

# Chapter 7:

## Plan Implementation Options and Recommendations

Chapters 5 and 6 of this plan identified several measures to be taken to implement recommendations identified in each chapter. Many of these recommendations require steps be taken to institute new programs, and establish new regulations or standards against which future development proposals can be properly judged. Other recommendations focus on modifying existing County regulations to assure they better achieve intended results. The following are specific recommendations for implementation of the Plan.

### **Adopt Design Guidelines**

Design guidelines for development of the Chester Town Center expansion and for infill development or redevelopment throughout the Chester and Stevensville Planning Area can do much to achieve components of the CAC's vision. (see Foreword I). Such guidelines can establish benchmarks for enhancing the character and qualities of both communities as infill development and redevelopment occurs over time. To that end, Appendices D through F of this plan identify standards to guide the future form, character and qualities that should evolve in both communities over time. These standards should be applied to virtually all forms of development in the Chester/Stevensville Planning Area and implemented by incorporating them into the County's existing regulatory framework and permit approval processes.

### **Bay Bridge/Island Gateway Site**

The Bay Bridge/Island Gateway Site is a prominent location that creates and enhances the "sense of entry" and arrival to the Island, County and the Eastern Shore, and reflects the Eastern Shore "feel and "Island Character." Because this location is so prominent, the Citizen Advisory Committee recommended a design competition as a means of securing the very best treatment of the site that reflects proposed public uses and design objectives. However, the Planning Commission proposes that design standards should be established to insure the highest possible quality in architecture and landscape treatment of this site.

## **Support Preservation of Kent Island’s Historic Resources**

The preservation, maintenance, documentation, study, and public access to historic resources on Kent Island should be a priority for the County. Toward that end an Historic Preservation Ordinance should be enacted. The county should include funding in its operating budget for historic preservation and should appropriate other funds as may be needed.

The County should enact the necessary ordinances to qualify for state matching grants and should fund the position of a county archaeologist/historian to support the preservation of historic resources on Kent Island and throughout the County.

## **Additional Recommendations**

The following table provides an assessment of alternative planning and land use management tools. Each has been considered for application in the Chester and Stevensville communities to achieve various planning objectives. Tools described represent both regulatory (e.g. zoning provisions, subdivision regulation reforms, etc.) and non-regulatory (easement donation and acquisition programs, capital improvements strategies, transferable development rights programs, etc) approaches to achieving plan objectives. Many of the tools identified are already in use in Queen Anne’s County but their application, in some cases, may be broadened or re-focused to improve their effectiveness. Others represent new tools that could or should be considered for application to achieve objectives identified by the Citizens Advisory Committee. In addition to the tools and techniques in the following table, the Planning Commission also recommends that in new developments all service lines should be installed underground in order to improve and maintain aesthetics and safety.

The table identifies the implementation option or tool being considered, provides a brief description of the purpose or traditional application of the particular technique or tool, followed by a recommendation for how and where it might be best applied or utilized by the County to better direct growth, protect resource lands, maintain rural character, establish greenbelts in specific locations, assure quality development, or finance improvements, programs, or projects that are recommended in this plan.

