

## Blount County Technical Memorandum #11

From: Hunter Interests Inc.  
To: Blount County, TN  
Date: November 10, 2004  
Re: Wastewater Treatment Alternatives

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### I. Overview

*Hunter Interests Inc. has been retained by Blount County to prepare a growth strategy that includes recommendations for improving water quality in the area. This Technical Memorandum first summarizes Blount County's and the City of Maryville's current sewer and septic systems. The document then introduces several wastewater treatment alternatives and case studies of communities that have successfully integrated these alternatives. Finally, the Memorandum provides recommendations specifically based on Blount County's wastewater treatment situation.*

### II. Current Situation

Currently, no sewer systems are planned outside the UGB. According to Director of Maryville Water Quality Control Jeff Rose, city sewer extensions are determined mainly by development. For example, sewer is being extended to the interchanges around the developing Pellissippi Parkway.

When developers build on new land, it is their responsibility to pay for the new sewer system throughout the subdivision, although the City will extend its sewer 100 feet toward the subdivision if needed. When the development is complete, the developer transfers ownership of the subdivision's sewer lines to the City.

Outside the UGB, residential areas are served by small collection systems with on-site treatment units, usually drip irrigation septic systems. The state is in the process of approving membrane treatment septic systems for subdivisions. Membrane treatment is cleaner than greywater treatment because effluent is treated through an additional membrane before it exits the septic tank. Currently, the state does not approve these systems for single-family homes on isolated lots due to possible problems such as individual homeowners not cleaning their tanks or otherwise properly caring for the system. Within a subdivision, however, the homeowners' association takes ownership of the system, and arranges for its maintenance and operation.

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## Stormwater Issues

According to the Environmental Protection Agency, over 60% of water pollution in the area comes from urban and agriculture stormwater runoff. Whatever enters storm drains is discharged directly into a neighboring body of water without benefit of treatment. For example, the City of Townsend is facing water quality problems due to failing septic systems. Untreated water flows directly to Little River, the County's primary water source. In addition, agricultural runoff, including silt and other pollution from several nearby berry farms, runs directly to Little River.

Jeff Rose said preserving and restoring riparian zones (transition zones between land and water) can help mitigate water pollution. For example, creating buffers of native vegetation or fencing to limit livestock movement will help maintain natural functions in riparian zones such as absorbing and filtering stormwater runoff, and stabilizing shores and enhancing wildlife habitat. Another way to protect riparian zones is by increasing setbacks for new development several hundred feet from the River.

## III. Wastewater Treatment Alternatives

### A. Overview

Below is a list of wastewater treatment alternatives to individual septic tanks. Some of these systems work in tandem with pre-existing septic systems, while others propose completely new infrastructure to clean household wastewater. The systems are not intended for commercial or industrial discharge because the amounts of such waste are often much higher and more chemically complicated than household wastewater. Generally, the systems best serve small, centralized communities of between 10 and several thousand households. Most of the systems have aerobic treatment processes, meaning they use bacteria that thrive in an oxygenated environment.

Alternative wastewater treatment systems tend to be less expensive in the long-term, especially if municipalities can avoid investing in major infrastructure. In addition, these systems cost less to maintain than traditional sewer systems, though they often cost more to construct. Two problems often associated with alternative methods of wastewater treatment are that they may take longer to process the wastewater than conventional septic and sewer systems, and may cause unpleasant odors. Some systems may also take up more land than traditional sewer or septic system. It should be noted that the number of properties served by a system is a crucial

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factor in design. Climate is another factor to consider; in-ground wastewater systems do not work well in very cold climates because the ground freezes during the winter, hindering decomposition and organic processes.

Alternative wastewater treatment systems can be organized by three distinct categories:

**Onsite systems** collect, treat, discharge, or reclaim wastewater from individual dwellings, and do not connect to community-wide sewers or a centralized treatment facility. This category includes septic tanks, drainfields, mound systems, media filters, small aerobic units, and pressure distribution systems.

**Cluster systems** serve two or more dwellings but fewer than an entire community. Individual septic tanks or aerobic units may pre-treat wastewater from several homes before it is transported through low-cost, alternative sewers to a treatment unit that is relatively small compared to centralized systems.

**Decentralized systems** are onsite or cluster wastewater systems used to treat and dispose of small volumes of wastewater from dwellings located relatively close together. Onsite and cluster systems are often hybridized to accommodate individual communities' topography, soils, budget, and management.

## **B. Alternative Wastewater Treatment Systems**

**Alternative Toilets** include low-flow toilets, waterless urinals, composting toilets, incinerating toilets, chemical and oil flush toilets, and privies. These alternatives help reduce the amount of wastewater produced, thus decreasing the burden on sewer or septic systems. The reduction in wastewater quantity does not reduce the amount of organic matter released.

**Constructed Wetlands** run wastewater through aquatic environments with aquatic plants and provide an additional treatment stage before the water re-enters the groundwater table or river. Ditches (also called cells) have a permeable or impermeable lining that contains vegetation anchored in gravel. Constructed wetlands must be designed to meet specific characteristics of the site (i.e., steep slope, floodplain, etc.). The attractive plants have roots that house microbes that

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feed on the waste products in the water. The roots also trap tiny particles and soak up some of the water, thereby reducing the overall amount of water to be discharged.

**Lagoons** are artificial ponds (also called cells or ditches) built into or above ground and are lined with clay to prevent groundwater contamination. Lagoons retain wastewater for extended periods of time to stabilize it. The retention period gives microorganisms time to feed on the nutrients and trace elements in the water. The number of cells varies depending on the community's needs, but it is usually more effective to have several smaller cells rather than one large cell to serve a community. Systems vary according to the amount of dissolved oxygen present in the water.

The difference between lagoons and wetlands has to do with the depth of the water. Lagoons are typically several feet deep and would not have much vegetation except for floating aquatics because of the deeper water. Constructed wetland cells have water only six inches deep or so to allow for many emergent wetland plants.

**Small-Diameter Gravity Sewers (SDGS)** collect and transport wastewater to its final treatment. They are known by a variety of names including **variable grade sewers**, **Septic Tank Effluent Gravity (STEG)** systems, and **effluent drains**. They are similar to pressure sewer lines (see below) and are made of polyvinyl chloride (PVC) or high-density polyethylene. Primary treatment occurs in the septic tank where waste is separated, or in a grinder where waste is macerated. Sewers collect and transport fewer solids and thus can be smaller in diameter than conventional sewers. The lines can be adapted to a variety of terrains because they are laid at a relatively constant, shallow depth following the natural contour of the land. The pipes run down the side of streets so extensive pavement excavation and restoration is not necessary, and they are easily routed around obstacles such as boulders discovered during construction. Most SDGS systems are a combination of Septic Tank Effluent Pump (STEP)/SDGS systems. **Septic Tank Effluent Pumps (STEP)** consist of a septic tank to pre-treat the wastewater and a submersible, low-horsepower sump pump to push the wastewater through the system.

**Grinder Pump Pressure Sewers** grind household sewage (similar to a garbage disposal), and then wastewater is pumped into a pressurized line to a final sewage treatment facility. These systems have no septic tank as pretreatment is performed by the grinder pump. Grinder pump pressure sewers are an economical approach to hilly terrains and in low density housing areas.

**Vacuum Sewers** rely on vacuum suction created by a central pumping station and maintained in the small diameter mains to draw and transport wastewater through the system for final treatment. These systems have limited capabilities for transporting wastewater uphill and are best suited for flat or rolling terrain.

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**Mound Systems** are an alternative drainfield design for septic systems located at sites with dense soils, high bedrock, or a high seasonal water table. The three main components of a mound system are a septic tank or other pretreatment unit, a dosing or pump chamber, and an elevated mound. Wastewater flows into the septic tank and settles into sludge and effluent. The dosing chamber collects the septic tank effluent, and delivers it to the mound. The mound is a drainfield that is raised above the natural soil surface, and is composed of a sand fill that has a gravel-filled bed and a network of smaller diameter pipes. From the pump chamber, effluent is pumped through the pipes in controlled, low pressure doses so that uniform distribution is achieved. Treatment occurs as the effluent moves through the sand and returns to the natural soil. These systems may be unattractive and special consideration must be taken to integrate the mounds into the residential landscape.

**Trickling Filters** are circular tanks made of reinforced concrete that hold rocks. They are built into the ground to support the weight of the rocks. **Tower filters** are similar, but contain plastic, and therefore do not need to be built into the ground. Sewage goes to a settling tank where solid matter settles out of the wastewater. Wastewater is then pumped into a distributor that sprays the effluent on the rock or plastic. The rock or plastic surface holds microorganisms that aerobically decompose the water further. Trickling filters are good at removing nitrogen and organic matter from the wastewater. These systems can be expensive to build and energy requirements vary depending on the system. The systems are not well suited for very cold climates and can cause odor problems.

**Sequencing Batch Reactors (SBR)** process batches (specific volumes) of wastewater that have undergone primary treatment and are then delivered to the reactor (tank) where oxygen is cycled, which allows aerobic biochemical processes to occur. Microorganisms consume the waste products and produce sludge and effluent. Usually more than one reactor is needed so that while one batch is being treated, additional flow can be directed elsewhere. It is relatively easy to expand the system by adding additional reactors, but the system operation tends to be more complex and more costly to construct and operate than others. This type of alternative wastewater treatment system usually has fewer maintenance problems over its lifetime than others.

**Oxidation Ditches** are large, shallow holding tanks (about three feet deep) with impermeable linings. Mechanical aerators slowly rotate to introduce oxygen into wastewater. Raw sewage is delivered to the ditch, aerated, and treated further. Oxidation ditches can accommodate several thousand people and use limited land. Initial construction is relatively expensive, but the system has moderate energy demands. It requires a moderate amount of skill to operate and maintain and works well under most weather conditions.

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**Biomatter Resequencing Converter (BMRC) and Greywater Treatment Systems** can convert 90–95% of toilet and kitchen organic wastes to odorless CO<sub>2</sub> and water vapor. Aerobic organisms live in a double-walled tank and convert human and kitchen waste into organic matter. A family of four produces approximately 15 gallons of finished compost annually. The system can handle up to 12 adults at a time, but systems are designed to be one tank per home. Less than 120 square feet is needed to install a system. The systems are automated, energy efficient, and require minimal maintenance. The **greywater treatment system** separates toilet flow from other household water flows (laundry, shower, etc.). Water is cleaned by bacteria in a natural process, and the greywater is filtered and disinfected for reuse. These systems cannot handle the washing of paintbrushes, oil pans, or other inorganic substances because it affects the biological process. The systems are manufactured by the Equaris Corporation.

**Sand Filters** are used in conjunction with septic tanks or aerobic treatment units to provide additional effluent treatment before discharge. The filters reduce the amount of suspended solids and dissolved organic material in the effluent.

**Leaching Field Chambers** are an alternative to a conventional network of distribution pipes used in a drainfield. Chambers form large underground cavities made of sturdy plastic, and the sides and bottom have a network of openings to allow for wastewater seepage into the soil. These systems allow more of the soil profile to be used since the effluent is distributed not only to the ground below, but also to the soil surrounding the chamber. This alternative works well on steep slopes. Leaching chambers do not require any more additional maintenance than a conventional distribution system, and their sturdy construction makes them less vulnerable to damage from the weight of heavy objects placed on the surface of the ground above them.

