

**STATEMENT OF KEEP CALVERT COUNTRY-GROW RESPONSIBLY
JULY 23, 2019 PUBLIC HEARING RE: COMPREHENSIVE PLAN**

Keep Calvert Country-Grow Responsibly is a non-partisan citizens group that promotes public awareness and participation and believes, among other things, that Calvert County is a great place to live and should grow responsibly and sustainably. KCC-GR's Platform is attached ([Attachment A](#))

KCC-GR has been involved in the Comprehensive Plan process from the beginning and believes that the Comprehensive Plan should not be adopted for the following reasons:

1. The citizens have been shut out of the Comprehensive Plan process every step of the way. **There has never been a presentation to the citizens to explain why major changes in growth policies are being made.** Every single meeting has been a "divide and conquer" format so that citizens were not able to voice nor hear each other's concerns and the responses (if any) given by staff. Questions are not even permitted at the public hearings.

Solution: Schedule a "town hall" meeting where the policy changes are explained, and citizens can ask questions and get answers.

2. Even though hundreds of pages of comments have been submitted throughout the process, **the majority of those comments have NEVER been addressed or discussed by staff, the Planning Commission or the County Commissioners, nor has any explanation been given as to why they were not addressed or discussed.** The only comments addressed have been six letters from the development community. ([Attachment B](#))

Solution: Direct staff to compile the comments received in a matrix and include explanations as to why and how the comments were addressed (or not).

3. The County Commissioners have made substantial changes to the Planning Commission's recommended Plan, **but no meetings have been held with citizens to discuss and explain the reasons behind these changes.** The following are some of the changes made by the Commissioners that will be detrimental to the future of Calvert County:
 - a. Expansion of the Huntingtown Town Center across Route 4 which will result in worsening gridlock at the adjacent intersection and will make it impossible to develop Huntingtown as a "walkable" Town Center since crossing the 4 lanes of Route 4 on foot is virtually impossible.
 - b. Removal of the distinction between Major and Minor Town Centers which will allow commercial uses such as super big boxes in areas that have always been intended to remain small and designed to serve only local needs. The change also "generifies" all the towns, eliminating the uniqueness each one has developed through implementation of the individual Master Plans.
 - c. Expansion of the Dunkirk Town Center with no explanation.

Solution: The Commissioners' changes should be explained along with all other policy changes at the "town hall" meeting suggested under #1 above.

4. This public hearing violates paragraph 'c' of [Md. General Provisions Code Ann. § 3-102](#) (Open Meetings Act) (Attachment C) which states:

“(c) Public policy. -- Except in special and appropriate circumstances when meetings of public bodies may be closed under this title, it is the public policy of the State that the public be provided with adequate notice of the time and location of meetings of public bodies, **which shall be held in places reasonably accessible to individuals who would like to attend these meetings.”**

Several KCC members received emails from the Commissioners (Attachment D) stating that they were anticipating a large crowd, yet the hearing was scheduled in a room that only holds 145 people and at 5 p.m., when most citizens are not yet home from work.

Solution: Cancel this public hearing, then hold a “town hall” meeting followed by a new public hearing at one of the local high schools.

5. The legal notice (Attachment E) violates [Md. LOCAL GOVERNMENT Code Ann. § 9-105](#) (Attachment F) because it does not include a summary of the policy changes proposed in the Plan, nor does it include the changes made to the Plan by the County Commissioners after the Planning Commission approved it. State law requires:

(2) The county commissioners shall publish notice of the public hearing and **a summary of the proposed act, ordinance, or resolution** in at least one newspaper of general circulation in the county once each week for 2 successive weeks.

The legal notice also does not include the proposal to **nullify all Town Center Master Plans** and supersede them with the new Comprehensive Plan. The draft resolution for adopting the Plan (Attachment G) states:

“BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, insofar as any of the aforementioned Dunkirk Master Plan, the Huntingtown Master Plan, the Lusby Town Center Master Plan, the Owings Town Center Master Plan, the Prince Frederick Master Plan, the Solomons Town Center Master Plan and the St. Leonard Town Center Master Plan (singly and collectively referred to hereinafter as the "Town Center Master Plan") may be inconsistent with the express provisions of, or the intent of the Calvert County Comprehensive Plan adopted hereby, **the Calvert County Comprehensive Plan shall supersede such provision(s) of the Town Center Master Plan.”**

Because the draft Resolution states that the Comprehensive Plan is “attached hereto and made part hereof”, a summary of the above proposal should have been included in the legal notice.

Solution: Remove the paragraph from the draft Resolution.

6. The Commissioners included the above language in their Resolution without the public’s knowledge so that immediately after adopting the Comprehensive Plan, the Master Plans for the Minor Town Centers of Dunkirk, Owings, Huntingtown, St. Leonard and Lusby will become null and void because there will no longer be such a thing as a Minor Town Center.

