



## Mattawoman Watershed Society

*Protecting and preserving Mattawoman Creek for the enjoyment of all.*

Charles County Board of County Commissioners  
c/o Denise Ferguson, clerk for the commissioners via email: FergusoD@charlescounty.org  
200 Baltimore Street  
LaPlata MD 20646

November 13, 2013

Re: Draft Comprehensive Plan

Dear Commissioners:

This submission provides in electronic format the same comments (with minor corrections) submitted as hardcopy after our oral testimony presented at the October 29, hearing.

The full intended oral testimony, which has to be curtailed when the time limit was reduced from the 5 minutes announced in the Public Notice to three, is attached. As noted in it Charles County occupies the bottom rungs of many metrics for quality of life that are directly influenced by land-use policies. Along with the other organizations constituting the Smarter Growth Alliance for Charles County, we believe the draft plan perpetuates, and amplifies these poor growth policies.

In these written comments, we concentrate on the issues that affect Mattawoman Creek. In short, because the draft plan foresees impervious cover [ACOE, 2003] for Mattawoman on par with the Anacostia River [AWS, 2010], science overwhelmingly tells us it would effectively destroy this Bay gem as a sustainable contributor to Charles County's economy and stellar recreational resource for its citizens [Task Force, 2012], and should be rejected.

**1. MWS interest.** The Mattawoman Watershed Society (MWS) represents over 1000 supporters in Charles County. Because land-use directly impacts the integrity of our aquatic systems, *and is specifically implicated in the decline of Mattawoman's living resources and recreational opportunities in the last decade*, we have been involved in every aspect of the Comprehensive Plan (CP) process from the beginning. Starting with the kickoff meeting of March 29, 2011, our representatives also attended the Marketplace Forum, all Visioning Workshops and Design Charettes, the Open House, the December 15 public meeting on the Merged Scenario, and the April 8 hearing before the Planning Commission. We have contributed a stakeholder interview and participated in the online survey, and provided written comments at every opportunity. We have also been similarly fully engaged in the Tier Map process, and in additional public meetings and comment opportunities tied to the CP, such as Priority Preservation Areas and the Land Preservation, Parks, and Recreation Plan.

Our interest also stems from our members, Board of Directors, and supporters who use the Mattawoman for recreation, nature study, scientific investigation and citizen science, and aesthetic appreciation. We have members who own land along the Mattawoman that is

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maintained for recreational pursuits by the public and who are subject to injury due to loss of gamefish populations and aesthetic attributes, as is currently occurring with increases in algae, loss of water clarity, and loss of fish species diversity and abundance.

## **2. The draft Comprehensive Plan jeopardizes a valuable resource for the county, the state, and the nation.**

- In 1992, state fisheries biologists stated that Mattawoman represents “near to ideal conditions” on the scale of the Chesapeake Bay and “should be protected from overdevelopment.” [DNR, 1992]
- In 1998, the federal/state Clean Water Action Plan (CWAP) recognized Mattawoman as a Selected Category 3 watershed meriting additional protection because of pristine attributes. [CWAP, 1998] At the same time, the CWAP rated Mattawoman specifically as a *Priority Category 1 watershed*, a ranking that indicates *degraded aspects requiring restoration*. This combination of ranking singled out only 17 of Maryland’s 138 8-digit watersheds meriting “special attention in order to address degradation that already is experienced in some areas before the pristine resources in the watershed are lost.”
- Mattawoman ranks 8<sup>th</sup> of the 138 watershed in terms of freshwater stream biodiversity. [Task Force, 2012]
- Mattawoman was considered to be “the best, most productive tributary to the Bay.” (emphasis in original) by state fisheries scientists based on its anadromous fish spawning and nursery grounds, its largemouth bass fishery, and the health of its fish community. [DNR, 2005] Note that by 2010, the health of Mattawoman’s fish community had plummeted, which was linked to overdevelopment of the watershed . [DNR, 2010]
- Mattawoman is Maryland’s only western-shore site harboring natural populations of the American Lotus [DNR Heritage, 2013], possesses Maryland’s largest breeding wood duck population; harbors a site exhibiting the greatest herpetological diversity *in the entire state* [MBSS, 2005]; its forests contains two Audubon Important Bird Areas and are a hot spot for rare bird and herpetological species [FWS, 2006].
- Mattawoman serves as the hub of the Potomac River’s internationally recognized bass fishery, with more tournaments launched from its shores than any other location in the entire state. [Task Force, 2012] These include national tournaments. It is ranked among the best bass fisheries on the Atlantic Coast by experienced anglers and professional guides [Penrod, 2008; 2010].

