementing the Plan's land use concept will require a new approach to assembling, designing, and evaluating development proposals. First, a mechanism to move development among the Annexation Area properties should be an integral part of the Town's zoning and subdivision regulations. If concentrated development, sensitive area protection, and rural preservation are to be achieved, some properties will have development, others will not. But all property owners must be able to benefit from the development potential created and this requires a creative regulatory mechanism.

Second, the ordinances developed to carry out the Plan should provide flexibility and performance criteria which produce a choice in the types of living environment and living units available to the public; adequate open space and recreation areas; a pattern of development which preserves trees and habitat, the natural topography and geologic features, sensitive areas, and protects and improves water quality; a creative approach to the use of land and related physical development; an efficient use of land resulting in smaller networks of utilities and streets and lower housing costs; an environment of stability in harmony with the character of New Market proper; and a more desirable environment than would be possible through the strict application of predetermined height, area, and bulk regulations.

Third, in recognition of the special character of New Market, development specifications should be kept to a minimum but require intensive negotiations with the Planning Commission to achieve the Plan's objectives for compact and efficient residential, business, and commercial development suited to the needs of each specific site. For example, building setbacks, bulk standards, lot sizes, impervious coverage, height, landscaping, bufferyards, lighting, walkways, development density, and road standards shall be determined by the Planning Commission for each individual development in the Annexation Area as set forth in the Land Development Ordinance (LDO) Adopted April 2009.

The central reason for the Planning Commission's wide authority in setting standards is to provide design flexibility, consistent with public health and safety, for properties that bring a range of differing physical and environmental concerns and for applicants who must develop property and construct buildings in accordance with a unified and coherent plan of development. When determining these requirements, the Planning Commission shall consider such factors as the proposed intensity of the development, use mix, design, compatibility with existing or anticipated



development on surrounding lands, and compatibility with the lot density and character of New Market.

Fourth, preparation and approval of an overall Development Master Plan will be required for larger development proposals in the Planning Area. This is designed to achieve a unified scheme of development for an entire parcel, which will be consistent with the provisions of the Town's Plan, its planning and zoning ordinances, and its growth policies. The unified development shall be master planned as an integrated project with well-designed and coordinated transitions between various land uses and adjacent existing land uses. A phasing plan for various components of the development shall be approved by the Planning Commission as a component of the Master Plan approval. Once approved, a developer will be obligated to comply with the Master Plan when applying for subdivision approval for each phase of the development.

## **B. Joint Planning with Frederick County**

Annexation feelers, the lack of a supply of available land within the Town, excessive traffic through Town, and the fiscal need for both commercial and residential growth raise important concerns about the future land use pattern. New Market must develop a detailed, cooperative relationship with Frederick County to assure that any growth around its limits is carefully coordinated, consistent in both character and scale, governed by compatible land use regulation, and appropriately served by utilities and roads. While the Town and County now work very well together to share regulatory responsibilities and seek advice and assistance on regional infrastructure issues, this Comprehensive Plan calls for more detailed inter-jurisdictional cooperation.

Immediate targets include:

1. Define the 30-year annexation boundary, without necessarily zoning it for growth.
2. Document with written confirmation by the County that its purpose in down-zoning land around New Market was for the express purpose of preserving that land for future annexation and development.
3. Establish a written commitment by the County to amend the WSAA to earmark and provide adequate utility capacity to serve the areas planned for annexation.
4. Consideration of the adopted joint planning agreement in the County's CIP, providing for funding and implementation of annexation-based infrastructure under the County's capital improvements budget.
5. Restricting further development north and west of the New Market Planning Area, which may generate more traffic, which may, in turn, further overburden the Main Street corridor, until the planned future parkway solution is and implemented.

One way of developing this improved cooperation is for the County and the Town to enter into an "intergovernmental cooperative agreement" for an agreed-upon Annexation Area. Another method is to coordinate the language of the Comprehensive Plans of both jurisdictions. Either method should accomplish the following purposes:

1. To establish a process by which the Town, the County, and the State will achieve consistency between their comprehensive plans, strategy documents, and land development ordinances including adoption of conforming ordinances for growth areas, future growth areas, and preservation areas within an agreed-upon time period.
2. To establish a process for joint review and regulation of developments proposed within the Town or a defined area of the County.