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#1</b> <b>Growth Boundaries or designated growth areas</b></p>	<p>Growth Boundaries provide guidance for future growth by establishing a dividing line between areas appropriate for community development and areas appropriate for agriculture, rural, and resource uses. Growth Boundaries are typically set for a twenty-year time period and should allow for adequate development opportunities within the boundary to maintain the market's confidence in the Growth Boundaries effectiveness. Establishing Growth Boundaries provides local governments with greater predictability and certainty regarding where development can be anticipated to occur and, therefore, the knowledge needed to judiciously budget for capital improvements and infrastructure investment.</p>	<p>Queen Anne's County currently utilizes Community Planning Area Boundaries in the sense that they represent mapped Priority Funding Areas (PFAs) under the guidelines of Maryland's Smart Growth Initiatives. Six Community Planning Areas are identified in the 2002 County Comprehensive Plan. Chester and Stevensville are two of them. The size and configuration of these two Community Planning Areas should be revised so that their boundaries are consistent with Map 5-1.</p>
<p><b>#2</b> <b>Conservation Easement</b></p>	<p>Conservation easements are easements granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open, or wooded condition. Such easements typically preclude or limit development and retain such areas as suitable habitat for fish, plants or wildlife or maintain existing land uses such as agriculture on the land. Easements may be acquired but many are donated in exchange for the tax benefits which the owners derive.</p> <p>Conservation easements have been used to protect 54,813 acres, which is over 1/5 of the land area in Queen Anne's County to date. Of that, 2,700 acres of those acres are located on Kent Island which represents approximately 13% of the Island land area.</p>	<p>A number of organizations have acquired easements including the Maryland Environmental Trust, Eastern Shore Land Conservancy, Chesapeake Bay Foundation, The Conservation Foundation and others. Greater use of easements should be promoted on Kent Island since they provide more permanent long term protection of land resources than can be assured by zoning. Acquisition of easements should be targeted for lands designated as proposed Greenbelts immediately adjacent to designated Community Planning Areas or scenic viewsheds (see Maps 5-3 and 5-4) and might also be targeted for lands on Kent Island that are zoned AG (Agricultural) or CS (Countryside) that are located outside the Chester and Stevensville Community Planning Areas.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#3</b> <b>Maryland Agricultural Land Preservation Program</b></p>	<p>The Maryland Agricultural Land Preservation Foundation program is a purchase of development rights (PDR) program. It was created by the Maryland General Assembly to preserve, in perpetuity, productive farmland and woodland for the continued production of food and fiber. Funding for the program is provided by the Agricultural Transfer Tax, local government matching funds, special grants, and donations.</p> <p>This program has been quite effective in supporting County farmland protection efforts.</p>	<p>To date, some 19,114 acres of farmland in the County have been afforded permanent protection by easements acquired through MALPF purchase of development rights. (This figure is included as part of the 54,813 acre figure noted above in #2) An additional 12,970 acres of land are in MALPF Districts (a pre-condition for sale of easements to MALPF). A total of 32,084 acres of farmland have therefore received some level of protection through this program. Currently, approximately 700 acres have been protected on Kent Island through MALPF. This program holds great promise to protect farmlands on Kent Island if it continues to be sustained over time and used in combination with new initiatives such as the Purchase of Development Rights (PDR) to preserve agricultural lands.</p>
<p><b>#4</b> <b>Greenbelt</b></p>	<p>Means of protecting shoreline resources from development or defining an edge to developed communities to enhance their identity. Greenbelts can provide a distinct edge to avoid spillover suburbanization that impacts community character and places demands on public services.</p>	<p>Greenbelts should be established in Queen Anne's County in areas consistent with recommendations identified in this plan, and in locations adjacent to unique or sensitive resource environments along shorelines.</p> <p>Greenbelts are recommended to define the Chester/Stevensville community planning envelopes and provide clear edges and a better sense of arrival into each of the two communities.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#5 Transferable Development Rights (TDR)</b></p>	<p>TDR programs are used to transfer the development potential from certain types of land, such as resource lands, targeted greenways, or agricultural lands to areas designated for growth. TDR is typically a market-driven, incentive-based mechanism, by which it becomes possible to sell development rights without actually buying or selling the land. Some programs use a TDR Bank, to jumpstart the program or connect willing buyers and sellers.</p>	<p>The County TDR program was initiated in 1987. However, to date, development proposals in the receiving areas (which are the Community Planning Areas) have not opted to take advantage of TDRs. The densities currently being allowed in the County's Community Planning Areas may be sufficient to eliminate any market incentive for TDR purchase. Incentives and disincentives for use of TDRs needs to be re-examined in the context of the marketplace. This may prompt changes in zoning or the spatial currency assigned to TDRs to encourage greater use.