Based on an economic analysis of Maryland’s largemouth bass fishery [Fedler, 1989], we conservatively estimate that the Potomac River’s bass fishery would generate over \$1.5 billion in commerce in Maryland by the CP’s horizon of 2040. Yet, in its exhaustive analysis of how to improve the CP, *The Interagency Mattawoman Ecosystem Management Task Force* states [Task Force, 2012]:

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“Fisheries managers are increasingly concerned that the largemouth bass fishery in Mattawoman Creek will decline as development increases. Limiting future suburban sprawl, redeveloping existing areas into livable, more densely populated urban neighborhoods that absorb more people per area, and conserving remaining natural areas and working farms are important for maintaining Mattawoman Creek’s high quality bass fishery.”

**3. Draft Comprehensive Plan is contrary to public sentiment identified during the public process of 2011** Throughout 2011, we found the CP process to be transparent and welcoming to all citizens. We observed overwhelming concern among the attending public for the protection of natural resources as one of the highest priorities, and were encouraged by a willingness on the part of staff and consultants to consider and to include protective measures and smart-growth elements that were conspicuously absent in previous CPs. With stream-valley protection, the elimination of planned high density in a “development district” larger than Washington D.C., a re-consideration of obsolete grandfathered projects, it appeared as if steps were finally being taken toward the 2006 CP’s stated (but overlooked) goal for “*better integration of watershed perspectives into planning.*”

It was therefore with great disappointment that we witnessed the Planning Commission completely reject all of this effort and more, including:

- rejection of the compromise Merged Scenario produced by the 2011 public process.
- rejection of an exhaustive analysis produced with county encouragement specifically for the CP revision by *The Interagency Mattawoman Ecosystem Management Task Force*. [Task Force, 2012]. This Task Force made dozens of recommendations, but the PC refused to hear even one.
- rejection of an offer by state agencies to provide, free of charge, an Ecosystem Services Assessment [MD, 2011] to help the county factor in the economic benefits that forested land provides by naturally treating stormwater, controlling erosion, moderating flooding, contributing to stream baseflow, protecting water quality for commercial watermen, anglers, boaters, paddlers, and swimmers, supporting other ecotourism assets (*e.g.*, birding, hunting, wildlife appreciation, aesthetics), and more.
- rejection of widespread calls for an economic analysis of various land-use scenarios.
- rejection of retaining Priority Preservation Areas, with the concomitant loss of preservation funds from recapture of agricultural transfer taxes administered by the Maryland Agricultural and Land Preservation Foundation (MALPF).

After rejecting the above and more, the Planning Commission then drafted a CP that stripped many of the 2006 CP stated goals, and that followed in lock-step a Tier Map developed by, and for, a developers’ lobby. The Tier Map assigns Tier III status to huge areas that state law unambiguously indicates should be Tier IV, including the deferred development district, and perpetuates the outmoded concept of a development district. Coupled with a 40% increase in the number of units on septic that qualify as a “minor” subdivision (five to seven units), and advancing the date when a parcel is considered to have been subdivided (thereby allowing previously subdivided parcels to be subdivided a second time under the more generous

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terms), the Tier Map and the CP that followed it promote sprawl throughout the entire county. Hence the draft CP moves further away from the smarter growth principles widely acknowledged as necessary to solve present problems such as declining water quality and recreational opportunities, overcrowded schools, high taxes, and traffic congestion.

In fact, the Maryland Department of Planning (MDP) estimates a differential of \$2 billion in taxpayer cost to service the new sprawl for transportation alone compared to what a smarter growth plan would require.