## IV. Case Studies

The following case studies are abridged versions of case studies from *Pipeline* and *Small Flows Quarterly*, two publications from the National Small Flows Clearinghouse. Most municipalities use a hybrid of the systems described in the section above.

### A. Phelps County, Missouri

Phelps County uses clustered wastewater services, septic tank effluent pumps (STEP), and recirculating sand filter (RSF) technologies that are centrally managed by a water and wastewater district.

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Several subdivisions were separated over five miles among the hills of this county, with extensive undeveloped areas between the subdivisions. Failing septic systems and increasingly stringent state water quality standards were becoming cost-prohibitive in this rural area. The septic systems were violating standards set by the Missouri Department of Natural Resources (MODNR) and the local health department did not have the resources to enforce water quality standards.

The MODNR imposed stricter standards for residences on fewer than three acres and thus created a financial incentive for property owners to switch to an alternative wastewater treatment system, since local lenders were not willing to make loans on houses that could not pass a septic inspection. The established water service provider adopted wastewater service as well and decided to centrally manage the new systems.

To avoid losing lots due to size requirements for conventional septic systems, a developer of a new subdivision called The Pines donated one lot for a new treatment facility and funded the construction of the treatment facility, STEP system, and collection lines for the new development. The water district constructed, owns, and operates the system. Each development is served by its own STEP collection sewer and RSF treatment systems. Each collection system's flow can be diverted to one of the other five treatment units for maintenance, cleaning, and repair. The public/private partnership allowed the district to use the new development (and the many others that followed) to leverage the cleanup of adjacent failed systems with construction dollars.

New homeowners are required to sign a user agreement, connect to the system, and grant a utility easement to the water district. In return, the homeowners do not have to maintain septic systems. The system is managed like a central sewer so the customers cannot tell the difference except in the lower rates they pay and the lower costs to build it.

## **B. The City of Arcata, California**

Arcata uses a constructed marsh as part of a wastewater treatment plant that serves the City's 19,000 people, including its 7,000 college students from Humboldt State University. The site was a landfill that had been created by diking 40 acres of Arcata Bay. The Health Department condemned the distressed industrial land in 1973. Arcata citizens rallied for an integrated wastewater treatments process within a natural system and in 1979, the State authorized Arcata to demonstrate "enhancement" with a two-year pilot project of a 10-cell pilot marsh which treated 10% of Arcata's wastewater. A grant from the Coastal

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Conservancy reconstructed the degraded marshes. In 1986, the integrated wetland wastewater treatment plant was completed at a cost of \$7.1 million, and since then, the marsh's boundaries have expanded to 154 acres.

After undergoing primary treatment at the existing treatment facility, wastewater travels to the constructed wetland for secondary treatment and enhancement. The marsh is also a recreation area, wildlife sanctuary, and educational facility. Arcata Marsh is owned and protected by the State of California as a wildlife refuge. Marsh Commons is a clustered co-housing community built adjacent to the marsh.

## **C. Hamburg Township in Michigan**

Hamburg is a small rural community located 15 miles from Ann Arbor. Isolated clusters of seasonal homes surround small lakes in the area. A high water table was causing septic tank failures, so the Township installed pressure sewer systems where wastewater is pumped into watertight lines at several connections, and propelled through sewer lines that follow the land's natural contour to a final treatment location. As a result of this improvement, more residents are coming to live in the community year-round.

The Township formed a special assessment district for the homes connected to the system and sold bonds to pay for the construction. Paying a total of \$10,600 each, 619 homeowners split the total cost of project over 20 years. This also includes the construction of the sequencing batch reactor facility for final treatment.

Solids are first separated out in septic tanks or macerated in grinders before entering the small-diameter pipes. The closed systems maintain a constant pressure, and eliminate inflow and infiltration from groundwater and stormwater into the system. Pipes are laid below frost line but deep enough to be protected. The less extensive excavation to lay the pipes lowered installation costs and minimized damage to the existing landscape.

In fact, drilling progressed virtually undetected, and despite the community's initial reservations, residents now wholeheartedly embrace the changes, especially since property values have increased dramatically. One home's value increased from \$70,000 to a quarter of a million dollars.

Residents pay \$91.50 per quarter for the system's operation and maintenance, including maintaining grinder pumps at each connection, pressure sewer lines, and the cost of final treatment.

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## **D. Other Communities of Note**

Anne Arundel County in Maryland and Hamburg Township in Michigan use grinder pump technology.

The Cities of Miranda, California, and Conrath, Wisconsin, use small diameter gravity sewer technology.

The Arboretum at the University of Michigan uses constructed wetlands technology.

Barona Valley Ranch Resort and Casino just outside the City of San Diego in Lakeside, California, uses a hybrid model of sequencing batch reactor technology.

## **V. Recommendations**

Based on the research presented in this Technical Memorandum, Hunter Interests has developed the following recommendations for wastewater treatment in Blount County. First priorities should concentrate on retrofitting existing systems, reducing the overall amount of water deposited into the system, and ensuring that cleaner effluent is deposited back into the river. The long-term strategy should consider alternatives to septic with small diameter pipes and pressure sewers that will follow the contours of hilly terrain, and a clustered or decentralized systems to treat the wastewater.

- Create a formal plan to determine future sewer development based on expected density. Designate areas where sewer should NOT be extended.
- Require setbacks of 100 to 500 feet for new development abutting riparian zones. Protect riparian zones wherever possible.
- Create regulations that require onsite stormwater retention and treatment for each site. This can be done passively using constructed wetlands, holding ponds, riparian zones, bioswales, etc.
- Retrofit old septic systems with sand filters and encourage the state to approve membrane treatment septic systems. As homes are upgraded and renovated, require low-flow toilets to be installed. This will reduce residents' water bills and eventually contribute to improving water quality.

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- Encourage developers to build on land that is not appropriate for septic systems to conserve high-quality agricultural land for farming and maintain the agricultural character of the area. This will require developers to use alternative wastewater treatment systems. New developments can even install garbage disposals without worrying about ruining the septic system.
- Install a sequencing batch reactor or similar technology that treats clusters of homes off site. The SBR should be served by small diameter pipes and pressure sewers.
- Contact Tennessee Wastewater Systems, Inc., a small, family-owned Tennessee utility company that owns, operates, and maintains alternative wastewater treatment systems throughout the State. The predominant type of treatment used is a re-circulating sand gravel filter.

## **Blount County Technical Memorandum # 12**

To: Blount County

From: Parsons Brinckerhoff and Hunter Interests Inc.

Subject: Utility Issues Discussion

Date: October 7, 2004

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### **I. Introduction**

The objective of this Technical Memorandum is to document findings from a review of the current utility systems in Blount County and provide the foundation for possible recommendations applicable to Blount County's utility planning efforts and assist the county's growth management strategy.

This Memorandum was developed through field observations, literature research and review, and interviews of stakeholders including city planners, engineers, and utility contacts from within Blount County.

### **II. Data Collection**

This Technical Memorandum is based, in part, on a collection of documents supplied by the utility providers in Blount County. Some of the key documents may be referred to throughout the team's work process and used during the preparation of recommendations pertaining to future public utility systems.

- City of Maryville WQC Tap Fees (Effective October 1, 2002)
- Recommended Procedure for Phased Consolidation of Blount County Area Water Utilities, March 2001
- Maryville Electric Department System Study (2003)
- Maryville Electric System Map (ACAD)

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- Downtown Maryville—Status Report of City of Maryville Plans and Programs, February 2002

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- Maryville Urban Growth Plan, April 1999
- City of Maryville Annexation Team Report to City Manager (Sample)
- Blount County Policies Plan, June 1999
- Nine Counties. One Vision. (Report)
- Maryville Land Development Regulations
- TDEC Small MS4 Annual Report, 1<sup>st</sup> Year, July 1,2003 – June 30, 2004  
Blount County

## Utility Providers in Blount County:

### Electric

City of Alcoa Utilities  
223 Associates Blvd.  
Alcoa, TN 37701  
(865) 380-4700

City of Maryville  
Municipal Building  
400 W. Broadway  
Maryville, TN 37803  
(865) 981-1316

Fort Loudon Electric Cooperative  
400 College Street  
Madisonville, TN 37354  
(865) 856-2331

### Sewer

City of Alcoa Utilities  
(for contact information see *Electric*)

City of Maryville  
(for contact information see *Electric*)

### Water

City of Alcoa Utilities  
(for contact information see *Electric*)

City of Maryville  
(for contact information see *Electric*)

South Blount Utility District  
808 W. Lamar Alexander Parkway  
Maryville, TN 37801  
(865) 982-3560

Tuckaleechee Utility District  
P.O. Box 58  
Townsend, TN 37882  
(865) 448-2230

Friendsville Water Works  
P.O. Box 85  
Friendsville, TN 37737

### **III. Review Findings**

The Blount County utility situation appears to be operating adequately and providing sufficient services in the county for existing conditions. In addition, both the water and electric departments within Maryville and Alcoa (the two largest cities in Blount County) have been preparing for short-term growth. In general, the utility growth strategy is more reactionary than proactive as the utilities go where the City Council, County Commissioner, and/or Planning Commission directs. Utility providers noted that cooperation between the utilities inside Blount County is very good.

One major issue that should be addressed as growth proceeds is with utility boundaries. As the cities within Blount County move into annexed areas, it must be decided how to provide service, (1) by acquiring the current provider services, or (2) by allowing other providers to operate.

#### **A. Electric**

The Maryville Electric Department has created a system plan and short-term 5-year work plan. Included with that report is a mathematical model of the existing power system's 5-year plan.

The Maryville Electric Department plans to add three new substations by 2005. It is understood that the current system can absorb a significant amount of additional residential development but that industrial development may require additional capacity.

In general, the electric utilities in Blount County are reactionary, as they go where the planning commission directs. The electric utilities are comfortable with this arrangement and see no incentive to become more proactive. More interaction with the Planning Commission in the form of regular meetings could be beneficial to the utilities for notification and coordination of where improvements may be desired in the near future.

#### **B. Water**

The water distribution system inside the Maryville City limits is in good condition. The last 10 years have witnessed a significant expansion effort to deliver water in adequate quantities to the consumers. Most of the current work and expansion is in support of the eastward development of the community.

It is estimated that in six to seven years it will be necessary to make a decision on how to upgrade and increase capacity of the water distribution system in Maryville. The choices are to upgrade the City's treatment capacity or purchase capacity from the City of Alcoa.

Maryville requires a six-inch waterline to supply fire hydrants. Much of the County system does not satisfy this requirement. The use of smaller distribution mains in the County introduces a hurdle when consideration is given to annexing developing areas.

Approximately every ten years the City of Alcoa, with input from an outside consultant will perform a study to assess their system and predict areas of high growth and preemptively placed water lines. Water lines may also be placed in some areas to enhance growth.

In general, the water utilities in Blount County are reactionary, as they go where the Planning Commission directs. They appear to be more proactive than the electric providers due to the ten year studies performed by Alcoa to predict areas of growth, however. The electric providers do not appear to perform any such studies.