3. To establish the implementation role and responsibilities of the Town, the County, and the State for public infrastructure services, transportation, business development and other key community support activities as part of a regional planning effort.
4. To produce a cooperatively developed and recognized New Market Plan to be amended to the current plans and strategies of the Town, the County, and the State and, at a minimum, consisting of the following elements:
  - a. Designated Annexation Areas where 1) orderly development to accommodate the projected residential growth within the next 20 - 30 years is planned and 2) commercial, industrial, and institutional uses are planned to provide for the economic and employment needs of the area and to ensure that the area's tax base will be adequate. The Annexation Area will include a description of the services provided or planned to include water and sewer, transportation, schools, health, police and fire, parks and recreation, and all other necessary community-supporting functions.
  - b. Designated preservation and rural areas where 1) development is allowed at densities compatible with uses that are or may be permitted and 2) publicly-financed infrastructure services are not provided or planned unless the participating governments agree for health or safety reasons.
  - c. Plans for the accommodation of all categories of uses within the Planning Area, including housing for all income levels and a reasonable allocation of affordable and workforce housing.
  - d. Plans for developments of regional significance, especially those involving transportation, community facilities, and utilities.
  - e. Plans for the conservation and enhancement of the natural, scenic, historic, and aesthetic resources of the area.
  - f. Plans for the creation of well-designed communities.

The New Market Planning Area Map shows a land use layout for New Market's proposed Planning Area that considers existing infrastructure and natural features, which logically define a new Annexation Area boundary. This layout should be the basis for cooperative planning with the County that will allow the participants 1) to shape Planning Areas based on inherent regional logic and political willingness, and 2) to plan together on issues that need to be examined regionally but to retain local control over implementation and local issues so long as implementation is consistent with an overall multi-jurisdictional framework plan.

### **C. Overall Strategies**

#### **1. Minimize the impact of destination and through traffic on the community.**

New Market must assure that its transportation needs are met in a timely manner without degradation of the quality of life or historically significant structures or sites, or change to the historic character of New Market. The elected officials of the Town shall take action as necessary to coordinate planning efforts between jurisdictions, citizen's groups and non-governmental agencies, and to promote the interests of the New Market community at all levels of government.

Traffic congestion must be alleviated in a timely manner by providing alternative routes for traffic between areas of residential growth and the primary roads leading to commercial and business districts and other facilities both within and outside of Frederick County. While plans and

agreements are in place for several key elements long desired by the town, continued diligence and monitoring is needed to ensure implementation. The Town has reached an agreement with the developer of the Calumet Subdivision to create a collector road that will parallel MD-144 and allow traffic from points west of New Market to reach MD-75 via an extension of Mussetter Road. The County has reached agreements for a second reliever route between MD-75 and Boyers Mill Road passing through the approved Casey and Blentlinger PUDs. These changes to the road network should be reflected in the upcoming Countywide Comprehensive Plan. The State is making progress on planning and designs for completion of the I-70 and Meadow Road interchange to allow westbound traffic to enter and eastbound traffic to exit at the interchange thus relieving the interchange at MD-75 to some extent.

**2. Maintain and establish the physical connections needed to enhance the walking scale of the town.**

New Market should be established as a model pedestrian/bicycle friendly town by providing sidewalks and paths for the safety and convenience of motorists, pedestrians, residents, and visitors. To this end, the Town shall include provisions for bicyclists and pedestrians in upgrades and newly constructed roads, require that sidewalks and paths be included in any new development and conduct studies to identify scenic lands and roadways that need improved pedestrian and bicycle access. The sidewalks and alleys of the historic district and the trail networks in the current residential neighborhoods that now frame the Town's center should be used as the backbone of an expanded network that connects new development, parks, and the historic district with every part of New Market. The Town should conduct studies to identify: needed connections in the current network and scenic lands and roadways that need improved pedestrian/bicycle access. The Town should prepare and adopt a pedestrian/bicycle network plan and work with the County and the State to plan for network connections on Town, County and State rights-of-way.

**3. New and renovated structures in New Market should be compatible with its historic architectural forms.**

A commitment shall be made to encourage variety of shape, roof line, setback, color, texture, and other factors that are part of the visual or aesthetic urban form, but to especially encourage those which are compatible with or augment the traditional historic architectural forms which make the Town of New Market unique. Compatibility will be gauged by such things as the size and configuration of buildings, the use of materials and landscaping, the preservation of existing vegetation and landscape features, and the location of entrance and exit routes on the project site. Careful analysis will be given to design features which accentuate open space, improved recreational opportunities, protection of natural features, and sensitivity to surrounding development, especially that of a historical nature.