The outline of this public process is appropriately included in Chapter 1 and should be retained. *We also believe that the plan should include comparison of housing units in the pipeline compared to projected population increases, as was provided the public during the Visioning Sessions.*

**4. Draft plan violates state law, land-use guidelines, and tenants of Smart Growth in Plan Maryland:** Given the Planning Commission's refusals and rejections outlined above, it is not surprising that the present draft CP had earned indictments from so many agencies responsible for the greater good. Consider (emphases added):

Maryland Department of Planning [MD, 2013]:

"...if adopted, these changes would be the most drastic policy reversal in a comprehensive plan that this agency has ever seen."

"Building a 4-lane highway [the Cross County Connector] through the low-density residential areas would further facilitate the widespread low-density developments in the Mattawoman Creek and Port Tobacco Creek watershed areas." [*i.e.*, the opposite the intent of smart growth principles.]

"Technically, the WRE addresses the prescribed water resource analyses, however the outcome of the land use selection is contrary to the findings for water resources conservation, smart growth, and for conformance with SB 236."

Maryland Department of Natural Resources [MD, 2013]:

"Plan is inconsistent with 12 visions adopted by the Maryland General Assembly in 2012...In particular, the draft plan document demonstrates inconsistency with over ½ of the visions, and as such violates the legal requirements for local government implementation of the Visions as set forth in Article 66 B of the Annotated Code of Maryland."

"Deferred Development District designation for public water and sewer service is not consistent with stated purpose."

"Based on Fisheries' projections, Charles County's *impervious surfaces will increase beyond the threshold for productive fisheries* in Mattawoman Creek and Port Tobacco River."

"Projected losses in Forest Cover indicate that the 'Preferred Plan' alternative *is the wrong choice.*"

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“[a]reas of high, statewide ecological significance in the County in portions of the Nanjemoy and Mattawoman watersheds should also be added to this Tier [IV] in order to afford protection these important natural systems since these areas currently have ‘significant contiguous forested and agricultural lands’ consistent with the draft Plan's definition of Tier IV areas.”

Maryland Department of the Environment [MD, 2013]:

“Portions of the Charles County Planned Service Areas (water and/or sewer) included in the Charles County Comprehensive Plan overlap significantly with the watersheds...identified as Tier II streams...Tier II streams are high quality waters that must be given extra considerations to protect their quality.”

U.S. Fish and Wildlife Service [FWS, 2013]:

“The current draft Comprehensive Plan...leaves a majority of the county unprotected from sprawl development.”

“...the Planning Commission is proposing a Tier Map that does not adequately adhere to the intent of the law...”

“The Service...has identified several focus watersheds for conservation in Southern Maryland based on their importance to migratory birds, migratory fish, and federally-listed threatened and endangered species. These include Mattawoman Creek, Nanjemoy Creek, and Zekiah Swamp. *Mattawoman Creek is the Chesapeake Bay's most productive nursery for migratory fish like American Shad. We encourage you to see that these watersheds are considered for special protection. Neither the Draft Comprehensive Plan nor the Planning Commission's Tier Map adequately protect these important stream valleys and ultimately will result in increased sediment and nutrient pollution in the Potomac River and the Chesapeake Bay.*”

MWS agrees with the above assessments that the draft CP is inconsistent with the Sustainable Growth & Agricultural Preservation Act of 2012 (SB236, the “septics bill”), and the Land Use Article of the Code of Maryland (formerly Article 66B) both in regard to the Article’s overarching Visions and the Water Resources Element.

**4.1 Plan violates the Sustainable Growth and Agricultural Preservation Act:** *In particular, the annotated code [Md. LAND USE Code Ann. § 1-508 (2013)] associated with SB 236 clearly states that Tier II areas “shall meet” the criteria that they “satisfy demand for development at densities consistent with the long-term development policy after consideration of the capacity of land areas available for development, including in-fill and redevelopment, within the local jurisdiction.” (1-508(a)2(ii) With 90% of the new housing units needed to accommodate growth out to 2040 already in the pipeline, the Tier II areas of the Tier Map, including the deferred development district, vastly over supplies land for residential development, in violation of this criteria. The DDD should be Tier IV as staff recommended, and Rural Conservation zoning at 1 in 10 made permanent.*

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**5. Selection of draft CP over the merged scenario is contrary to the Land Use Article**