</p> <p>Criteria for TDR use should continue to target Community Planning Areas as receiving areas. TDR could also be used to create Greenbelts around designated Community Planning Areas by designating them as "sending areas." Greenbelts would be designated sending areas and Community Planning Areas or County Priority Funding Areas (PFAs) would be receiving areas. Such a program might be more successful if a TDR "Bank" were established to facilitate transfers. Finally, TDR may have limited application on Kent Island since reductions in the size of the community planning areas that are recommended in this plan may not permit an adequate land area for receiving development rights.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#6</b> <b>Purchase of Development Rights (PDR)</b></p>	<p>PDR programs utilize public funds to purchase the development potential from privately held land. Typically, the landowner voluntarily sells the development rights and receives compensation for the development restrictions placed on the land in the form of a conservation easement. Title remains with the land and can be transferred, although use of the land may be limited to farming or open space. PDR programs may be targeted to protect farmland (e.g. the Maryland Agricultural Land Preservation Program) or to protect resource lands, sometimes in connection with easement donations (e.g. Maryland Environmental Trust, Nature Conservancy, The Conservation Fund, etc.).</p>	<p>PDR is being successfully used in Queen Anne's as part of the County's Agricultural Preservation Program through MALPF (as previously discussed). PDR has also been used by conservancy organizations to acquire a number of easements in other locations. Since easement lands are protected from development in perpetuity, such programs provide permanence and greater assurance of protection than can be provided by zoning.</p> <p>Any and all types of easement purchase programs should be more actively promoted on Kent Island. PDR should also be considered as an alternative means of compensating landowners at Community Planning Area edges where greenbelts are proposed to define those edges. Easements acquired by the County should be held in perpetuity.</p>
<p><b>#7</b> <b>Infill/and Community Redevelopment</b></p>	<p>Community redevelopment is a planning tool to revitalize or improve existing neighborhoods by redeveloping existing buildings and properties that are blighted and/or diminish the character and function of a neighborhood or community. Infill and redevelopment can revitalize existing communities or neighborhoods, promote downtown businesses, provide adequate and affordable housing on existing infrastructure, clean up of contaminated sites or "brownfields," and reduce the consumption of resource lands to support growth.</p>	<p>This tool has been used in portions of both the Chester and Stevensville area, particularly over the past 10 years. The County should encourage continued use of this technique in both communities to better utilize existing infrastructure, reduce demand for development in new locations, and enhance the character and quality of existing development. Benefits can include improved design in redevelopment, addition of landscaping, provision of affordable housing (2<sup>nd</sup> and 3<sup>rd</sup> floors), and utilization of existing infrastructure.</p> <p>New residential and commercial development, infill development and redevelopment in the Chester and Stevensville communities shall be consistent with the Design Standards contained in this plan as Appendices B through E.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#8 Critical Area Growth Allocation</b></p>	<p>Growth Allocation is a means of re-designating land for more intense development in the Critical Area. Typically used to modify one dwelling unit per 20 acre limitation on development in Critical Area Resource Conservation Areas (approximately 30,000 acres) to intensify development or secure waterfront subdivision approvals.</p> <p>Only 5% of Queen Anne's Resource Conservation Lands (approximately 1,500 acres) can be reclassified for use with Growth Allocation over time. County policy generally limits award of growth allocation to designated growth areas including Chester and Stevensville.</p>	<p>Substantial areas of Kent Island have been awarded Growth Allocation in the past. Even though the CAC recommended that no future award of Critical Area Growth Allocation should be granted on Kent Island, nevertheless, the Planning Commission recognizes that in order to achieve the County's goals it may be necessary for very careful and limited use in the award of Growth Allocation in the future in the Chester and Stevensville Community Planning Areas.</p>
<p><b>#9 Large Lot Residential Zoning</b></p>	<p>Large lot residential zoning has been a method used in attempts to reduce the amount and rate of growth in communities. The concept is that requiring larger lot sizes results in a lower density or intensity of development. Large lot zoning has been seen as desirable by some communities because it appears to preserve a semi-rural character. However, the major weakness with this approach is it eats up the land, and amplifies the rate of sprawl. Even a moderate form of large lot zoning, for example 2 to 5 acre lots, consumes up to fifteen times as much land for the same population as smaller lot residential zoning. It also increases the price of housing so that only the more affluent can afford to locate in the County.</p>	<p>Large lot zoning typically results in an accelerated loss of rural land and increased sprawl. Both are inimical to farming economies. Due to the fact that homes are forced to be distant from one another it is very costly to provide services to residents. Everything from school bus routing to garbage collection becomes more expensive on a per household basis. It does little for the environment since large lot subdivisions are dependent on septic systems and require longer road networks to serve lots spread throughout a larger land area. This spreading of homesites also makes it difficult to preserve vegetation and habitat values that may exist on the site. Therefore, this plan does not recommend its use.</p>