The Town will continue to uphold and enforce its architectural regulations within the Historic District and other areas where architectural review is mandated. The Guidelines, which have been drawn up for the Historic District shall be made available to all residents, especially newcomers. The Historic District Commission shall regularly hold well-publicized seminars, which address the basic ideology behind its regulations, educate citizens, and thereby strengthen the support needed for their continued enforcement throughout the community. The Historic District Commission/Architectural Review Committee shall review proposed plans and apply them according to the Guidelines. The HDC Guidelines outline appropriate community design in terms of setbacks and positioning of structures for new structures and development. The HDC/ARC is encouraged to expand upon those guidelines in a context sensitive fashion in coordination with Maryland Historic Trust.



The Town shall plan for future preservation efforts, encouraging and assisting in preservation and rehabilitation of existing structures by:

- Continuing to uphold and enforce design guidelines for the restoration and/or modification of buildings or sites identified as having historic or cultural significance and for the design and placement of buildings within or adjacent to identified historic buildings or sites.
- Requiring that historic buildings or locations be preserved or incorporated into the design of new development as exemplified by the Manor House in Brinkley Manor Subdivision.
- Supporting the Maryland Historical Trust and related County efforts to identify, inventory, and mark all historically and culturally significant buildings and sites identifiable, and investigate measures for historic preservation of those sites not already protected.

**4. Expand the current growth area boundaries to better reflect property ownership patterns and potential development opportunities.**

Development outside the Town limits of New Market will profoundly affect its quality of life and financial viability. To assure itself a significant voice in decisions that affect its future, New Market proposes to expand the current Annexation Area for joint planning and potential annexation purposes. The Town has considered existing roads, natural features, especially those affecting the watershed, and common property ownership to logically define a new growth area. The redefined area is shown on the accompanying map. Any growth in this area will impact the future of New Market as a viable municipality and must be carefully coordinated with the County in terms of zoning categories, roadway infrastructure, and water and sewer provision.

This approach to regional planning within the County is referred to as the "Community Concept" and The 2010 County Plan "encourages compact and sustainable development and economic growth in suitable Plan-designated areas. To further the Community Concept, coordination, cooperation, and resolution of conflict between the municipalities, the County, and the State is of prime importance. Interjurisdictional coordination and cooperation is integral to the Community Concept. Processes to effectively resolve issues of mutual interest, needs, and priorities between the municipalities, the County, and the State should be on-going in the implementation of this Plan."

**5. Encourage cooperative and coordinated planning in the New Market Region for the benefit of both the Town and the County.**

"Suburbanization" is a well-known national pattern. It is driven by the spread of homes to easy-to-develop land, the demands of the automobile, and large national merchandisers. Downtowns that have been successful in combating fringe development have accomplished it by occupying specialty niches unfilled by the competition and creating an attractive, pedestrian-oriented alternative to the parking lot wastelands of auto-oriented convenience shopping. Regions that have been successful in controlling fringe development have developed mechanisms to coordinate public policy planning and decisions among state, counties, and municipalities. Maryland's "Smart Growth" principles support this approach by calling for directing economic development to existing communities, promoting infill development, preventing sprawl outside growth areas, limiting capital improvements in rural or non-growth areas, preserving open space and environmentally sensitive areas, and promoting mixed use development.

It is important to the improvement and sensible development of New Market that the Town work closely with Frederick County Officials. Land use and development decisions outside the Town limits profoundly affect the quality of life within the Town. The Town has previously proposed and will continue to pursue a Joint Planning Agreement with the County.

The developed land uses of the Town are compact and uniform with sprawl notably absent within the Town limits. The high percentage of developed property means that annexation is the safety valve for growth and that it will be the means of property control preferred by developers – it offers more site selection and lower cost. Serious annexation interest has been expressed by developers and landowners north, east, and south of New Market.

This Plan has outlined a layout for New Market's proposed Planning and Annexation Area that considers existing roads and natural features, especially those affecting the watershed, which logically define a new growth area boundary. This layout should be the basis for cooperative planning with the County that will allow the participants 1) to shape Planning Areas based on inherent regional logic and political willingness, and 2) to plan together on issues that need to be examined regionally but to retain local control over implementation and local issues so long as implementation is consistent with an overall multi-jurisdictional framework plan.

#### **6. Provide the necessary regional public facilities and services.**

As part of this planning process, the Town of New Market has recognized that the Town and County may impact each other with unintended consequences. The Town and County do not provide the same services and, although we may share many of the same long range goals, we assign different values to each. Thus, our methods for achieving these goals are different and this sets the stage for unintended consequences. Nonetheless, this Plan outlines tools, mechanisms and strategies for cooperative planning in order to achieve mutual goals.