In its definition of "Consistency", [Md. LAND USE Code Ann. § 1-303](#) (Attachment H) lists several reasons that the Commissioners will be able to use to determine that the Town Center Master Plans are inconsistent and nullify them:

"Except as provided in § 1-304 of this subtitle, when a provision in a statute listed under § 1-302 of this subtitle requires an action to be "consistent with" or have "consistency with" a comprehensive plan, the term shall mean an action taken that will further, and not be contrary to, the following items in the plan:

- (1) policies;
- (2) timing of the implementation of the plan;
- (3) timing of development;
- (4) timing of rezoning;
- (5) development patterns;
- (6) land uses; and
- (7) densities or intensities."

Questions: Who will make the interpretation as to whether the Master Plans are inconsistent? And what process will be used to officially supersede the Master Plans with the Comprehensive Plan? Will the citizens have any say in the matter?

Section 1-4.01 of the Calvert County Zoning Ordinance authorizes the Zoning Officer to clarify the intent of the Ordinance through interpretations, but that authority does not extend beyond the Zoning Ordinance. (Attachment I)

Solution: Remove the paragraph from the draft Resolution

7. In addition to the paragraph nullifying and superseding the Town Center Master Plans, it appears that the County Commissioners intend to ignore any court ruling that determines that the Comprehensive Plan is illegal or unconstitutional by including the following paragraph in the Resolution (Attachment G):

"BE IT FURTHER ORDAINED by the Board of County Commissioners of Calvert County, Maryland that, in the event any portion of this Ordinance is found to be unconstitutional, illegal, null or void, by a court of competent jurisdiction, it is the intent of the Board of County Commissioners to sever only the invalid portion or provision, and that the remainder of the Ordinance shall be enforceable and valid, unless deletion of the invalid portion would defeat the clear purpose of the Ordinance, or unless deletion of the valid portion would produce a result inconsistent with the purpose and intent of the Board of County Commissioners in enacting this Ordinance;"

Solution: Remove the paragraph from the draft Resolution

8. The proposed Plan includes language about the “Adequate Public Facilities” regulations, but the policy which is the basis for those regulations has been removed. The current APFO is based on the policy in the current Comprehensive Plan ([Attachment J](#)) which states:

“Continue to support policies that link the amount, location and rate of residential growth to County land use objectives, including highway, school, and aquifer capacities.”

Removal of this policy will make the APF regulations **inconsistent** with the Plan, as required by State law (see above definition of consistency).

Solution: Restore the policy that links the amount, location and rate of residential growth to the adequacy of public facilities.

9. The Planning Commission’s approved Plan is invalid because the Planning Commission failed to comply with [Md. LAND USE Code Ann. § 3-201](#) ([Attachment K](#)) which requires that:

“1) A planning commission shall prepare a plan by carefully and comprehensively surveying and studying ... (i) the present conditions and projections of future growth of the local jurisdiction”

The draft Plan proposes extensive growth of all Town Centers and all growth control measures have been deleted, yet there was no analysis of future growth based on proposed changes to the plan. The growth analysis in the Plan is based on **existing zoning**. Since all Town Centers are proposed for expansion, there is no longer any difference between Major and Minor Town Centers, and all growth control measures have been removed, **the Plan’s growth analysis is flawed.**

Solution: To comply with State law, the Commissioners should remand the Plan to the Planning Commission so that they can “carefully and comprehensively study” the amount of growth that will result from the major policy changes proposed in the Comprehensive Plan before adoption.

10. One key issue that the Planning Commission should have studied is the effect the proposed growth will have on transportation. **The County Commissioners have continued the Comprehensive Plan process even though the Transportation Plan is scheduled to be released 3 weeks after the public hearing.**

Solution: To comply with State law, the Commissioners should remand the Plan to the Planning Commission so that they can “carefully and comprehensively study” and incorporate the findings of the new Transportation Plan in the Comprehensive Plan before adoption.

ATTACHMENTS:

- A - Keep Calvert Country-Grow Responsibly Platform
- B - Six Letters from the Development Community
- C - State Law - Open Meetings Act Excerpt
- D - Emails from Commissioners Re: Expected Crowd Size
- E - Public Hearing Legal Notice
- F - State Law Re: Public Notice Requirements
- G - Draft Resolution for Adoption of the Comprehensive Plan
- H - State Law Re: Definition of “Consistency”
- I - Section 1-4.01, Calvert County Zoning Ordinance Re: Interpretations
- J - Current Calvert County Comprehensive Plan Excerpt Re: APF Policy
- K - State Law Re: Requirements for Preparation of the Plan