Tool or Technique	Description and typical application	Recommendations for Use
<p><b>#10 Density &amp; Intensity Regulations</b></p>	<p>Density and intensity regulations control growth by regulating the number of units which may be built on a particular site, but usually provide some flexibility in development form rather than prescribing a lot size. Intensity regulations are typically applied to commercial or industrial development in the form of limiting the floor area or bulk of a building to a percentage of the site, commonly expressed as a floor area ratio (FAR). Other intensity standards may include impervious surface ratios, limiting amounts of exterior storage, hours of operation, or total trips per acre per 24 hours. Both density and intensity regulations have been and continue to be used in Queen Anne's County.</p>	<p>Areas located near towns or within designated Community Planning Areas or Priority Funding Areas are the most appropriate location for application of density and intensity regulations. Both the density and intensity of development permitted in these areas should be re-examined to insure targeted densities for these areas are being achieved. Within PFA's "Planned Development" regulations should be developed to promote the mix of housing types and mix of uses envisioned for these areas to enable them to function as neighborhoods rather than as characterless, homogenized suburban enclaves. (see Appendix B)</p>
<p><b># 11 Performance Standards: Quality of Site Design</b></p>	<p>Performance standards relating to the quality of site design were developed in response to the limitations of traditional density and intensity regulations. Performance standards focus more on how development is carried out rather than concentrating on what development takes place. Uses are permitted provided pre-set performance standards are met. These standards may typically include requirements to control access to maintain the carrying capacity of a road system or requirements for stormwater detention/retention or erosion control.</p>	<p>While performance standards are suitable in certain circumstances, this Plan recommends that better Design Standards should be considered. These standards relate to character and appearance of development, and would include architectural features, measures to enhance streetscape, or various other measures that might assure the quality of future development is enhanced.</p> <p>New residential and commercial development, infill development and redevelopment in the Chester and Stevensville communities should be consistent with the Design Standards contained in this plan as Appendices B through E.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b># 12</b> <b>Historic District Zoning</b></p>	<p>Historic District Zoning is a form of overlay zoning that imposes a set of requirements in addition to those of the underlying zoning district. Overlay zones are typically applied when there is a special public interest in a particular geographic area, such as an historic village. Article 66B of the Annotated Code of Maryland provides enabling legislation for the local designation of Historic Districts, adoption of Historic District Zoning, creation of a Historic District Commission and procedures for design review within the local district.</p>	<p>Establishing Historic District Zoning within the Stevensville Village Center Core will preserve the unique character and historic buildings in the core of Stevensville. The exact boundaries should be established with a comprehensive inventory of the area and with significant input from local property owners as part of the Public Hearing process associated with instituting a new Zoning District.</p>
<p><b>#13</b> <b>Performance Standards: Environmental Protection</b></p>	<p>Performance standards are also frequently used to protect environmentally sensitive areas. Performance standards can be used to establish specific levels or percentages of various site resources to be protected.</p> <p>Environmental performance standards are more effective at controlling the impact of growth than in controlling the location of growth.</p> <p>Most of these standards currently take the form of environmental protection performance standards in the form of Stormwater Management and Sediment and Erosion Control requirements or site impervious surface limitations (Critical Area) that must be met.</p>	<p>Queen Anne’s County currently uses a number of environmental performance standards that must be met as conditions of development approval. The County should continue to use all of the environmental performance standards it currently has in place. Many of these standards are State driven through Stormwater Management regulations, flood plain regulations, Forest Conservation Act requirements and the Critical Areas Program.</p> <p>Protection standards should be enhanced in light of recommendations for policy changes recommended in this plan and additional standards should be added to achieve these policies.</p>