#### **7. Explore a variety of methods to discourage premature development.**

This exploration shall include but not be limited to:

- Finding suitable, alternative incentives to offer landowners in exchange for their designating land uses compatible with the Master Plan in cases of rezoning requests;
- Incorporating these incentives into the Zoning Ordinance;
- Encouraging the use of a system of checks and balances with respect to water and sewer allocations; and
- Requiring applicants to submit capitalization plans as the first step in the overall improvement plan submission process, (i.e. prior to negotiation of guarantees), which include financing options for necessary improvements to public service facilities prior to allowing development to avoid problems with capability or funding once building commences.

#### **8. Streamline the Planning Process**

The Planning Act of 1992 directs local governments to streamline regulations to assure achievement of growth management and resource protection goals. Streamlining, in the context of growth management, has a substantive focus -- the Act specifically encourages streamlining within areas designated for development and growth. This Plan designates New Market as the



center of a larger growth area and all of the Town's development regulations are candidates for streamlining.

The Planning Commission should play a key role in all issues of physical development. The Commission should advise the Mayor and Council on proposed projects, programs, and activities giving particular emphasis to the consistency of proposals with the goals and policies of the Comprehensive Plan.

The development regulations of the Town must be modified to achieve consistency with this Plan and to efficiently carry out its purposes. These modifications shall follow several guidelines:

Clear areas of responsibility will be assigned within Town Government to guide development applications through the regulatory process.

The Town's policy shall be to make its development control process clear, current, consistent, and accessible to all concerned and ensure that it does not drive up the cost of construction or sales through unnecessary regulation or complication.

Any required interagency reviews, e.g. with Frederick County, SHA or other, will be conducted in a coordinated and concurrent manner.

All review procedures should be examined to promote administrative efficiency.

All review periods should be time certain.

Regulatory requirements for establishing or expanding businesses should be examined to remove any unnecessary procedures and improve the timeliness of review.

All development regulations should be examined so that unnecessary impediments to Plan-designated growth are systematically eliminated and flexible means of granting relief are introduced.

Work towards a more standardized application process, using standard forms where possible, to make the necessary requirements/regulations uniform, so that conformity will be encouraged and necessary requirements can be met in a timely manner. A municipal forms procedure shall be established.

New Market will cooperate with the County to assure that any growth around its limits is carefully coordinated, consistent in both character and scale, governed by compatible land use regulation, and appropriately served by utilities and roads. The Town will also continue to participate in any opportunities offered by the County to engage in joint land use decision making for the areas outside the Town limits.

Regulatory consistency with this Plan is required in all implementing ordinances, capital improvement programs, and functional plans. This Plan is the dominant policy document and guide for all other land use plans, programs, and regulations and is to be directly linked to the drafting, interpretation, application, and amendment of land use laws and programs.

A formula shall be devised to enable planners to estimate the cost to the Town for each residential, commercial, and office/research or light industrial unit in place to more accurately estimate the financial impact each development activity will have, and serve as a guide to setting up fee schedules and the like, should these be proposed.

The Town in accordance with the Planning Act of 1992, shall consider the need to prepare and adopt a public facilities financing plan to determine requirements and costs of specific development and propose suitable funding mechanisms.

**9. The scale and appearance of Historic District businesses must strongly reflect the historic, small town atmosphere of New Market.**

The Town shall plan for future preservation efforts, encouraging and assisting in preservation and rehabilitation of existing structures, such as: continue to uphold and enforce design guidelines for the restoration and/or modification of buildings or sites identified as having historic or cultural significance and for the design and placement of buildings within or adjacent to identified historic buildings or sites; preserve and enhance the visitor-oriented, historic permitted uses in the antique/residential area; and require that historic buildings or locations be preserved.

**10. Promote complementary commercial and light industrial development outside of the Historic District.**

Areas, which are deemed appropriate for light industrial, and office/research development shall be identified and annexation studies shall be undertaken to look for industrial or office/research uses, which would serve the needs of the Town. Industry must have access to transportation facilities. Areas considered best situated for light industrial or office/research use are those close to an existing or easily expanded transportation network, and near available utilities. Campus-like, non-polluting light industrial or office/research developments with low-rise buildings and landscaped or natural open spaces shall be encouraged in preference over multi-story office buildings. Proposals for conversion to industrially planned lands can be considered appropriate where it will result in a balance between housing and employment opportunities, would reduce potential commute distances, and would be consistent with the visions and policies of the Master Plan.

**11. The Town shall protect its natural water supply, and encourage stewardship of the Chesapeake Bay and its tributary lands.**

The Town shall take every step possible to ensure the quality of its groundwater and surface water sources. To accommodate future growth, the Town will consider adding groundwater to the imported surface water distribution system, which currently services the majority of properties in the Town.