In particular, the draft PC violates the tenants of the Water Resources Element (WRE) included in the Land Use Article by selecting the worse of two scenarios analyzed for forest loss and impervious cover, metrics used as surrogates for nutrient pollutant loads. State guidelines for the WRE state that after iterating scenarios, the county should “Choose Land Use Plan with the Least Impact.” [WRE, 2007; p.13] However, the draft CP does the opposite. The following table summarizes the draft CP [CP, 2013]:

| WRE comparison of impervious-surface increase & forest loss from draft plan’s Tables 4-8 & 4-9 |                               |                                   |                    |
|--|-------------------------------|-----------------------------------|--------------------|
|  |                               | <b>Overall impervious surface</b> | <b>Forest loss</b> |
| Charles County as a whole  | Draft plan                    | 7.1%                              | 5,474 ac           |
|  | Merged (compromise) scenario  | 6.0%                              | 2,630 ac           |
|  | Factor draft plan is worse by | ×1.18<br>(18 %)                   | ×2.08<br>(208%)    |
| Mattawoman Creek watershed   | Draft plan                    | 15.0%                             | 1980 ac            |
|  | Merged (compromise) scenario  | 10.6%                             | 324 ac             |
|  | Factor draft plan is worse by | ×1.42<br>(42%)                    | ×6.1<br>(610%)     |

The “preferred” plan (*i.e.*, the draft CP) is *by far* the scenario more damaging to water resources, and to comply with the Land Use Article, should not be chosen, yet was.

For Mattawoman Creek, the loss of forest in the draft CP forest exceeds the rejected compromise scenario *by over 600%*, and brings the total forest cover below 50%, known to be key indicator for significant loss of aquatic integrity in a coastal plain system. [Weber, 2007] Furthermore planning for an impervious cover of 15% for Mattawoman essentially condemns what was once the best fish spawning-ground and nursery in the Bay to become a degraded urban waterway. The draft CP is following the trajectory projected by the Army Corps *Mattawoman Creek Watershed Management Plan* [ACOE, 2003] that projects ~23% impervious service for Mattawoman, on par with the Anacostia River. [AWS, 2010]

*We note that the projected impervious cover of 15% evidently does not reflect increases in density enabled by the large swaths of Tier III designation in the Tiers Map. We consider the WRE and the comp plan be incomplete without including these factors in the WRE analysis.*

**The emphasis on development around the airport is contrary to the Land-use Articles visions**

The controversial airport expansion elicited unusually strong condemnations from federal agencies that commented on it. The county should take these to heart, and should take steps to limit the damage that this privately owned airport could wreak on western Charles County.

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As evidence of the significant magnitude of potential impacts, consider these agency comments (emphases added):

National Park Service [NPS, 2001a]

“It is our opinion that *the proposed airport improvements would cause significant long- term adverse effects to Mattawoman Creek. We believe that the clearing of forest lands, the loss of important wetland and floodplain functions (particularly critical in the headwaters), and the permitting of construction activities on steep slopes in riparian areas would induce siltation and thermal pollution in the unnamed tributaries, as well as to Mattawoman Creek.*”

“It appears likely that the airport sponsor would petition Federal Aviation Administration in the future as operations increase to accommodate corporate aircraft requiring a longer runway and a precision instrument approach runway. We are concerned that the proposed improvements to this airport would be segmented or phased over time, and if so, the Environmental Assessment should disclose the cumulative effect of the ultimate design.”

National Park Service [NPS, 2001b] (emphasis added):

“To date, the concerns of the National Park Service regarding the potential effects of the proposed improvements to an unnamed tributary of Mattawoman Creek, a component of the Nationwide Rivers Inventory, have not been resolved. Further, *we believe that such adverse impacts could significantly degrade the existing high water quality and jeopardize the retention of Mattawoman Creek in the Nationwide Rivers Inventory.*”

*“The National Park Service believes that the runway realignment and extension coupled with ancillary facilities as proposed will result in significant impacts to the Mattawoman Creek watershed.”*

“Consequently, this increased discharge is also likely to increase sediment transport to Mattawoman Creek, further degrading the fishery.”

“We believe that the proposed improvements at Maryland Airport will cause significant long-term impacts to Mattawoman Creek and its tributary...”