### **C. Sewer**

A new treatment plant expansion, which will produce nine million gallons per day (MGD), is slated for completion in 2005–2006 for Maryville.

Blount County's sewer system is discussed in more detail in Technical Memorandums #5 and #6.

## **IV. Utility Needs**

The following highlight some of the key themes culled from the interviews with City staff and the review of available documents.

- The utilities are looking for the growth plan to dictate where they will expand and to identify the pockets of growth. This will alter the prior approach of reacting to development decisions.
- There is a need to develop a strategic plan for providing services to areas within Blount County annexed by cities. One issue that should be addressed is the service boundary dilemma (water and electric) that exists with current utility providers and the cities in the newly annexed areas.

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- It appears that interest in consolidating the utilities, as presented in *The Recommended Procedure for Phased Consolidation of Blount County Area Water Utilities*, has stalled. Consideration should be given to revisiting this issue. It might be prudent to move forward with a modified Utility Board or Authority as described in the report. This board could improve communication and coordination amongst the various utility providers.
- The electric system model developed in conjunction with the preparation of the *2003 Electric System Study* should be maintained and utilized as a planning tool as recommended by the report. If maintained properly, this tool can provide valuable insight regarding the electric system when testing growth strategies and scenarios.

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## Blount County Technical Memorandum #13

To: Blount County

From: Hunter Interests Inc.

Subject: Sample Purchase of Development Rights (PDR)

Date: January 24, 2005

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*It is recommended that Blount County and proximal jurisdictions pursue a Purchase of Development Rights program as part of a regional growth strategy. This Technical Memorandum conveys a sample ordinance for consideration.*

### I. PDR Definition

A landowner voluntarily sells his rights to develop a parcel of land to a public agency or a charitable organization interested in natural resource conservation. The landowner retains all other ownership rights attached to the land, and a conservation easement is placed on the land and recorded on the title. The buyer (often a local unit of government) essentially purchases the right to develop the land and retires that right permanently, thereby assuring that development will not occur on that particular property. The landowner is generally compensated for the value of the right to develop the land.

## II. PDR Sample Language

Following is a Purchase of Development Rights (PDR) document prepared for Kent County, Michigan. It is intended to provide a sample of the type of program that might be used in Blount County.

[Section I: Declaration of Purpose](#)

[Section II: Definitions](#)

[Section III: Authorization](#)

[Section IV: County Agricultural Preservation Board](#)

[Section V: Eligibility for Application](#)

[Section VI: Criteria for Reviewing and Ranking Applications](#)

[Section VII: Application and Selection Process](#)

[Section VIII: Agricultural Conservation Easement Provisions](#)

[Section IX: Duration of the Agricultural Conservation Easement](#)

[Section X: Determining the Value of the Agricultural Conservation Easement](#)

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[Section XI: Related Costs](#)

[Section XII: Farmland Preservation Fund](#)

[Section XIII: Amendments](#)

[Section XIV: Severability](#)

[Section XV: Effective Date](#)

An ORDINANCE creating the Kent County Farmland Preservation Program which protects farmland by acquiring development rights voluntarily offered by landowners, authorizes the cash purchase and/or installment purchases of such development rights, places an agricultural conservation easement on the property which restricts future development, and provides the standards and procedures for the purchase of development rights and the placement of an agricultural conservation easement.

THE PEOPLE OF THE COUNTY OF KENT, MICHIGAN, DO ORDAIN:

## **Section 1: Declaration of Purpose**

A. Economic importance of farmland and agriculture. Kent County's agricultural land is a unique and economically important resource. These lands support a locally important and globally unique agricultural industry that includes: dairy, livestock, food from grains, vegetables, fruit, and nursery and greenhouse crops. Kent County's climate, topography, and accessibility make it uniquely suited to the production, processing, and distribution of agricultural products on a regional, national, and international level.

Kent County's economic base is also supported by a variety of agriculturally related businesses including: farm equipment, fuel, veterinarians, grain dealers, packaging plants, and professional services.

B. Importance of other non-agricultural attributes of farmland. In addition to its economic benefits, the county's farmland contributes significantly to the open space and natural resource benefits, including rural character, scenic beauty, cultural heritage, hunting and other recreational opportunities, and the environmental benefits including watershed protection and wildlife habitat. By enhancing the scenic beauty and rural character of the county and providing other open space benefits, the county's farmland increases the overall quality of life and makes the county an attractive place to live and work for all of the county's residents.

C. The extent of development and farmland loss. Because of the county's natural resources, productive farmland and rural character, it has become a desirable place to live and work. The population growth in Kent County has continued to increase dramatically. As the population increases and people move out into the countryside, agricultural land is converted to residential and other developed uses. There has also been a corresponding increase in residential parcels and loss of farmland.

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- D. The Impact of farmland loss. Land suitable for farming is an irreplaceable natural resource with soil and topographic characteristics that have been enhanced by generations of agricultural use. When such land is converted to residential or other more developed uses that do not require those special characteristics, a critical community resource is permanently lost to the citizens of the county. Residential development in agricultural areas also makes farming more difficult by increasing conflict over farming practices and increased trespass, liability exposure and property damage. Because agricultural land is an invaluable economic, natural and aesthetic resource, the county should make an effort to maintain agricultural land in a substantially undeveloped state to ensure the long-term viability of agriculture and to create a long-term business environment for agriculture in the county.
- E. State and local policies. It is the policy of the State of Michigan and Kent County to protect, preserve and enhance farmland as evidenced by Township Master Plans, the Farmland and Open Space Preservation Act, the State Agricultural Preservation Fund, the Conservation and Historic Preservation Easement Act, portions of the County Zoning Act, and other state and local statutes and policies. These measures by themselves, however, have not effectively provided sufficient long-term protection of farmland in Kent County from the pressure of increasing residential and commercial development.
- F. Value of development rights. Generally, farmland has a greater market value for future residential development than the market for farming. The features of good farmland, such as perkable soils and open space views, are also the features desired for residential home sites. This fact encourages the speculative purchase of farmland at high prices for future residential development, regardless of the current zoning of such lands. Farmland, which has a greater development potential and market value than its agricultural value, does not attract sustained agricultural investment and eventually is sold to non-farmers and removed from agricultural use.
- G. Purpose of the program. It is the purpose of the Kent County Farmland Preservation Program and this development rights ordinance to protect farmland in order to maintain a long-term business environment for agriculture in the county, to preserve the rural character and scenic attributes of the county, to enhance important environmental benefits and to maintain the quality of life of county residents.
- H. Mechanism to achieve purpose. The purchase of development rights and the placement of an agricultural conservation easement on farmland through the Kent County Farmland Preservation Program as provided for in this Ordinance is a public purpose of Kent County. Acquisition of development rights requires that the County enter into agreements with property owners to obtain such

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development rights. Properties on which the County has purchased development rights and entered into an agricultural conservation easement should remain substantially undeveloped in order to remain viable for agricultural use.

- I. Intent of Ordinance. The intent of this ordinance is to provide a mechanism for Farmland preservation. It is not the intent of this ordinance to make a statement regarding the funding principles of this or any future County Board of Commissioners. The funding of activities under this ordinance will remain the prerogative of future County Boards of Commissioners. Further, while the intent of this ordinance is to initially seek Development rights for 25,000 acres of Farmland, the actual number of acres for which Development rights will be purchased will also remain the prerogative of future County Boards of Commissioners.

## Section 2: Definitions

- A. “Agricultural conservation easement” means a conveyance by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.
- B. “Agricultural use” means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program, a federal conservation reserve program, or a wetland reserve program. Agricultural use does not include the management and harvesting of a woodlot.
- C. “Development” means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with an agricultural use.
- D. “Development rights” means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development purposes or to extract minerals incidental to a permitted use or as set forth in an agricultural conservation easement.
- E. “Farmland” means 1 or more of the following:
  - (i) A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.

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- (ii) A farm of 5 acres or more in 1 ownership, but less than 40 acres, with 51% of more of the land area devoted to an agricultural use, that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set-aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
  - (iii) A farm designated by the department of agriculture as a specialty farm in 1 ownership that has produced a gross annual income of \$2,000.00 or more from an agricultural use. Specialty farms include, but are not limited to, greenhouses; equine breeding and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aquaculture; and other similar uses and activities.
  - (iv) Parcels of land in Township, described above do not have to be contiguous but must constitute an integral part of a farming operation being conducted on land otherwise qualifying as farmland.
- F. “Intensity of development” means the height, bulk, area, density, setback, use, and other similar characteristics of development.
- G. “Parcel” means a quantity of land in the possession of a single owner.
- H. “Permitted use” means any use expressly authorized within an agricultural conservation easement consistent with the farming operation or that does not adversely affect the productivity or agricultural use of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years. Permitted use includes oil and gas exploration and extraction, but does not include other mineral development that is inconsistent with an agricultural use.
- I. “Property owner” means the party or parties having a freehold estate or fee simple interest in land.
- J. “PDR program” means a program as defined in the County Zoning Act for the purchase of development rights by a county.

### **Section 3: Authorization**

- A. Pursuant to the County Zoning Act, the County Board of Commissioners is authorized to purchase the development rights of farmland throughout the County. Such acquisition may be by purchase, gift, grant, bequest, devise,

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covenant or contract. The County shall only purchase development rights on farmland that are voluntarily offered for sale by a property owner.

- B. The County is authorized to enter into installment purchase contracts, options, and agreements or take receipt of tax-deductible donations of easements, consistent with applicable law. The County is authorized to pay interest on the declining unpaid principal balance at a legal rate of interest consistent with prevailing market conditions at the time of execution of the installment purchase contract.
- C. The County may contract with recognized and legally established nonprofit land trusts or other experienced and qualified individuals, parties or entities that would assist the County in the process of negotiating easements and purchase contracts, establishing baseline studies and procedures for monitoring, and actual monitoring of any agricultural conservation easements acquired under this Ordinance.
- D. The County is authorized to seek grants from federal and State government and private foundations, organizations and individuals for funding for expenditures incurred in carrying out this ordinance.

#### **Section 4: County Agricultural Preservation Board**

- A. The County Board of Commissioners shall create a seven-member body under this Ordinance to be named the County Agricultural Preservation Board. The seven voting members shall be residents of the county and will be appointed by the County Board of Commissioners and will include: (a) one County Commissioner, (b) three individuals with agricultural interests, (c) one representative from township government, (d) one individual with real estate or development interests, and (e) one individual representing local conservation interests.
- B. Members of the County Agricultural Preservation Board shall serve three-year terms, with the exception that the County Commissioner representative shall be designated on an annual basis. The initial term shall be staggered so that one of the agricultural representatives and the real estate representative serve an initial one-year term, another agricultural representative and the local township representative serve an initial two-year term and the third agricultural representative and the local conservation representative serve an initial three-year term. Members may be re-appointed to successive three-year terms by the County Board of Commissioners. The County Board of Commissioners shall have the discretion to remove members for inefficiency, neglect of duty or malfeasance in office. Vacancies due to removal or resignation shall be filled for the remainder of a term by appointment by the County Board of Commissioners. Members shall not be compensated for their services although

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reimbursement for attending meetings, for mileage and for other approved expenses shall be provided in accordance with the Standing Rules of the County Board of Commissioners as they pertain to County boards and committees.