**12. The Town shall institute zoning practices which protect and enhance the environment.**

These practices shall:

- Encourage sound management and protection of groundwater and surface water resources and their quality.
- Promote diligent, efficient use of water resources and discourage wasteful practices.
- Preserve or enhance aesthetic qualities of natural drainage courses in their natural or improved state compatible with flood control measures, economic, environmental, and ecological factors.





- Direct development activity away from 100-year historic and annual floodplain areas to minimize health and safety hazards, property loss, and environmental disruption, and to foster stream enhancement, improved water quality, and recreational opportunities.
- Prevent construction of large contiguous paved areas unless adequate measures are ensured to reduce runoff.
- Encourage disposal of storm and domestic runoff on the development site, rather than directing it to draining courses.
- Discourage urban uses and limiting development in designated aquifer recharge areas.
- Require areas chosen for expansion to apply a groundwater use plan as part of their site plan application.
- Ensure that environmental impacts receive equal consideration along with economic and engineering factors as a part of the review process. Included in this should be an evaluation of transportation and air quality effects of major employment generating projects in determining these impacts.

#### **D. Land Use Policies**

Although it is recognized that uniformity has value, the Town should continue to use zoning categories, land use designations, and density guidelines which may differ from those used by the County and other municipalities, because these unique representations are necessary to preserve its distinctive character. For example, commercial and residential uses shall be encouraged to coexist in the same structural unit, i.e. a residence over a commercial shop or a shop within a residential structure and, along the main approach to the Town, development shall preserve and enhance the historic ambience of New Market. The current residential/antique district should be expanded to include areas that are logical extensions of the uses and character of the current Historic District.

Noise abatement is important to the quality of life. If residential development takes place adjacent to major transportation routes, a variety of approaches shall be considered to mitigate noise impacts, including but not limited to: encourage large lot, single family development to reduce the number of people impacted by noise; encourage deep lots to reduce noise impact, especially those lots abutting a thoroughfare; and promote developer-supplied effective barriers for new development to attenuate noise, either by physical construction or landscaping.

To assure new construction is consistent with adopted growth policies, and expansion of development is balanced, the Master Plan shall be evaluated no less than every ten (10) years.

Areas chosen for annexation/development should be subject to public facilities concurrency and have an adequate level of school facilities; fire, rescue, and police protection; water and sewer facilities; transportation support; recreational opportunities; and other public facilities as identified.

Requests for zoning changes should contain an evaluation of social, financial, and environmental elements, which would be enriched by a change in the land use, and further, the cumulative advantages of said change must be shown to offset the disadvantages.

New Market has long had a reputation for its high standards of architectural style and authenticity in its Historic District; this same attention to detail should be applied uniformly to future annexed areas as well as through the use of architectural guidelines. New development should not

adversely affect the character of existing areas. The Town has adopted a PDD floating zone (Planned Development District) for residential development, a TRC (Town Residential/Commercial Mixed Use District) and a TBP (Town Business Park District). These floating districts provide for traditional streets laid out in a grid or modified grid, with alleys (containing garages and garage doors) consistent setbacks, mixed use zoning, village greens and streets containing commercial space with upper level flats and offices, architectural, urban and landscape design standards, narrow streets, small turning radii at intersections, and the like. The Town should also consider modification of the PDD regulations to provide incentives for use of the floating districts for residential and other parcels allowing residential uses in exchange for increases in density not to exceed the maximum allowable in the zone. The Town should now consider the development of an Economic Development Flex Area to encourage employers to move their businesses to areas designated as MCI (Mixed Commercial/Industrial). The Economic Development Flex Area is contemplated to differentiate itself from TBP in the respect that it will not be considered as traditional retail commercial.

In planning for higher density living areas, the following basic principles shall be followed:

- Requests for higher residential densities must contain a statement of established need for increased density which can be justified by factual evidence;
- For reasons of economy and efficiency, high density residential areas shall have gravity flow to sewage facilities, averting the need for pumping stations whenever possible; and
- The higher density residential areas shall have the best possible transportation access in order to reduce traffic congestion.

For large Planned Urban Developments, the Town must be able to exercise some discretion in locating public facility sites within approximate boundaries specified by the Master Plan. Those areas designated for the highest densities shall be those closest to the utilities and public facilities. The Town shall also adopt design standards compatible with overall planning objectives that encourage creative solutions rather than discourage them. Criteria shall be set which allow for flexibility in siting of various land uses within planned unit developments and traditional neighborhood developments. For example,

- Clustering and other similar zoning approaches may be considered to promote a reasonable level of compatible yet affordable housing;
- All residential parcels exceeding 40 acres are encouraged to be compatible with the Traditional Neighborhood Development concept;
- A planned unit development shall be an entity with a distinct character in harmony with surrounding development; and
- With the exception of mobile home parks, a development may include a mix of housing types including attached homes, townhouses and duplexes, within the average density allowed, subject to zoning restrictions.