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<p><b>#14 Highway Corridor Overlay Zones</b></p>	<p>An overlay zone is a mapped zone that imposes a set of requirements in addition to those of the underlying zoning district. Such zones are typically applied when there is a special public interest in a particular geographic area (e.g. the location of sensitive natural features) that does not coincide with the underlying zone boundaries. Highway corridor zoning is an adaptation of the overlay zoning technique. Hilton Head S.C. uses this technique to encourage and better articulate positive visual experiences along the island's major existing and proposed highways. Other communities have also used this technique to provide visual protection and to establish standards for design review of commercial corridor development.</p> <p>This technique can also be used to better manage the character and features of the ubiquitous "big box" development.</p>	<p>When the quality of commercial development is discussed in Chester and Stevensville, the focus turns to the Route 50 corridor entering the County from the Bay Bridge. Complaints include unsightly strip-style commercial development with unsafe vehicular access, confusing or inharmonious signage, and other accouterments of the typical commercial strip.</p> <p>Highway corridor zoning coupled with design review is recommended in this plan and can foster landscaping, signage, architectural and lighting standards to enhance the quality of future development or re-development along the Route 50 as well as the Route 8 &amp; 18 corridors. (see Appendix C)</p> <p>Such overlay zoning should also create forested buffers between the development and the highway to reduce noise and visual pollution. Concrete noise abatement walls should not be constructed.</p>
<p><b>#15 Floating Zones</b></p>	<p>A floating zone is the same as a conventional zone district except that it is not designated on the official zoning map. As a result, when enacted into law through adoption of the zoning ordinance, it "floats" over the County until upon approval of a landowner's application, it is affixed to a particular parcel(s) by a second ordinance amending the zoning map. The text of a floating zone will normally describe certain conditions to be met for such approval: a minimum parcel size, location with respect to streets or utilities, or a particular purpose to be served for its application.</p>	<p>The use of Floating Zones for Chester and Stevensville is not recommended by this Plan.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#16</b>  <b>Open Space Development; Cluster Development; Density averaging; or Conservation Development</b></p> <p>(Appropriate for Rural area application)</p>	<p>Each of these tools is designed to cluster or concentrate the volume of development permitted on a given tract into a smaller area in order to preserve the remainder as open space or farmland. Although the density of development, permitted by the zoning remains the same, the development is clustered on a smaller portion of the site using smaller lot sizes which preserves land and reduces development costs. Grouping residential units into one area requires less investment to support infrastructure. Open Space or cluster development programs can be mandatory, (requiring all development on sites to be clustered) or voluntary (leaving the option to cluster or not to the landowners discretion).</p>	<p>This technique has been applied in the County as a voluntary tool or option for residential development. The incentive for use is provided by allowing smaller lot sizes and a density increase when cluster provisions are utilized. These provisions have been used to and have protected approximately 18,000 acres of land Countywide through deed restrictions from development on 85% of the properties where this has been applied. Open space from cluster development on Kent Island is 546 acres.</p> <p>The County should retain the limitations that require clustering to utilize only 15% of the site in the rural areas have the effect of establishing a "maximum lot size" when clustering is used to assure a higher percentage (85% of the site) of farmland or open space is retained on the site. Provisions to require visual screening of rural development should be adopted to enhance efforts to protect rural character and scenic views.</p>
<p><b>#17</b>  <b>Special Assessment or Special Taxing District</b></p>	<p>A special assessment is a charge imposed by a local government upon the owners of property which benefit specifically from a local public improvement. Street improvements, sidewalks, storm drainage system improvements, and streetlighting are commonly financed by such a special assessment.</p>	<p>Queen Anne's County may find it appropriate in some cases to use this tool, but by and large, it should be used on a limited basis. A special assessment may be invalidated if it is shown that the improvement does not confer a special benefit to the assessed property.</p> <p>A Special Taxing District could be used to finance public streetscape improvements in either downtown Stevensville or Chester. Such improvements might, in turn, further stimulate investment in the form of downtown area re-development.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#18 Planned Mixed-use Development or Planned Unit Development</b></p> <p>(Appropriate for targeted development area application)</p>	<p>Planned unit development (PUD) is a device which allows a development to be planned and built as a unit and which permits variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements. It is both a type of development and a regulatory process. PUDs typically are permitted flexibility in site design that allows buildings to be clustered; mixtures of housing types; combining housing with neighborhood shopping facilities; and better design and arrangement of open space. They can also be used to require a mandatory percentage of affordable housing be provided.</p>	<p>The Stevensville Master Planned Development Zoning District (SMPD) and Chester Master Planned Development Zoning District (CMPD) should be revised to improve the traditional neighborhood character and qualities in the Community Planning Area.</p>
<p><b># 19 Adequate Public Facilities Ordinances</b></p>	<p>An adequate public facilities ordinance (APFO) requires developers to provide new, additional, or upgraded existing public facilities that are necessary to address the impact on facilities from their project. An APFO typically requires these facilities when the existing and planned community facilities will not provide or maintain an adequate level of service to meet community needs. APF ordinances control the development process by conditioning development approval on a showing or finding that sufficient infrastructure and services are present or will be provided at the time they are required.</p>	<p>An APF ordinance requires that adequacy be defined by setting levels of service standards for libraries, public parks and trails, water supply, waste treatment, transportation facilities, schools, police, fire, emergency medical services, solid waste disposal, senior services, stormwater management facilities and other public services and facilities. An APF ordinance also requires the provision of criteria which establish a consistent methodology for identifying the impacts of proposed development. Such an ordinance is in place in Queen Anne's and has been useful as a tool to manage development within PFA's and assure that facilities and services are in place prior to development. This plan recommends examination and revision of APFO standards where appropriate. (See Chapter 6)</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#20 Capital Improvements Program</b></p>	<p>The Capital Improvements Program (CIP) is the timetable by which the County indicates the timing and level of funding it intends to provide for public facility improvements over a specified duration (typically 5 years). By committing itself to a timetable for extension or upgrade of facilities, growth is managed to some extent. Few developers can or are willing to put up sufficient capital to develop land in advance of the scheduled public investment.</p>	<p>The County should continue to examine opportunities to make even greater use of its CIP as a growth management tool. A CIP that is coordinated with extension and access policies can provide a significant degree of control over the location and timing of development. It will also influence the cost of growth since infrastructure costs required by new development can be reduced by scheduling and providing services in an orderly fashion. Both developers and the County citizens derive relative certainty regarding the pace and timing of development.</p>