- C. The County Agricultural Preservation Board shall oversee the county's farmland preservation program and shall be responsible for:
- i. Establishing selection criteria for the ranking and prioritization of applications to the program. The selection criteria must be approved by the County Board of Commissioners prior to each application cycle.
  - ii. Establishing a points-based appraisal formula for determining the value of the agricultural conservation easements, which shall be subject to the approval of the County Board of Commissioners.
  - iii. Reviewing and providing oversight in scoring all applications according to the adopted selection criteria.
  - iv. Ranking and prioritizing the top scoring applications for acquisition and making recommendations to the County Board of Commissioners for the purchase of development rights.
  - v. Approving the restrictions and permitted uses under the agricultural conservation easement.
  - vi. Establishing the price to be offered to the property owner and authorizing negotiations for the purchase of development rights and agricultural conservation easement. All purchases of development rights and agricultural conservation easements must be approved by the County Board of Commissioners.
  - vii. Establishing monitoring procedures and overseeing subsequent monitoring to insure compliance with the agricultural conservation easement. Enforcement of the agricultural conservation easement in the case of non-compliance shall be the responsibility of the County Board of Commissioners.
- D. Individual County Agricultural Preservation Board members may not sell development rights to farmland under this ordinance during their term of office. Individual County Agricultural Preservation Board members shall disclose any potential conflict of interest and may not vote when a conflict exists. Conflicts of interest include, but are not confined to, situations where (1) the member is a close relative of the applicant; (2) the board member has a close business association or ties with the applicant; (3) the board member, a relative, or a business associate could receive financial gain or benefit from the acceptance of the application.

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- E. To the extent of available funding and as approved by the County Board of Commissioners after consultation with the County Agricultural Preservation Board, the County may contract with qualified and experienced individuals or entities for consulting or staffing services.
- F. The County Agricultural Preservation Board shall provide for the County Board of Commissioners an annual report outlining the administration of the program, issues addressed and outcomes of the program for the proceeding year, including the selection criteria, number of applications, number of eligible properties, agricultural value, Development rights purchased, and other information regarding the status and activities undertaken with respect to this ordinance.

## **Section 5: Eligibility for Application**

Any property owner may submit an application to the county farmland preservation program provided the application meets the following guidelines:

- A. The property owner has signed the application, indicating interest in voluntarily selling the development rights to the parcel.
- B. At least 51% of the parcel's area is devoted to an active agricultural use and no more than 49% of the parcel may be devoted to non-agricultural open space consisting of wetlands, woodlands, or otherwise unusable land.
- C. The County shall not purchase development rights under a development rights ordinance from land subject to a city, village, or township zoning ordinance unless all of the following requirements are met:
  - i. The development rights ordinance provisions for the PDR program are consistent with the plan upon which the city, village, or township zoning are based.
  - ii. The legislative body of the city, village, or township adopts a resolution authorizing the PDR program to apply in the city, village, or township.
  - iii. The city, village or township provides the county with written approval of the purchase.
- D. The property is not planned for commercial or industrial uses under the Township, City or Village Master Plan or located with the 2020 Urban Services District Plan established by the Grand Valley Metro Council.
- E. Agricultural activities are a permitted use on the parcel under all applicable zoning ordinances.

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## **Section 6: Criteria for Reviewing and Ranking Applications**

The County Agricultural Preservation Board shall establish selection criteria for ranking and prioritizing all eligible parcels submitted to the County Farmland Preservation Program which criteria shall be subject to the approval of the County Board of Commissioners. The selection criteria shall place an emphasis on farmland that:

- A. As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township provides the county with written approval of the purchase.
- B. Has a productive capacity suited for the production of feed, food and fiber and has a greater potential for long-term agricultural production. Specific selection criteria may be based on soil classifications, parcel size, agricultural income, enrollment in the Farmland and Open Space Preservation Act, or the implementation of a soil conservation plan.
- C. Is under the threat of development. Specific selection criteria may be based on proximity to public sanitary sewer or water, the extent of development activity in the township or the amount of road frontage.
- D. Complements other farmland protection efforts in the County. Specific selection criteria may include proximity to other permanently protected farmland, proximity to other protected lands or surrounding land enrolled in the State Farmland and Open Space Preservation Act, or inclusion in an agricultural zoning district.
- E. Has additional matching funds provided by a local unit of government, landowner or private sources.
- F. Other factors considered important by the County Agricultural Preservation Board such as unique physical, historical or environmental characteristics.

## **Section 7: Application and Selection Process**

- A. The County shall on an annual basis, at the discretion of the County Agricultural Preservation Board, conduct a voluntary application and selection process for property owners who wish to sell development rights under the County farmland preservation program.
- B. The County Agricultural Preservation Board shall begin each application cycle by giving notice at least 90 days in advance of the application deadline that the County is accepting applications to the County farmland preservation program. Notification shall be given in newspapers of general circulation within the County, through the County Farm Bureau, County Conservation District, County MSU-Extension Service, local township offices and other organizations.

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- C. The application may require information to be filled out by the property owner, the county Conservation District and the local unit of government.
- D. All applications represent the applicant's intent to sell the development rights of the property to the County subject to mutually acceptable terms. The application will remain active per annual written approval of landowner, provided there are no subsequent modifications to the scoring criteria or application that require additional information. Local cities, villages, and townships will be asked to sign a letter of continued support for standing landowner applications and all applications, both new and old, will be scored and ranked for each cycle.
- E. The County Agricultural Preservation Board shall give notice to each city, village, or township in which an applicant for the purchase of development rights has been received, and the disposition of that application.
- F. At the close of the application deadline, an initial determination of eligibility shall be completed by the County Agricultural Preservation Board or designated staff. The property owner shall be notified if their application is not eligible for the program. Each application shall be evaluated and scored according to selection criteria approved by the County Agricultural Preservation Board and the County Board of Commissioners prior to the application cycle.
- G. The County Agricultural Preservation Board shall rank parcels according to the selection criteria score but shall also individually evaluate and prioritize the top scoring parcels. The County Agricultural Preservation Board may reprioritize the top scoring parcels based on individual review of each application and establishment of a priority on which development rights should be purchased first based on available funds.  
  
The written rationale for reprioritization of the top scoring parcels shall be included with each application.
- H. The final ranking and prioritization of applications shall be submitted to the County Board of Commissioners for their approval.
- I. Agricultural value shall be based upon a price established by the County Agricultural Preservation Board using a state certified appraiser or a points based appraisal method established in section 10.
- J. Upon mutual agreement to the terms of the purchase by the property owner and the County Agricultural Preservation Board, but before the approval of the County Board of Commissioners, a title search shall be completed before signing and recording of the agricultural conservation easement. Any questions or concerns regarding clear title to the property shall be resolved prior to signing of the agricultural conservation easement. All individuals, parties or entities with an interest in the property must be willing to agree to the terms and provisions of the agricultural conservation easement.

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- K. Each purchase of development rights and agricultural conservation easement requires the approval of the County Board of Commissioners. The County Board of Commissioners may alter the recommendation by the County Agricultural Preservation Board to purchase the development rights at its discretion.
- L. Once the application has been approved for purchase by the County Board of Commissioners, the County and the property owners shall sign the agricultural conservation easement and it shall be legally recorded with the County Clerk's office.
- M. The County shall notify the appropriate local unit of government of each agricultural conservation easement.
- N. The agricultural conservation easement will be monitored in accordance with procedures and guidelines established by the County Agricultural Preservation Board.

## **Section 8: Agricultural Conservation Easement Provisions**

- A. Upon the agreement of the sale of development rights by the County Agricultural Preservation Board, the property owner and the County Board of Commissioners, the County and the property owner shall execute an agricultural conservation easement, approved by the County Agricultural Preservation Board and the County Board of Commissioners, that will perpetually protect the parcel's agricultural use by preventing any use that would significantly impair or interfere with the agricultural value or use of the farmland. The agricultural conservation easement shall contain a provision indicating that the easement runs with the land and may not be terminated except as provided for in this Ordinance and the easement.
- B. Restrictions on that portion of the property included in the agricultural conservation easement shall include, but not be limited to, the following:
  - i. Property shall not be divided into parcels less than 40 acres in size.
  - ii. The construction of residences for new owners of any divisions shall be prohibited.
  - iii. Construction of any other buildings, unless they are built for uses consistent with farming operations shall be prohibited.
  - iv. Commercial or industrial activity that is inconsistent with a typical farming operation shall be prohibited.

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- v. Excavation of topsoil, sand, gravel, rock, minerals or other materials that significantly impairs or interferes with the agricultural values of the property shall not take place without prior written approval of the County Board of Commissioners or its designee.
- C. Permitted uses and retained development rights in the agricultural conservation easement shall include, but not be limited to, the following:
- i. Construction of buildings necessary for and consistent with agricultural uses.
  - ii. The right to construct one additional residence for an individual essential to the farm operation as defined in section 36110(5) of the Natural Resources and Environmental Protection Act, MCL 324.36110(5); MSA 13A.36110(5). Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
  - iii. The right to maintain, renovate, add on to, or replace existing structures. Structure built must be in conformance with all applicable federal, state and local laws, ordinances and regulations.
  - iv. The right to sell, mortgage, bequeath or donate the property, provided any conveyance will remain subject to terms of the easement.

## **Section 9: Duration of the Agricultural Conservation Easement**

- A. The agricultural conservation easement shall run with the land regardless of transfers in property ownership. It is the intent of this ordinance to preserve valuable farmland through the establishment of permanent conservation easements. Development rights acquired pursuant to this Ordinance shall be held by the County in perpetuity and the development rights may be repurchased by the landowner only when a court of competent jurisdiction has determined through eminent domain that the use of those development rights is necessary for a specific public interest, need or purpose.
- B. Upon a court's determination of eminent domain and that the purchase of the development rights from the County is necessary for a specific public interest, need or purpose, the parties exercising the use of the development rights through eminent domain or the landowner shall pay the fair market value of those development rights at the time of their purchase to the County, as determined by a State Certified Appraiser or utilizing the points based appraisal in section 10, before the termination of the agricultural conservation easement. The value of the development rights shall be determined as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place or the value of the developments. If the appraiser has a conflict of interest associated with a potential appraisal, the appraiser shall report the conflict to the County and the County shall select another appraiser to complete the appraisal.

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- C. The County will deposit the proceeds from any repurchases into the farmland preservation fund and the proceeds shall be used to purchase additional development rights and agricultural conservation easements on additional farmland within the county.