The Town shall continually monitor the zoning categories in the Historic District to ease land use and permit administration, to eliminate non-conformities, and to more clearly delimit the range of uses allowed and the desired mix of residences and businesses. This monitoring is necessary to maintain a vibrant and commercially successful Historic District.

The Town shall consider creating a new zoning category, which allows for development of office/research and limited manufacturing uses to provide for the appropriate location of office



and nuisance-free research park uses. Warehousing, wholesaling, and general manufacturing uses shall be prohibited in such areas. Development in such a district shall be characterized by an absence of nuisances in a clean and aesthetically attractive setting. Such a district should permit limited manufacturing, fabrication or assembly operations which would, by nature of the product or magnitude of production, be compatible with research, professional or business offices, yet in keeping with the character of the neighborhood. Commercial uses shall be limited to those, which are primarily oriented toward servicing those businesses located within the office/research industrial district.

Special purpose uses to fulfill specific high demand needs, such as light industrial parks and shopping centers, shall not be objectionable to other uses or adjacent properties from the standpoint of noise, dust, smoke, light and so forth, and not destroy or damage or create extra maintenance costs. Each commercial or industrial area shall be located and designed to minimize negative factors such as traffic volume, noise, and visual impact on nearby residential and historic areas.

Strip commercial districts characterized by shallow commercial frontage, multiple curb cuts, and a variety of unrelated businesses should be discouraged. Instead, retail sales and service type commercial and office/research uses shall be encouraged to locate in identifiable and organized groupings.

Neighborhood business areas should be pedestrian-oriented, that is, drawing their customers primarily from the residences in the immediate vicinity rather than from outside the Town. Ideally, it will be desirable to have commercial areas convenient on each side of I-70 in order to reduce traffic on MD-75, with each area having its own zone of influence.

Home occupations, either major or minor, in which a resident operates a small service business within the home in compliance with Town regulations and standards shall be encouraged. In addition, the Town should consider the need to add a zoning category, which allows for joint residential and cottage industry use of a property.

The Town shall develop a package of incentives and encourage the following uses of open space: additional active parkland, development of designated parkland, increased historic preservation, additional natural open space, preservation of trees and other vegetation, and preservation of natural drainage and aquifer recharge areas.

#### **E. Standards, Guidelines, and Administrative Measures**

**Actions to Maintain Community Identity:** A Community Action Committee shall be established whose foremost mission is to preserve and promote the values and sense of community which current citizens appreciate. This can be accomplished through organizing a series of neighborhood functions designed to bring children, young people, and adults together as a community on a regular basis throughout the year. Such events will also form a basis for better public relations both internally and externally.

A Landscaping and Project Maintenance Plan shall be submitted to the Town as part of every project application. The Town will adopt an amendment to the zoning ordinance detailing the requirements of such a plan. Landscaping, especially trees, should be provided around the boundaries of a project to lessen the visual impact of the development. A zoning provision should be established which protects trees and shrubs having a trunk diameter greater than 6 inches measured at a level of two feet above the ground.



A sketch plan specifically for the purpose of ensuring compatibility shall be proposed by an applicant prior to consideration and approval of preliminary plats for parcels larger than 3 acres.

Existing programs of sign control should be continued.

**Actions to Better Manage Uses with Special Impacts:** Religious institutions will be allowed in residential neighborhoods if sufficient off-street parking is provided and the design of the facility is consistent with the character of the neighborhood.

Clubs and fraternal organizations should be limited to commercial areas. The use of a single-family home in a residential area for a club or fraternal organization shall not be permitted.

Facilities providing health care for the elderly and convalescent shall be encouraged. The Zoning Ordinance shall guide the placement and standards for development of such facilities. Proposed facilities shall be evaluated based on the location, impacts on services, and neighboring properties.

Building materials and landscaping shall be used to make these special impact land uses less visually obtrusive from neighboring properties.

The Town shall develop standards for the location of proposed private schools, which address required off-street parking and street frontage for dropping off and picking up students, access via Town streets, noise control, minimum lot size per pupil capacity, and required landscaping and other visual/noise barriers if the proposed school is to be located adjacent to a residential area.