National Marine Fisheries Service [NMFS, 2001]

“*The runway realignment will have devastating impacts on the subject watershed...Displacement of a large segment of the existing riparian zone, coupled with installation of man-made storm water management, will alter the current hydrology, likely creating “flashy” flows to downstream areas with alternating periods of flow and dry conditions. The latter alteration may degrade downstream habitat relative to its suitability for spawning alosids.*”

*“We are also concerned about cumulative impacts this proposal will have on wetlands and instream habitat throughout the local region.”*

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Army Corps of Engineers [ACOE, 2001]

“The Maryland Clean Water Action Plan classifies the watershed as having sensitive natural resources, and lists it as a priority for restoration. We consider the filling of 900 feet of the headwaters to be a *substantial adverse impact to the aquatic environment...*”

The draft CP, rather than pursuing policies that would exacerbate the impacts of the airport expansion, should instead be seeking aggressive measures to mitigate the impacts with permanent protection of the deferred development district, return of Bryans Road to a village concept (as is done in the Merged Scenario compromise plan), and additional protections.

We note that light pollution from the airport would also impact the viewshed of Mt. Vernon, which the draft CP purports to consider.

#### **6. Cross County Connector should be removed from the Comprehensive Plan—the Army Corps of Engineers determined the proposal “to be contrary to the public interest”**

The Army Corps of Engineers and the Maryland Department of the Environment each denied wetland-destruction permits for the highway. The justification for the denials was multifaceted in each case.

The ACOE in particular, as required by the National Environmental Policy Act, examined the proposal closely and *determined that the highway was “contrary to the public interest.”* The ACOE found that there were viable practicable alternatives, and that the project

“would have direct and indirect permanent adverse impacts on non-tidal wetlands, waterways, fish and wildlife, recreation and water quality. The project as proposed may result in substantial adverse cumulative impacts to Mattawoman Creek, when added to other past, present, and reasonably foreseeable future actions in the watershed...” [ACOE, 2012]

#### **7. Tools for revising land-use designations should be exercised**

Numerous tools should be used in producing a Smart Growth plan to replace the draft. These tools were either rejected outright, or simply ignored in producing the current draft. For example, in preparing the draft CP, the Planning Commission rejected dozens of recommendations in the 200 page report by the Interagency Mattawoman Ecosystem Management Task Force [Task Force, 2012].

Even where the draft makes tepid attempt to display the state’s Bionet assets, it produces a disingenuous result. The Bionet discussion in the draft shows a map in Fig. 5-3 of Natural Heritage Areas rather than all 5 Tiers. An overly of the full range of biodiversity would show the devastating impacts to the 3<sup>rd</sup> most ecologically rich county in Maryland.

Additional overlays should include Targeted Ecological Areas, and the Water Resources Element [WRR, 2011]. Note that the latter is specifically intended to help the county locate lands suitable for growth while protecting its natural resources and ecological services.

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Finally, a fiscal impact analysis that compares scenarios should be conducted by a reputable and objective agency versed in improving sustainable options, such as the Center for Smart Growth at the University of Maryland.

**Summary** The draft Comprehensive Plan represents a dramatic departure from public sentiments for conservation of natural resources and smart growth precepts that led to a compromise “merged scenario” forged by a thorough year-long public process. The public was responding to the county’s past policies of promoting sprawl development that have led to declining water quality, loss of forest, overcrowded schools, congested roads, high taxes, a less-than-ineffective TDR program, a diversion of investment away from attracting mass transit to a walkable Waldorf, the inappropriate and unpopular expansion of Bryans Road, reduced public safety, the decreased quality of outdoor recreational opportunities, the loss of ecotourism-based economic opportunities, the increased cost to meet TMDLs, the loss of the county’s rural character, and a decreasing quality of life.

The Planning Commission rejected the compromise scenario and instead embraced an approach that extends the sprawl-promoting policies of the past, even amplifying these policies by assigning rural residential zoning to large areas with increased units for minor subdivisions. Similarly, the draft CP rejects stream valley protection, and endorses the intense sprawl development envisioned for a development district, including a “deferred” development district larger than Washington D.C. that all scientific agencies agree will lead to the loss of ecological function of Mattawoman Creek.

The draft CP appears to abandon outright goals of past plans, such 2006 goal of implementing the U.S. Army Corps of Engineers *Mattawoman Creek Watershed Management Plan*, which would include the stream valley protection in the compromise merged scenario [ACOE, 2003].