## **Section 10: Determining the Value of the Agricultural Conservation Easement**

- A. The County Agricultural Preservation Board shall utilize a state certified appraiser to determine the value of the development rights or shall establish a points-based appraisal method and formula for determining the value of the agricultural conservation easement prior to each application cycle. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place. The County Agricultural Preservation Board may establish guidelines, consistent with state standards, for the state certified appraiser to use in determining the fair market value or the agricultural value. The points-based appraisal method, as authorized under P.A. 262 of 2000, reduces administration costs, is much more time efficient, provides a consistent and objective value for all applicants and allows property owners to determine the value of the agricultural conservation easement prior to submitting an application. The formula shall establish a Base Value based on the parcel's soil characteristics, size and proximity to other protected farmland. The Base Value shall be increased if the parcel qualifies for a market value adjustment based on the parcel's location within the county and the amount of road frontage. In determining the market value adjustment, an average of actual vacant land sales of parcels over 20 acres in size zoned for agricultural purposes sold during the prior three years shall be determined for each township. The parcel may also qualify for a premium based on its proximity to sewer and water as determined by formula established by the County Agricultural Preservation Board. The County Agricultural Preservation Board shall review the points-based appraisal method at the end of each application cycle and compare agricultural conservation easement values relative to actual fair market sales in the county.
  
- B. The property owner may obtain, within a reasonable time frame, an appraisal of the development rights from a state certified appraiser at the property owner's expense. The appraisal may calculate the value of the development rights as the difference between the fair market value of the property with all development rights intact and the value of the property for agricultural use with an agricultural conservation easement in place. The County Agricultural Preservation Board may establish guidelines, consistent with state standards, for the state certified appraiser to use in determining the fair market value or the agricultural value.

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- C The County Agricultural Preservation Board shall approve the price to be offered and paid for the agricultural conservation easement. If the property owner obtains an independent appraisal, the County Agricultural Preservation Board may elect to renegotiate the initial offer based on qualified circumstances.
  
- D. The property owner may be paid a cash payment or offered an installment purchase contract, or a combination of both.

## **Section 11: Related Costs**

The cost of services ordered by the County Agricultural Preservation Board in relation to the County's farmland preservation program shall be paid from all available farmland preservation program funding sources within the County, including state and federal matching funds, which may include the cost of appraisal, engineering, surveying, planning, financial, legal, environmental assessments, title searches, developing baseline assessments, monitoring easements. The County shall not be responsible for any expenses incurred by the property owner incidental to any aspects of application for purchase of the development rights that the County Agricultural Preservation Board has determined is the responsibility of the property owner, which may include title searches, appraisals, or surveying.

## **Section 12: Farmland Preservation Fund**

- A. Available funding for the County farmland preservation program shall be deposited in a special farmland preservation fund. Money in such farmland preservation fund may be temporarily deposited in such institutions or invested in such obligations as may be lawful for the investment of county money. The revenues from the deposit and/or investment of the farmland preservation fund shall be applied and used solely for the purpose of purchasing of development rights and agricultural conservation easements under this Ordinance, making payments obligated under installment purchase contracts, promoting farmland preservation programs, or paying for costs of administering or enforcing the county farmland preservation program.
  
- B. Supplemental or matching funds from private sources or other governmental agencies, including local municipalities, the State or Federal Government, may become available to pay a portion of the cost of acquiring development rights or agricultural conservation easements or to supplement or enlarge such acquisitions. The County Board of Commissioners authorizes the County Agricultural Preservation Board to use such funds to purchase development rights of farmland and acquire agricultural conservation easements.
  
- C. The County, upon approval by the County Board of Commissioners, may finance the County farmland preservation program through 1 or more of the following sources:

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- i. General appropriations by the county.
- ii. Proceeds from the sale of development rights by the county under Section 9.
- iii. Grants.
- iv. Donations.
- v. General fund revenue.
- vi. Bonds or notes as permitted by law.
- vii. Special assessments as permitted by law.
- viii. Other sources approved by the County Board of Commissioners and permitted by law.

## **Section 13: Amendments**

This Ordinance may be amended at the discretion of the County Board of Commissioners by majority vote.

## **Section 14: Severability**

Any provision of this Ordinance which is found by a court of competent jurisdiction to be invalid, void or illegal shall in no way affect, impair or invalidate any other provision contained in the Ordinance and such other provisions shall remain in full force and effect.

## **Section 15: Effective Date**

This ordinance shall become effective on the date upon which notice of its adoption is published in a newspaper of general circulation in Kent County.

## Blount County Technical Memorandum #14

To: Blount County

From: Hunter Interests Inc.

Subject: Sample Transfer of Development Rights (TDR)

Date: January 24, 2005

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*It is recommended that Blount County and proximal jurisdictions pursue a Transfer of Development Rights program as part of a regional growth strategy. This Technical Memorandum conveys a sample ordinance for consideration.*

### I. TDR Description

In a TDR program, a community identifies an area within its boundaries that it would like to see protected from development (the sending zone) and another area where the community desires more urban style development (the receiving zone). Landowners in the sending zone are allocated a number of development credits that can be sold to developers, speculators, or the community itself. In return for selling their development credits, the landowner in the sending zone agrees to place a permanent conservation easement on his or her land. Meanwhile, the purchaser of the development credits can apply them to develop at a higher density than otherwise allowed on property within the receiving zone. TDR programs use market forces to simultaneously promote conservation in high value natural, agricultural, and open space areas while encouraging smart growth in developed and developing sections of a community.

Many people find TDR programs complex and administratively challenging, requiring the local unit of government to make a strong commitment to administering a potentially complicated program and educating its citizens and potential developers. TDR programs must be combined with strong comprehensive planning and local controls in order to be successful.

Montgomery County, Maryland, near fast growing Washington, DC, established its TDR program in 1980. By the end of fiscal year 1997, the TDR program had protected 39,180 acres (out of a total sending area of 89,000 acres) under protective easement. See language below.

## **II. TDR Sample Language**

Following are two sample documents, one prepared by the American Planning Association, and one prepared for Montgomery County, Maryland. They are intended to provide samples of the type of program that might be used in Blount County.

### **A. Model TDR Language: American Planning Association**

This model statute was prepared as part of the Growing Smart initiative of the American Planning Association to develop the next generation of model statutes for planning and land development regulation. The result of the project will be a *Legislative Guidebook* containing a comprehensive model planning and land use code ready for adoption by state legislatures and including in-depth commentary.

- (1) A local government may adopt local land development regulations and amendments that include provisions for the transfer of development rights, in the manner prescribed in this Act.

The purposes of this Act are to:

- (a) preserve open space, critical and sensitive areas, and natural hazard areas;
- (b) conserve agriculture and forestry uses of land;
- (c) protect lands and structures of aesthetic, architectural, and historic significance;
- (d) ensure that the owners of land that is so preserved, conserved, or protected may make reasonable use of their property rights by transferring their right to develop to other properties that can make use of it;
- (e) provide a mechanism whereby development rights may be reliably transferred;
- (f) ensure that development rights are transferred to properties that are in areas or districts that have adequate community facilities, including transportation, to accommodate additional development; and
- (g) authorize the local government to create a TDR Bank, where development rights may be purchased and conveyed by the local government in order to stabilize the market in development rights and

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to regulate or control the development of property that the local government, intends to protect under subparagraphs (a) through (c) above.

(3) As used in this Act, and all other statutes where "transfer of development rights" is referred to:

(a) "Development Rights" mean the rights of the owner of a parcel of land, under land development regulations, to place that parcel and the structures thereon to a particular use or to develop that land and the structures thereon to a particular area, density, bulk, or height;

(b) "Receiving District" means one or more districts in which the development rights of parcels in the sending district may be used;

(c) "Receiving Parcel" means a parcel of land in the receiving district that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights;

(d) "Sending District" means one or more districts in which the development rights of parcels in the district may be designated for use in one or more receiving districts;

(e) "Sending Parcel" means a parcel of land in the sending district that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights; and

(f) "Transfer of Development Rights" means the procedure prescribed by this Act whereby the owner of a parcel in the sending district may convey development rights to the owner of a parcel in the receiving district, whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel.

(4) The legislative body of a local government may adopt a transfer of development rights program only by ordinance, in the manner for land development regulations pursuant to [*relevant state statute*], and an ordinance pursuant to this Act shall:

(a) be adopted by the legislative body only after it has adopted:

1. a local comprehensive plan;

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2. for a transfer of development rights program concerning critical and sensitive areas, a critical and sensitive areas element within the local comprehensive plan;
  3. for a transfer of development rights program concerning natural hazards, a natural hazards element within the local comprehensive plan;
  4. for a transfer of development rights program concerning agriculture or forest preservation, an agriculture and forest preservation element within the local comprehensive plan; and/or
  5. for a transfer of development rights program concerning historic preservation, an historic preservation element within the local comprehensive plan;
- (b) be adopted by the legislative body only after a public hearing has been held on the proposed ordinance, with notice to all owners of property in the proposed sending and receiving districts. Any purported adoption contrary to this subparagraph shall be void;
  - (c) include a citation to enabling authority to adopt and amend the transfer of development rights ordinance;
  - (d) include a statement of purpose consistent with the purposes of zoning pursuant to [relevant state statute] and with paragraph (2) above;
  - (e) include a statement of consistency with the local comprehensive plan and with the applicable elements thereof, as listed in subparagraph (4)(a) above, that is based on the findings of a detailed comparison of the proposed ordinance with the local comprehensive plan;
  - (f) describe in detail both the sending and receiving districts and shall require the designation of both the sending and receiving districts on the zoning map of the local government;
  - (g) describe the development rights to be transferred in reasonable detail, preferably in quantifiable terms such as area, building coverage ratio, density, floor area ratio, height, or other forms of measurement;
  - (h) require that the owner of a sending parcel execute, and record with the county [*recorder of deeds*], a deed or instrument creating a conservation easement, describing the released development rights in reasonable detail and preferably in quantifiable terms, with the sending parcel as the subservient estate and the local government as the holder of the easement; and require that before any such easement is recorded that the instrument be submitted to the [local planning agency] for its approval;

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- (i) require that, before any transfer of development rights from a sending parcel to a receiving parcel or parcels may be completed, that the [local planning agency] shall approve the transfer. The only bases for rejecting a proposed transfer are that:
  - 1. the development rights released by the instrument vary significantly from the development rights that the sending parcel is supposed to be releasing pursuant to the transfer of development rights, or there is some other significant error in the instrument;
  - 2. the proposed receiving parcel is not in a receiving district; or
  - 3. the transfer would increase the density or intensity of development on the receiving parcel to a degree that violates one or more of the provisions of paragraph (8) below.
- (j) require that, once a transfer is approved, the [local planning agency] issue to the owner of a receiving parcel, and record with the county [*recorder of deeds*], a certificate assigning to the receiving parcel, and all present and future owners thereof, the development rights that the receiving parcel is to receive through the transfer of development rights. Such certificate shall describe the development rights in reasonable detail and refer to the instrument creating the conservation easement, and the certificate shall have a copy of the instrument attached.
- (5) Any instrument purporting to convey a conservation easement pursuant to this Act but that the local government has not indicated its approval on the instrument is void, and shall not be recorded or accepted by the county [*recorder of deeds*] for recording.
- (6) No district shall be designated as a receiving district unless the local legislative body finds, before enacting an ordinance authorized by this Act, that the district has or will have adequate community facilities and other resources to accommodate the increased development authorized by the transfer of development rights from the sending district.
- (7) No district, or portion of any district, designated as a receiving district, shall be down-zoned to the degree that no reasonable use can be made of a parcel of property, either after an ordinance pursuant to this Act has been adopted or before such adoption in anticipation of adoption.