**Actions to Improve Roads, Parking, and Walkability:** The Town should conduct a study of future needs for off-street parking. If a requirement is foreseen, plans will be developed for site acquisition, funding, and construction. Existing parking ordinances shall be reviewed and enforced. Sufficient off-street parking for residents shall be included in the design of all residential projects. Off-street parking for guests shall be included in the design of all multifamily projects.

**Conduct a Review of the Town's Ordinances as They Pertain to Transportation:** Development plans shall assure the ability of residents to walk or bicycle to parks, schools, and residential service areas without crossing uncontrolled crossings on arterial roads whenever possible. Internal roads shall be designed to serve the project, and access to through-traffic shall be discouraged. Developers shall provide easements for turnouts and shelters for buses, to be incorporated into project design for projects along proposed transit routes and to be implemented at the time of project construction in cases where transit routes already exist. Provision shall be made for the safety and integrity of local neighborhoods by authorizing, where necessary, the prohibition of entry to and/or exit from neighborhood streets by means of islands, curbs, traffic barriers, or other roadway design features.

The Town shall maintain and periodically update an inventory showing the legal status and physical condition of its streets and alleys, and designating priorities and proposed schedules for maintenance and improvements. The Town should designate specifications for the various types of roads, and specify the maximum traffic loads for which each type of road is intended in order to update its road design standards.

The Town will enforce requirements that roads be constructed to the appropriate specifications and engineering standards. The Town will also develop and apply methods of assessing and apportioning developer fees and/or other assessments to help pay the cost of road improvements



and maintenance. New developments shall pay for those traffic studies deemed necessary by the Town in cases where the development is expected to have a traffic impact.

**Actions To Better Evaluate Annexation Proposals:** Prior to the annexation of lands into New Market, the applicant shall submit a plan demonstrating the financial feasibility of providing services and facilities to the area proposed for annexation as well as any other information required by the Planning Commission such as a traffic, environmental impact, and fiscal studies.

Criteria to be considered in establishing zoning status of incoming parcels shall include:

- Capacity of facilities and municipal and/or County services;
- Environmental impacts;
- Existing land uses, if any, on and in the vicinity of the annexed land; and
- The extent of any natural habitats and features of the landscape which should be preserved.

A set of guidelines and checklists shall be developed to ensure consistency and completeness of requisite petitions, surveys, advertising, record-keeping, and the like when an annexation is proposed and subsequently acted upon.

**Actions to Improve Design Review:** Design review of materials and landscaping shall be included in the application process, especially with respect to the natural features of a site and preservation of views.

- Homes should generally be in one- or two-story buildings. Where permitted, buildings exceeding two-stories shall follow the contour of the site and be "stepped" or terraced.
- To avoid a dormitory or high-rise image, multifamily projects shall generally consist of smaller, multiple buildings (typically 4 to 12 dwelling units per building) rather than a few large multifamily buildings.
- Any hillside or hilltop areas that may be included in a project shall be reserved for open space or one- and two-story buildings that can be integrated with the natural landscape.
- Buildings on hillsides shall be sited with respect to existing native vegetation or landscaping to reduce their visual prominence, and not impinge upon the viewscape of existing dwellings. Whenever possible, structures shall not extend above the existing tree lines.

**Actions to Ensure Adequate Open Space:** All projects shall include adequate open space. Open spaces shall be dispersed throughout a project, unless it is necessary to create a single large open space to preserve an important natural habitat. A residential project should be located adjacent to an existing residential development and/or should be in undeveloped areas of sufficient size to ensure that a residential environment can be maintained and with sufficient space to provide any needed buffers for adjacent or proposed single-family development.

- In areas identified as having particular environmental concerns, no more than 30% of a lot shall be covered with an impervious surface.
- All residential development or residential portions of multi-use PDDs shall contain a minimum of 30 percent of the land in natural or improved open space, exclusive of roadways, parking lots, wetlands and steep slopes.



- Buffering shall be required between adjacent multi-family projects and single-family developments located along common boundaries.

**Actions to Improve Access to Recreation:** Recreational facilities for the use of the residents shall be included in project design.

- Each park or recreational facility shall be planned by licensed professional architects, landscape architects, or other specialists so that the highest degree of park design can be maintained.
- Space standards shall be met even though limited finances may delay park development.
- Open space designated for recreational purposes is intended to be useable, both for active pursuits such as ballfields and for passive activities such as picnic areas, nature trails, and the like, and shall not include wetlands and steep slopes.

The Town shall work to encourage local and County Parks and Recreation Councils to work in concert to promote the use of school buildings and grounds during the summer for community recreational activities.

The Town shall encourage the County to establish park development adjacent to school sites and formation of joint use agreements between school and park districts.