<p><b>#21 Streamlined Processing / Priority Status for Economic Development Projects</b></p>	<p>The sixth "Vision" in Section 1.01 of Article 66B of the Annotated Code of Maryland, states that "to assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined."</p> <p>The eight "Visions" in Art. 66B are:</p> <ol style="list-style-type: none"> <li>(1) development is concentrated in suitable areas;</li> <li>(2) sensitive areas are protected;</li> <li>(3) in rural areas, growth is directed to existing population centers and resource areas are protected;</li> <li>(4) stewardship of the Chesapeake Bay and the land is a universal ethic;</li> <li>(5) conservation of resources, including a reduction in resource consumption is practiced</li> <li>(6) to assure the achievement of items (1) through (5) of this section, economic growth is encouraged and regulatory mechanisms are streamlined;</li> <li>(7) adequate public facilities and infrastructure under the control of the county or municipal corporation are available or planned in areas where growth is occur; and</li> <li>(8) funding mechanisms are addressed to achieve these Visions.</li> </ol>	<p>In order to encourage redevelopment of underutilized commercial spaces the County should consider adoption of a policy whereby commercial redevelopment projects within the Planning Area be given priority status through the development review process, and review of such projects are streamlined.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#22 Impact Fees and Exactions</b></p>	<p>Impact fees are regulatory devices used by local governments to impose charges on new development in order to generate revenues for capital funding. Their application is based on the principle that new growth and development should be required to pay a pro rata share of the costs to the community for providing new public facilities and services when it can be demonstrated that such development prompts the need for additional services or facilities to maintain pre-development levels of service. These fees are used to pay for off-site infrastructure that is necessitated by or prompted by new development.</p> <p>Development exactions accomplish the same end as impact fees, but occur at a different point in the land development process. They take the form of mandatory dedication of land or facilities in-lieu of fees and usually occur as part of the process in approval of final subdivision plats.</p> <p>Queen Anne's currently levies an impact fee for schools and public safety on each new dwelling and a public safety impact fee on non-residential development.</p>	<p>Impact fees should be re-examined and increased where reasonable. However, impact fees have been difficult to justify in many slower growth communities. Court decisions upholding the use of impact fees require that they meet a three part standard or "rational nexus test":</p> <ul style="list-style-type: none"> <li>▪ New development must demand new capital facilities or the new development must create a need for new capital facilities.</li> <li>▪ A close relationship must exist between the new development and the need for the new facilities. Government may require the new development to pay its "fair or proportionate share" for new facilities but <u>not</u> more than its share.</li> <li>▪ The fee collected must benefit the development that pays it. Cases regarding this question generally agree however, that the capital facilities need not exclusively benefit the persons who pay for them (i.e. the general public may also use them).</li> <li>▪ Courts are generally more inclined to uphold impact fees if the community has a definite plan as to how it will spend the money. Some courts have required placement of funds in special accounts to insure they are spent for the facilities for which they were collected.</li> </ul>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#23 Excise Tax</b></p>	<p>An excise tax is an internal tax levied on the manufacture, sale, or consumption of a commodity within a community. Since 1994, Caroline County has levied an excise tax on every new lot created by subdivision of land in a rural district. The tax is assessed and payable at the time the lot is initially sold or transferred. The tax ranges from \$100 per lot to \$750 per lot depending on the number of lots created. Proceeds are committed to the County's Agricultural Land Preservation Fund and may only be used for purchase of development rights on agricultural land. The County has recently received authority from the State legislature to broaden its application and use of this tool.</p>	<p>An excise tax could be considered for use for similar purposes in Queen Anne's County but express authority to utilize this tool may be required from the State legislature. Legal issues regarding the concurrent use of both an excise tax and impact fees may also need to be evaluated before such a tax should be levied.</p> <p>If legally defensible, revenues collected from new lots on Kent Island could be used to purchase parkland, purchase easements, and fund other public purposes.</p>
<p><b>#24 Mandatory Moderately Priced Dwelling Units ordinance</b></p>	<p>A mandatory moderately priced dwelling units ordinance requires developers to include a minimum number of subsidized or lower cost housing in their conventional projects (both sale and rental). Although enacted ordinances differ in their details they are similar in certain features.</p> <ol style="list-style-type: none"> <li>1. Ordinances usually apply only to large developments (often 50 units or more).</li> <li>2. The typical required percentage of low and moderate income units is small (8 to 15%)</li> <li>3. The ordinances attempt to make the requirement economical by increasing allowable densities for the development.</li> </ol> <p>Montgomery County, Maryland has established a Moderately Priced Dwelling Unit Program of this type.</p>	<p>The objective of these ordinances is to produce moderate income housing for residents of the community and to avoid an over concentration of moderate income housing in particular areas of the community. An MPDU Ordinance was adopted by Queen Anne's County in January of 2004, as part of Title 18, but has yet to be utilized by a developer.</p> <p>Though not discussed herein, other tools to provide affordable housing that should be examined include, but may not be limited to, commercial apartments (2<sup>nd</sup> floor residential use), and employee housing or employee subsidies (often occurring within the hotel industry or in resort communities).</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b>#25 Population Cap</b></p>	<p>A population cap, attempts to establish absolute limits on permissible population by setting a numerical limit either on population itself or on the number of housing units in the community.</p>	<p>No explicit statutory authority allows regulation for the purpose of limiting absolutely the population within a jurisdiction. Conceivably authority might derive from a broad interpretation of the general basis for regulation: that which is related to the public health, safety and welfare. Population ceilings treat the growth management process as one of no growth rather than of managed or controlled growth and are therefore very controversial and low in political viability. To be legally defensible absolute growth limits must show very persuasive reasons for their application. Therefore, a population cap is not recommended for the Chester and Stevensville Community Planning Areas.</p>