[Note: This paragraph is intended to prevent the takings problem discussed above, whereby, to encourage the use of TDRs in a receiving district, the local government downzones the district to the degree that owners cannot make a reasonable use of their property in the district unless they purchase TDRs.]

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(8) Any other provision of local land development regulations to the contrary, the density or intensity of development of a receiving parcel may be increased by the transfer of development rights so long as the increase in density or intensity:

(a) is consistent with the local comprehensive plan;

(b) is not incompatible with the land uses on neighboring lots or parcels;

(c) is not more than 20 percent greater than the development rights of the receiving parcel without the transfer of development rights.

[Note: No increase in density or intensity may contravene the plan or be inconsistent with surrounding land uses. However, some states may prefer a clear, numerical, limitation on the increase, and therefore subparagraph (c) is provided as an option. Note that the 20 percent figure can be altered at the state's preference.]

(9) The local government shall notify the county [*property tax assessor*] of a transfer of development rights within 30 days of:

(a) The issuance of a certificate pursuant to subparagraph (4)(j) above;

(b) The condemnation or purchase of development rights by the local legislative body or the TDR Bank, pursuant to subparagraphs (10)(a) or (b) below;

(c) The receipt by the TDR Bank of a donation of development rights pursuant to subparagraph (10)(e) below; or

(d) The sale or conveyance of development rights by the TDR Bank pursuant to subparagraph (10)(c) below; and the [*assessor*] shall adjust the valuations for purposes of the real property tax of the sending parcel and of the receiving parcel or parcels, if any, appropriately for the development rights extinguished or received.

(10) The local government may, by ordinance, establish a transfer of development rights bank, otherwise referred to as the "TDR Bank." The TDR Bank may be operated by the local planning agency or by any other existing or new agency designated by the ordinance, including a regional planning agency or the state planning agency.

(a) The TDR Bank shall have the power to purchase development rights, subject to the approval of the local legislative body.

(b) The TDR Bank shall have the power to recommend to the local legislative body properties where the local government should acquire development rights by condemnation.

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(c) If the local government itself does not have the power under the state eminent domain enabling statute to condemn development rights or a conservation easement (which is the same thing), that statute must be amended to give the local government that power, so that it can then be delegated pursuant to this paragraph.

(d) The TDR Bank shall have the power to sell or convey any development rights it may possess, subject to the approval of the local legislative body.

(e) The TDR Bank may, for conservation or other purposes, hold indefinitely any development rights it possesses.

(f) The TDR Bank may receive donations of development rights from any person or organization, public or private, subject to the approval of the local legislative body.

(g) Except for any funding provided to the TDR Bank from the general *or other* fund of the local government treasury, the purchase or condemnation of development rights by the TDR Bank shall be funded from the proceeds of the sale of development rights by the TDR Bank, and a separate account in the local government treasury shall be established for such purpose.

[Note: The local government could simply make an appropriation from the general fund, or it may earmark revenue from a particular tax or fee for the funding of the TDR Bank.]

(11) Two or more local governments may enter into an intergovernmental agreement, pursuant to *relevant state statute*, whereby transfer of development rights may occur between a sending parcel in one local government and a receiving parcel or parcels in another local government. All relevant provisions and terms in ordinances pursuant to this Act in all local governments that are parties to the agreement shall be substantially identical, and this may be provided by including with the agreement a common ordinance to be adopted by all parties to the agreement.

(12) This Act, or any provision thereof, shall not invalidate any completed transfer of development rights pursuant to any earlier statute, ordinance, or regulation, if said transfer was valid at that time.

[Note: Paragraph (12) is a "savings clause," preserving the validity of earlier transfers of development rights, even if performed contrary to the requirements of this statute, as long as they were legally proper at the time.]

## **B. TDR Language for Montgomery County, MD**

### **59-C-1.33. Transferable development rights zones.**

- (a) **Location.** No land shall be classified in any of the transferable development rights zones unless recommended on an approved and adopted master plan or sector plan.

**59-C-1.331. Methods of Development.** The following 2 methods of development are possible in each of the TDR zones:

- (b) **Standard method of development.** Development under the standard method for TDR zones must comply with the requirements for development and density limitations contained in the corresponding zones as identified in section 59-C-1.332. In addition, standard method development may be approved under either the cluster development procedures of section 59-C-1.5 or the procedures for development including moderately priced dwelling units, as contained in section 59-C-1.6, if the property satisfies the minimum requirements for these development options.
- (c) **Optional method of development.** Under the optional method of development for the TDR zones, greater densities may be permitted up to the maximum density established in the development standards of section 59-C-1.332 of the zone, but development must also conform to the special regulations for optional method developments using transferable development rights as contained in section 59-C-1.39. The special regulations require compliance with the density, numerical limitations, and other guidelines contained in the applicable master plan approved by the district council.

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	RE-2/TDR	RE-2C/TDR	RE-1/TDR	R-200/TDR	R-150/TDR	R-90/TDR	R-60/TDR
<b>59-C-1.332. Development Standards- Transferable Development Rights Zone:</b>							
<b>(a) Land uses.</b> Uses allowed in the TDR zones are those uses allowed in the following zones:	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60
The optional method of development allows more residential uses. See subsection 59-C-1.395, chart.							
<b>(b) Development standards- Standard method:</b>							
Density limitations for cluster development (section 59-C-1.5) or MPDU development (section 59-C-1.6), applicable to the following zones, apply to similar development in the standard method TDR zones:	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60
All other development standards must be in accord with the development standards applicable to the following zones:	RE-2	RE-2C	RE-1	R-200	R-150	R-90	R-60
<b>(c) Development standards- Optional method:</b>							
-Maximum density of development (maximum number of dwellings per acre)	4	2	2	11	6	28	28
-All other development standards as specified in the special regulation provision of section 59-C-1.39.							

**59-C-1.39. *Special regulations for optional method development using transferable development rights.***

**59-C-1.391. Applicability.** The following procedures and regulations apply to the transfer of development rights from land classified in the rural density transfer zone (RDT) to land classified in the transferable development rights (TDR) zones. The planning board may approve subdivision of such land at densities not to exceed the maximum density permitted in the applicable TDR zone and conforming to the guidelines contained in the applicable master plan approved by the district council. Any increase in density above the density applicable to the standard method of development must be based on a ratio of one single-family dwelling unit for each transferable development right (TDR), and 2 multi-family dwelling units for each transferable development right (TDR).

**59-C-1.392. General Provisions.**

- (a) A development right shall be created, transferred and extinguished only by means of documents, including an easement and appropriate releases, in a recordable form approved by the planning board. The easement shall limit the future construction of one-family dwellings on a property in the RDT zone to the total number of development rights established by the zoning of the property minus all development rights previously transferred in accordance with this section, the number of development rights to be transferred by the instant transaction, and the number of existing one-family detached dwellings on the property.
- (b) The transfer of development rights shall be recorded among the land records of Montgomery County, Maryland.
- (c) The development density of a property under the TDR optional method may not be increased above the maximum density permitted in the zone (section 59-C-1.332(c)) nor beyond the density or number of dwelling units recommended for such property by the land use plan of the applicable master plan approved by the district council.
- (d) A property developed with the transfer of development rights shall conform to the requirements of chapter 25A of the Montgomery County Code requiring MPDU's. The applicability of chapter 25A and the MPDU density increase provided by section 59-C-1.6 shall be calculated after the base density of a property has been increased by a transfer of development rights. The density increase provided by section 59-C-1.6 may be made without the acquisition of additional development rights.

## **59-C-1.393. Development Approval Procedures Under the Optional Method of Development.**

(a) A request to utilize development rights on a property under the optional method must be in the form of a preliminary subdivision plan submitted in accordance with the subdivision regulations contained in chapter 50 of the County Code.

(b) Such a preliminary plan must include at least two-thirds of the number of development rights permitted to be transferred to the property under the provisions of the applicable master plan approved by the district council. However, upon a finding by the planning board that for environmental or compatibility reasons it would be desirable to permit a lower density, the two-thirds requirement may be waived.

(c) A site plan shall be submitted and approved in accordance with the provisions of division 59-D-3.

(d) The planning board must approve a request to utilize development rights if the request:

- a. Does not exceed the limitation on the density or number of dwelling units permitted in the zone and in the applicable master plan approved by the district council;
- b. Is in accordance with the provisions of this chapter;
- c. Is in accordance with Chapter 50, title "Subdivision of Land";
- d. Is consistent with other recommendations of the master plan approved by the district council; and
- e. Achieves a desirable development compatible with both site conditions and surrounding existing and future development.

(e) Prior to recordation of a final record plat for a subdivision using transferred development rights, an easement to the Montgomery County Government in the form required by Section 59-C-1.392(a) limiting future construction of dwellings on a property in the RDT zone by the number of development rights received must be recorded among the land records of Montgomery County, Maryland.

(f) A final record plat for a subdivision using transferred development rights shall contain a statement setting forth the development proposed, the zoning classification of the property, the number of development rights used, and a notation of the recordation of the conveyance required by Section 59-C-1.392(b).

## **59-C-1.394. Development Standards Applicable to the Optional Method of Development.**

- (a) Development under the TDR optional method density provisions of section 59- C- 1.332(c) must conform to the development standards and permitted residential uses as indicated in section 59-C-1.395.
- (b) For TDR densities of 3 or more per acre, the lot sizes and other development standards will be determined at the time of preliminary plan and site plan for conformance with applicable master plan guidelines and in accordance with the purposes and provisions of the PD zone, except as may be specified in section 59-C-1.395.
- (c) The compatibility requirements of Section 59-C-7.15(b) may be waived by the Planning Board upon a finding that: 1) the immediately adjoining property is recommended for institutional use on the approved and adopted master or sector plan; and 2) the immediately adjoining property will not be adversely affected by the waiver for present or future use. Under the waiver, the Board may not permit any building other than a one-family detached residence to be constructed within 25 feet of adjoining land for which the area master plan recommends a one-family detached zone.
- (d) The final density achieved for any property located in a TDR receiving area developed under the optional method procedures must be determined by the planning board at site plan and/or subdivision review and must conform to the site plan provisions (division 59-D-3 of the zoning ordinance) and subdivision regulations (chapter 50 of the Montgomery County Code).
- (e) In making this determination as to the final density, the planning board will consider whether a proposed plan has the flexibility in design to provide an appropriate range of housing types, taking advantage of existing topography and other natural features, to achieve a mutually compatible relationship between the proposed residential development and adjoining land uses, while implementing the area master plan approved by the district council.

**59-C-1.395. Special provisions for TDR developments.** The following development standards for the development of a property under the optional method apply to the TDR density shown on the master plan for that area. Where moderately priced dwelling units are included in accordance with the requirements of chapter 25A of this Code, as amended, the MPDU development standards apply. The increase in density must not exceed 22 percent of the TDR density.