**Actions to Improve the Provision of Community Services:** Applicants shall be prepared to address the community-wide impact of each proposed land use on the need for public facilities and services, related transportation and housing consequences, and their subsequent effects on the Town's resources.

Proposals for those areas planned for high density residential developments shall be reviewed for the purpose of ensuring that the Town and/or County is able to support the proposed development before zoning and/or plat approval, subject to analysis of public facilities and financing requirements for anticipated development.

To determine the number and location of new school sites, program capacity standards established by the school board shall be used in addition to related capacity formulas.

The Town shall conduct a study to determine the need and level of law enforcement required. The Town shall determine its financial capability to implement and maintain its own police department. The Town, if it is unable to support its own force, should reserve land for the purpose of providing a future location for a substation of the Frederick County Sheriff's Department. The Town shall determine if it has the financial capability to enlist in the Resident State Trooper Program.

Consideration should be given to the design standards for public libraries as specified in the Frederick County Comprehensive Plan, especially those relating to minimum square footage, and said standards should be updated to the minimums established by the American Library Association currently in effect at the time of new construction planning for libraries serving New Market residents, regardless of the status of existing branches already in existence throughout the County. A committee shall be appointed by the Town Council at the time new construction planning commences, who will participate with other community leaders and the Library Board of Directors in devising appropriate library facilities for the area.



The Town with the aid of State and Federal agencies shall determine its capability to design, build, and maintain a nature and wildlife center and recreational parkland in the open space adjacent to the Royal Oak Subdivision.

**Actions to Better Manage Parking Needs:** The Town will conduct surveys to determine parking needs and alternative solutions.

New developments shall pay for those parking studies deemed necessary by the Town in cases where the development is expected to have a parking impact.

On-street parking shall be provided in the rear of commercial and retail establishments as opposed to in front, whenever feasible.

Adequate off-street parking shall be provided, and the area landscaped to reduce its visual impact from the adjoining properties. Massive paved parking lots shall be avoided, both from an aesthetic and ecological standpoint.

A parking and circulation plan shall ensure that trees and landscaping are provided to break up the amount of paved surfaces and that traffic entering and exiting commercial and light industrial or office/research areas does not adversely affect any nearby existing or future residential developments.

New commercial and office/research or light industrial uses shall be subject to design and parking standards which include: the number and location of allowed curb cuts; landscaping and design of parking areas, emphasizing parking in the rear of buildings; location, size, number, lighting and construction of signs; and configuration and design of commercial and industrial buildings

**Actions to Improve Commercial Site Design:** All commercial development or commercial portions of PDDs when so permitted by the Zoning Ordinance shall contain at least ten percent (10%) of land area in natural, improved, or functional open space, exclusive of roadways and parking lots, and exclusive of the open space requirement for residential use.

Public improvements shall be provided by the developer to support a commercial area, such as landscaping on existing streets, street furniture (benches, waste receptacles, planters, etc.), and uniform street and other public signing.

Highway Service Area commercial uses shall be designed in a manner compatible with the spirit and intent of preserving the historic character of the area.

Strip commercial development for great distances along MD-144 should be prohibited for safety and aesthetic reasons.

**Actions To Protect Floodplains and Wetlands:** The Town shall adopt and maintain standards for development on or near wetlands and floodplains, so as to protect these critical resources. No development shall be allowed within a 100-year floodplain, historic or annual, and there shall be a 25-foot building setback in areas adjacent to these floodplains

Consideration shall be given to modifying the zoning ordinance to attach special conditions for properties located in an area subject to flooding to reduce the risks of property damage or injury. These conditions could include underground storm drainage systems capable of handling run-off from a 100-year storm, limits on the amount of pavement and other impermeable surfaces, and drainage fees to help pay for downstream improvements needed as a result of development.

**Actions To Improve Environmental Awareness And Monitoring:** The Town shall establish a Conservation Committee whose primary function will be to advise the Planning Commission. Its secondary functions will be to:

- Review all construction applications to assure that conservation design guidelines are followed;
- Encourage good soil conservation practices and examine impacts of proposed development relating to this as a routine part of the improvement plan evaluation;
- Act as liaison with federal, state, and local officials to promote policies beneficial to conservation of natural resources, vegetation, and wildlife. See that all regulations are properly administered and enforced, similar to the function performed by the Historic District Commission;
- Coordinate to achieve adequate water supply quality and protection;
- Oversee recycling efforts to ensure residents understanding of and compliance with new Town and County regulations; and
- Arrange to have the Town Engineer monitor construction sites to see that conservation measures are being maintained as agreed upon.

The Town shall institute policies and programs to protect and enhance recreational linkages and natural stream areas.