Tool or Technique	Description and typical applications	Recommendation for use
<p><b># 26 Population Rate Control or Building Permit Cap</b></p>	<p>Population rate control is generally accomplished by setting a quota on the number of building permits that a jurisdiction issues. While not directly protecting specific environments, such a quota reduces the overall pressure for new development. Authority for local limits on the number of building permits that may be issued annually is a function of how narrowly the state courts interpret enabling legislation and the extent of home rule powers.</p> <p>Constitutional objections to development timing ordinances are generally taken on four grounds: substantive due process, the taking issue, the right to travel, and equal protection of the laws. The substantive due process argument contains two elements: first, that the objective of the ordinance must be a legitimate governmental objective, and second that the regulations imposed must be rationally related to the objective. The takings issue is based on the Fifth and Fourteenth amendments of the U.S. Constitution. These amendments prohibit government from taking private property for a public use without just compensation. A regulation on the use of certain parcels of land that is so restrictive as to constitute a confiscation of the land will either be invalidated or the courts will require compensation to the owner. The U.S. Supreme Court has held that the right to travel, although not specifically mentioned in the Constitution, includes the right to migrate, resettle, and find a new job. Phased development, by placing restrictions on the rate of growth, necessarily restrict the right of an individual to move into an area.</p>	<p>Annual limits on new construction would probably be politically acceptable only if the limits were based on a thorough and complex planning effort and on a clear perception within the community that rapid development was posing severe problems. If used, permits for which application is made in the early part of the year should not necessarily be granted just because the year's allocation has not yet been reached.</p> <p>A rate of growth ordinance is complex to administer. It may be appropriate to hold periodic competitions to award the limited number of development permits. This requires extensive review by staff, over and beyond the normal review process, and because of the limited number of successful applicants is likely to lead frustration on the part of a number of unsuccessful applicants.</p> <p>If a building permit cap is established for the combined Chester and Stevensville Community Planning Areas it should be carefully constructed in the context of the Constitutional issues discussed. Careful consideration should also be given to procedures and process by which such a rate control is administered.</p>