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<i>TDR Density per Acre Shown on Master Plan</i>		<i>Development Standards and Permitted Residential Uses</i>			
		<u>Without MPDU's</u>		<u>With MPDU's</u>	
1		RE-1, RE-1 cluster		Not applicable	
2		R-200, R-200 cluster, R-150		R-200 MPDU	
		<i>Minimum (Maximum) percentage required<sup>1</sup></i>			
<i>TDR Density per Acre Shown on Master Plan</i>	<i>Size of Development<sup>3</sup></i>	<i>One-Family Detached</i>	<i>One-Family Townhouse and Attached</i>	<i>Multiple Family<sup>2</sup> Four-Story or Less<sup>4</sup></i>	<i>Green Area</i>
3-5	Less than 800 dwelling units	30 <sup>6</sup>	P	NP	35
3-5	800 dwelling units or more	30 <sup>6</sup>	P	P(20)	35
6-10		15	P	P(35)	40
11-15	Less than 200 dwelling units	P	P	P	50
11-15	200 dwelling units or more	P	P	35(60)	50
16-28	less than 200 units	P	P	P <sup>5</sup>	50
16-28	200 dwelling units or more	P	P	25 <sup>5</sup>	50

P Permitted but not required.

( ) Maximum percentage permitted.

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1. Upon a finding by the planning board that a proposed development is more desirable for environmental reasons or is more compatible with adjacent development than that which would result from adherence to these standards, the percentage requirements for one-family and multiple-family stated herein may be waived.
2. Permitted only where specifically recommended as a unit type in the area master or sector plan for the receiving area. In any instance where the minimum percentage requirement would yield a total of 150 multiple-family dwelling units or less, this requirement does not apply, and no such units are required. Whenever the minimum percentage would yield 151 units or more, the full number must be required except in cases covered by footnote number 1.
3. Total number of dwelling units planned.
4. One-family attached may be substituted for all or part of this requirement.
5. The four-story height limit may be waived upon a finding by the Planning Board that a proposed development can achieve greater compatibility with adjacent development than which would result from adherence to the standards.
6. Development may utilize the R-60/MPDU standards as set forth in Sec. 59-C-1.625(a)(1).

**59-C-1.396. Special Provisions for TDR Developments Approved Prior to April 1, 1987.**

Any property in the RE-2C, RE-2, RE-1, R-200, R-150, R-90 or R-60 zones which, prior to April 1, 1987, received preliminary plan of subdivision approval, and which contained lots attributable to the TDR regulations as they existed in this chapter prior to April 1, 1987, may continue to be developed in accordance with the requirements of the corresponding TDR zones at a density not to exceed the maximum densities set forth in section 59-C-1.332. Governmental approvals granted prior to April 1, 1987, for developments utilizing TDRs on property zoned in those zones shall remain and be in full force and effect at all times notwithstanding such property's subsequent rezoning to the RE-2C/TDR, RE-2/TDR, RE-1/TDR, R-200/TDR, R-150/TDR, R-90/TDR or R-60/TDR zones respectively. In addition, any building or structure constructed or to be constructed on a building lot in accordance with a TDR preliminary plan of subdivision approved for such property prior to April 1, 1987, shall not be considered nonconforming. Preliminary plan applications duly filed with and accepted as a completed filing by the Maryland-National Capital Park and Planning Commission on or before April 1, 1987, are deemed duly filed.

## Blount County Technical Memorandum #15

To: Blount County

From: Hunter Interests Inc.

Subject: The Implementation Process

Date: January 24, 2005

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### The Implementation Process

In conjunction with adoption and implementation of the Blount County Growth Strategy, many recommendations and actions will require not only follow-up, but ongoing oversight and administration into the future as well. These efforts will include, but not necessarily be limited to, elements of the Five Guiding Policies such as defining, securing and expanding the green infrastructure; developing expanded transportation plans and building the connectors and other infrastructure necessary to improve circulation and access; pursuing both zoning, regulatory, and project-based efforts to focus development in Blount County; ensuring economic growth through business development and harnessing the growth dynamic; and, implementing a phased annexation process.

In order to accomplish this far-reaching undertaking, there will need to be an unprecedented level of cooperation and joint effort between Blount County and the City of Maryville, as well as Townsend, Friendsville, Louisville, Rockford, and the public at large. Organizations such as the Foothills Land Conservancy, the School Board, the Little River Watershed Association, the Maryville Housing Authority, the Industrial Board, the Chamber of Commerce, etc. will also be involved. Indeed, the implementation of the Growth Strategy will involve virtually every public, private, and institutional entity, and every citizen in some fashion. In order to provide an organizational base for coordinating various decisions, actions and activities, it is recommended that a body be created that has representatives of all key sectors involved. This body is henceforth referred to as the Intergovernmental Commission on Smart Growth (ICSG).

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## **The Intergovernmental Commission on Smart Growth (ICSG)**

The ICSG can serve many functions depending on how its mission is ultimately defined. Its makeup will have to be determined as one of the early implementation steps of both the Blount County Growth Strategy and the City of Maryville Urban Growth Strategy. An outline of form, function, and long-term goals is provided below.

### **ICSG Form**

The ICSG is envisioned as an entity that would reflect a diverse base of representation including individuals in Blount County government/staff, City of Maryville government/staff, Alcoa and other incorporated jurisdictions, conservancies, developers, and the general public to name but a few general categories. It may be appropriate to include a state of Tennessee representative, a regional economic/planning representative, cultural, historic, tourism, or other representatives to help reflect the diversity of the population as well as the nature of things that will be affected by future growth and, by extension, the growth strategies that are emerging as a result of the Chapter 1101 legislation.

The ICSG could be structured as a public non-profit, a development authority, a development corporation, or other entity that has certain powers that may be useful/required as the implementation and oversight process continues. It is envisioned that there would be a voting board charged with taking specific actions with regard to growth issues, and an advisory board that would, in turn, form various sub-committees and task forces, and be responsible for much of the on-going public awareness and involvement. A Chair should be named who is greatly respected across political and social lines, and who can effectively guide the vision for the future represented by intersecting aspects of the growth strategies and other planning and development trends.

### **ICSG Function**

The ICSG could function at a number of levels including, but not limited to, overseer of Purchase of Development Rights and Transfer of Development Rights programs, coordinator of green-space acquisition and preservation programs, interpreter of planning and zoning changes proposed over time, point of contact for public awareness and interface, point of interface for governmental decisions on water, sewer, air quality, environmental health, etc.

The ICSG could be empowered as part of the development approvals process, acting much as a design review committee does within a zoning overlay district/design guideline scenario. The appropriateness and logistics associated with this possible function would need to be worked out over time as the organization develops its mission and role in the community.

### **ICSG Funding**

The ICSG could be funded through a combination of sources including, but not limited to, development impact fees, pro-rata general fund allocations, special tax districts, voluntary taxes, special use taxes, etc. The funding streams could coincide with a funding and finance strategy for the PDR and TDR programs, as well as the other green infrastructure development programs.

Maintaining a small paid staff and a large volunteer constituency could limit budgetary requirements of

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the organization, thus ensuring that a majority of any funding directed at smart growth programs would be put to use in a manner positively impacting quality-of-life and other related issues.

## Blount County Technical Memorandum #16

To: Blount County, TN  
From: Growth Management Institute  
Subject: Adequate Public Facilities Discussion  
Date: January 26, 2005

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**NOTE TO READER:** At the time this technical memorandum was prepared (January 2005) the consulting team noted several weaknesses in the application of public facilities requirement to existing subdivision regulations. Subsequently (Spring 2005) these regulations were amended to address various issues pertaining to growth and public facilities. The original tech memo is presented here with past tense noted where appropriate. The amended subdivision regulation section follows in its entirety.

The County's subdivision regulations state(d) that a purpose of the regulations is "to ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision." The regulations implement(ed) that goal by requiring that:

"...land shall not be subdivided until available public facilities and improvements exist and proper provision has been made for drainage, water, sewerage, and capital improvements such as schools, parks, recreation facilities, transportation facilities, and [other] improvements."

### Problems in Applying the Requirement

The Planning Commission has (had) found that this provision is (was) difficult to administer and, as a result, the Commission no longer requires developers to demonstrate that adequate capacities of the identified public facilities are available as a condition of subdivision approval. Administrative difficulties include(d):

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- The reluctance of developers to conduct studies to demonstrate the adequacy of facilities for the subdivisions they propose.
- A general lack of measurable indicators of what is “available” and has “sufficient capacity” to serve proposed subdivisions
- The necessity of working with other agencies and organizations such as the School Board to make these determination

Moreover, the availability of facilities is complicated by two additional issues:

- The low standards required for subdivision streets, which are allowed to be only 18 feet wide with no provision for sidewalks or planting strips
- The lack of standards for on-site provision of certain types of facilities, such as parks and recreation facilities, which many communities require as a condition of approval

The adequacy of facilities problem has received attention in recent months due to questions about school capacities in growing areas. Residents have complained that subdivisions continue to be approved although several schools are currently operating well above capacity. Statistics provided by the School Department (and included in a April 7, 2004, memorandum by John Lamb to the Planning Commission) show that 7 of 17 schools have more students than the capacity determined by the academic capacity formula used by the School Board. Two schools, in particular—Montvale Elementary and William Blount High—are well over capacity.

Many other schools are operating well below capacity, and in many school districts this would allow for altering school attendance zones to balance capacities. Apparently this approach raises problems in Blount County. At the same time, subdivision approvals have not been held up due to the school problem.

## **Resolving the Problems**

The assessment of subdivision impacts on public facilities provided in the subdivision regulations should be regarded as a major input to Planning Commission decisions for subdivision approval. The assessment should not be ignored because it poses difficulties. Many communities require developers as a matter of course to provide studies that demonstrate the adequacy of facilities to serve the subdivisions they propose. Such studies can provide a starting point for evaluation of subdivision impacts, together with data assembled by County staff.

Most local jurisdictions are reluctant to halt subdivision approvals due to inadequate facility capacities (although some communities use this requirement to slow or stop growth). However,

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as Lamb points out in his memorandum concerning the school problem, the County must act to establish reasonable capacity standards to be applied (in this case in cooperation with the School Board) and to establish a capital budgeting procedure that identifies the timing of facility needs and the funding resources that will be required to provide them.

This level of effort should be put in place across the board for all the facilities required in developing subdivisions. The members of the Planning Commission should not be expected to estimate the adequacy of facilities without specific capacity standards and solid information on existing facility capacities and plans for facility expansion. The County's quality of growth is too important to be left to guesses and hopes instead of specific standards and data.

Implementing such a requirement will not be an easy transition. It will require studies and plans and funding programs. For example:

- **Roads** — Needs for road improvements can be estimated by traffic engineers who can project traffic generated by proposed subdivisions, determine affected roads, and propose capacity improvements as needed. Often, planning departments require developers to commission such studies. The studies should rely on traffic and road standards established by the County, based on a highway and road plan that determines modern road standards adequate for long-term needs. In time, the County may be able to acquire the capabilities of using the Knoxville-area metropolitan planning organization's transportation forecasting models or one of its own to generate traffic impacts of proposed subdivisions.

Developers should be required to fund road improvements specifically needed to provide adequate capacity for traffic generated by proposed subdivisions, both on and off the subdivision sites; other needs should be incorporated in a County capital improvements program.