The draft CP eschews the Governor’s efforts behind Plan Maryland, specifically violates the Water Resources Element of the Land Use Article (previously Article 66B) of the Code of Maryland, and is contrary to many of the visions in the Land Use Article.

As documented by numerous and incisive comments of federal and state agencies, the draft CP even violates its own “theme” of “balancing this growth with protecting the environment and conserving resources...” [CP, 2013; p. 1-2]

Therefore, we request that the draft Plan be rejected by the Planning Commission, and the process return to the trajectory of the 2011 public process that was subsequently abandoned by this commission.

Respectfully submitted on behalf of the Mattawoman Watershed Society,

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President

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**Mattawoman Watershed Society: Intended Oral testimony at the BOCC  
Comp Plan hearing. October 29, 2013.**

My name is Jim Long. I live in Accokeek in Charles County and I am speaking for the Mattawoman Watershed Society and our 1000 supporters in Charles County. We are also a member of the Smarter Growth Alliance for Charles County.

Whenever I encounter people visiting Mattawoman, from kayakers to anglers to bicyclists, they always express dismay at how our county is growing.

Why *is* this? Because of our current land-use policies, we are the worst county *in the entire state* for: longest commute time, greatest percentage of students in trailers, the highest property tax rate, and the most forest cut per new dwelling unit.

We are the second worst county *in the state* for jobs per household.

We are 3<sup>rd</sup> worst *in the state* for percent of land preserved, no matter what the land speculators say.

In all of southern Maryland, we have the fastest growing property tax rate and the worst teacher pay, even as these taxes are supposed to support schools.

The draft plan actually amplifies the sprawl-development policies that have put us on these bottom rungs. With statistics like these, it is clear why what is good for rivers and streams is good for people. Because only if we change to smarter growth will we climb off the bottom rungs, while also stemming a heartbreaking decline in our great outdoors.

I say heartbreaking because until recently, scientists called Mattawoman Creek “the best tributary to the Chesapeake Bay.” Now Mattawoman is seriously ill. It is ill because it is being smothered by a so-called development district 30% larger than Washington D.C. A major interagency Task Force explains:

“[the] Development District, including the Deferred Development District, virtually assures continuing and dramatic...deterioration” from polluted runoff.

The Task Force tells us that because Mattawoman is at a “tipping point” from overdevelopment, this “current update of the Comprehensive Plan may...be the

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last opportunity...to establish...protection.” They tell us they are, quote “increasingly concerned that the...bass fishery in Mattawoman...will decline as development increases.”

Yet your Planning Commission refused to consider the Task Force’s Smart Growth recommendations. We now stand to lose a recreational centerpiece, scores of millions annually from the bass fishery, and a source of pride.

The draft plan also includes the Cross County Connector, even though the Corps of Engineers denied it permits because it is “contrary to the public interest.” Just as special interests are misleading that the present plan is working (it is not, we are on the bottom rungs), they are misleading about Billingsley Road. And here their cynical behavior is dangerous for us all. Who cannot be moved by people who have faced tragedies on our roads. But traffic studies tell us that Billingsley would get *increased* traffic with a Cross County Connector: this new highway would spawn massive growth and more cars on connecting roads, including Billingsley. I would urge you to look at the true motives of the special interests promoting this highway.

What is good for rivers and streams *is* good for people. This is so true for our county, which is blessed with remarkable waters. But even though Mattawoman, Nanjemoy Creek & the Port Tobacco River are already officially impaired, the draft plan predicts, on page 3-13, that rural lands protecting these waters, quote “will not be dominated...for resource protection...” Instead, the forests will be, quote, “... replaced by...residential housing...as the dominant use.”

Make no mistake. A vote for this plan is a vote to kill Mattawoman. It is a vote to degrade all our waters, and to incur expensive restoration costs. It is a vote to keep Charles County on the bottom rungs. It is a vote to increase traffic on rural roads. It is a vote to disinvest in schools and in revitalizing Waldorf.

Instead, send this plan back. Insist on a true Smart Growth plan. Insist that the many rejected studies be employed, and that a fiscal impact study by a reputable agency be conducted. Vote no.

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