- **Schools** — As indicated above, the County staff should work with the School Department to agree on capacity standards and work out a program of school improvements to meet future needs. A staff responsibility should be determined to evaluate the school needs of each proposed subdivision and to track capacity related to the location of building permits issued each year. The location of new schools and school improvements should be closely related to planned development as indicated in the County land use plan.
- **Sewer and Water Facilities** — A plan for extending sewer and water facilities is proposed in the section on Zoning to Retain the Rural Character of the County.

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- **Parks and Recreation Facilities** — The current plan of the Parks and Recreation Commission focuses mostly on proposals for recreation facilities. That plan should be upgraded to include other aspects of a green infrastructure system for the County, including parks, greenways, and environmentally sensitive areas such as stream valleys, wetlands, and steep slopes.

Such a plan would provide the basis for requiring developers to dedicate open space based on specific standards for conservation and per resident in proposed subdivisions.

## **Recommendation**

The County should immediately move to reinstate the requirement for an assessment of adequate facilities for every subdivision application. It should establish staff committees to determine appropriate standards and define existing capacities of each type of facility. Developers should be required to prepare parts of the assessment not available through County staff. The County should prepare an annual six-year capital improvements program on which to base decisions about capacity availability and public and private funding requirements in future years. The County should consider a moratorium on subdivision approvals until such actions have been completed or unless developers are willing to supply the required data.

## **Newly amended section of the Blount County Subdivision Regulations (Spring 2005)**

### **6.1 (2) Land Unsuitably Located for Subdivision**

The Planning Commission shall not approve what it considers to be scattered or premature subdivision of land which would endanger health, safety or property because of lack of or adverse effect on water supply, schools, proper drainage, good transportation, other public services or public funds for the supply or maintenance of such services.

- (a) In establishing the impacts of subdivision of land on public infrastructure or the public health, safety and welfare, the Planning Commission shall require studies of such potential impact to establish a factual basis for decision, shall refer to expert opinion and professional standards for infrastructure service, shall require cost estimates for any needed improvements to overcome deficiencies, and shall establish a record for each decision under this section. The Planning Commission may require

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the developer or subdivider to provide such studies and other information as part of subdivision plat consideration. The following subsection(s) present specific criteria and procedures for land suitability or infrastructure of concern, but shall not limit consideration of other issues of land suitability under this section.

- (b) Minimum off-site Road Standards as Criteria Precedent to Platting. Except upon recommendation of the County Road Superintendent, a minimum off-site of eighteen (18) feet of paved width with two (2) foot shoulders on either side shall be present from entrance to any subdivision or development to intersection with any road with same standard or better, for consideration of any major plat of five (5) lots or greater. In determining the status of a proposed subdivision as a major plat, this section shall apply also to any combined division of the same property within one year of consideration of any plat involving that property, and to overall platting of any land in phases.

For the purpose of determining paved width of roads, the roads list maintained by the Blount County Highway Department showing road pavement width shall be the basis for determination, provided that direct measurement showing roads of greater width than listed may be considered.

For the purpose of this section, shoulder shall mean an area outside of two nine (9) foot paved travel lanes (18 foot total travel surface) with the following characteristics:

- i) two feet of unobstructed and well drained width at outside of travel lanes,
- ii) no more than eight (8) percent slope from outside edge of travel lanes, and in no instance more than seven (7) percent maximum algebraic difference in slope between travel land and shoulder grades, and
- iii) surface treatment of hard pavement, gravel or compacted earth, flush with the surface of travel lanes.

The Planning Commission may consider lesser pavement width and shoulder width upon submission of a traffic and roads condition study by the subdivider or developer. The traffic and roads condition study shall be done by a qualified engineer licensed in the State of Tennessee and acceptable to the County Road Superintendent.

The traffic and roads condition study shall at a minimum contain present road and shoulder width of off-site roads measured at intervals of no greater than one-tenth (0.1) miles, present and expected future ADT

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(average daily traffic), and specific impact of the proposed subdivision or development on the safety of traffic on off-site roads. Upon determination and recommendation by the County Road Superintendent or his designee, the study shall also assess road geometry (vertical and horizontal curves, etc.), sight distances, bridges, and roadside hazards as part of determining safe and acceptable road conditions. The study shall also include estimates of cost to improve the existing roads to safe and acceptable conditions.

The traffic and roads condition study shall assess whether or not existing road width and shoulder width and other design factors of off-site roads would be sufficient to protect the public health, safety and welfare of existing and future county residents in relation to additional traffic generated by a proposed subdivision or development. Engineering standards and practices acceptable to the County Road Superintendent or his designee shall be the basis for determining traffic generation from the proposed subdivision or development and assessing traffic impact and acceptable road conditions, such standards and practices to include: A Policy on Geometric Design of Highways and Streets, published by American Association of State Highway and Transportation Officials (AASHTO), 2001; and Designing Safer Roads: Practices for Resurfacing, Restoration, and Rehabilitation, Special Report 214, by Transportation Research Board of the National Research Council, 1987.

In considering lesser pavement width and shoulder width under this subsection, the Planning Commission shall not approve a major subdivision which has ingress and egress on off-site road (s) with less than two hundred (200) ADT (average daily traffic) may have distances of fifty (50) feet or less with pavement width between fourteen (14) and sixteen (16) feet if there are warning signs and adequate approach site distances as approved by the County Road Superintendent or his designee.

- (c) Standard of School Capacity as Criteria Precedent to Platting. Except in accordance with provisions below, no major plat of five (5) lots or greater shall be approved for subdivision if the school capacity of the elementary school, middle school and high school serving a proposed subdivision is classified “intolerable”. Such classification “intolerable” shall be based on yearly November study and report from the Blount County Board of Education, initial report for the purposes for this Section being dated November 5, 2004 and received at the November 23, 2004 regular meeting of the Blount County Planning Commission, in files of the Blount County Planning Department. In determining the status of a proposed subdivision of the same property within one year of consideration of any plat involving that property, and to overall platting of any land in phases.

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The Planning Commission may consider a plat of five or more lots under this Section under the following conditions:

- i. The Blount County Board of Education certifies that classification of “intolerable” for affected schools will be reasonably changed in the future based upon redistricting of school district areas; or
- ii. The Blount County Board of Education certifies that classification of “intolerable” for affected schools will be reasonably changed in the future based upon assured funding, design, siting and contract approval of new or expanded school facilities affecting subject schools; or
- iii. The Blount County Board of Education submits an amendment to its yearly report changing the classification of an “intolerable” school to a lesser classification; or
- iv. The subdivider or developer agrees to limit final plating of lots to no more than four (4) lots per twelve (12) month period; or
- v. The subdivider or developer submits compelling evidence accepted by the Planning Commission, that the proposed subdivision will not generate substantial school aged children that would impact capacity of schools affected by the proposal.

The provisions of this Section shall not apply if the plat under construction is in part or in whole a final plat of a current preliminary plat approved prior to adoption of this Section.

## **Blount County Technical Memorandum #17**

To: Blount County, Tennessee

From: Growth Management Institute

Subject: Selected Zoning Recommendations

Date: January 26, 2005

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### **The Rural Arterial Commercial District**

The Rural Arterial Commercial (RAC) District has been subject to repeated and heated debate, as described in great detail in John Lamb's January 5, 2004, memorandum to the County Commissioners. The County's first zoning ordinance included not only a Commercial District but a special exception in the Rural 1 and Suburbanizing districts that allowed a wide variety of general commercial uses along roads classified as arterial and collector in the major road plan of the regional planning commission. In effect, this special exception allowed commercial development along the entire frontage of the important travel arteries within Maryville's urban growth boundary (as originally drawn).

### **Concerns and Conflicts**

Soon after adoption of the ordinance, according to Lamb's memo, pressures for increasing permissive commercial use occurred, leading to adoption in September 2001, of a new Rural Arterial Commercial (RAC) District to be applied along arterial roads such as Highways 411 and 321. Property owners had to apply for rezoning to this District.

Approval of rezoning requests stirred considerable controversy, mostly from residents living near the properties to be rezoned. As a result, in mid-2003, the Planning Commission imposed a temporary moratorium on consideration of rezonings to consider possible amendments. Lamb's memo lists 13 requests for rezoning through December 2003. The Planning Commission approved five, two

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of which were approved by the County Commission. The County Commission denied two others (and sent one back to the Planning Commission for further consideration). The Planning Commission approved five more pending removal of the moratorium, denied one, and had one withdrawn.

After the moratorium was imposed, the Planning Commission held two public hearings on RAC issues, in July and September 2003. Comments by attendees varied but many expressed dislike of certain permitted uses and concern with the extent of commercial development, its architectural design, and the loss of rural land to commercial strips. Thereafter, the County Mayor's office proposed amending the RAC provisions to better define manufacturing uses, confine application of the RAC District to Highways 411 and 321 outside the Maryville growth boundary, to provide for some permitted uses in addition to special exception uses, to increase the lot depth from 500 to 750 feet (and 1000 feet in planned unit developments), and to change review procedures for altering uses.

## **The Concept of Strip Commercial Development**

The RAC District permits strip commercial development along the two main highways that act as gateways to the major cities in the County. The explanations given are that commercial development is an important generator of tax revenues, therefore commercial development should not be overly constrained by government regulations, and that highway frontages are traditional locations of commercial development. Often it is also implied that highways are inappropriate locations for residential uses. These reasons have been cited by many communities for supporting commercial development along highways.

Yet we know from experience that strip commercial zoning is responsible for increasing local traffic on roads and highways intended to serve long-distance travel needs. The many turning movements and distracting signs generate accidents, and commercial strips are unattractive gateways to communities and neighborhoods. They tend to age fast as more strips are built to compete with them.

Furthermore, commercial strips violate just about every Smart Growth principle—they use lots of land, are impossible to walk or ride transit to (even from nearby residential areas), lack community amenities, and are not nice neighbors. The County's 1999 Policy Plan states that strip commercial development along all major highways should be discouraged unless served by marginal access or frontage roads.

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As now written, the RAC zoning district allows strip commercial development at any point along two important sections of two highways that represent the backbone of Blount County's highway system. There is no predictability: the zoning is permitted upon application for rezoning, each application to be individually evaluated and decided. Furthermore, although a number of uses are allowed through special exception, no criteria or conditions are provided to guide BZA decisions.

And now we know how to cluster commercial activities in ways that use land more efficiently, reduce turning movements, promote walkability, and generate attractive commercial centers that communities can be proud of.

## **The Concept of Commercial Clusters**

The cluster idea is not a difficult concept to understand; it simply concentrates the individual commercial outlets and shops and services found in strip centers at designated intersections. Developers know how to do it and develop that way more and more. The cluster provides opportunities for designing groups of buildings, providing landscaped parking lots, allowing some walking between stores, making a "place" in which several errands can be accomplished at once. The County's Policy Plan calls for "rural support centers" where service and convenience commercial activities can be concentrated.

Clusters can provide the commercial space required for a growing county without losing potential tax revenues. In fact, cluster commercial developments may retain and even increase their value compared to declines and vacancies often occurring in strip development. At the same time their appearance will contribute to the quality of the community, whereas commercial strips usually degrade community attractiveness.

## **Recommendation**

It is recommended that the County concentrate its RAC zoning in a few areas along Highways 321 and 411, generally at important intersections, and that it formulate design guidelines for each of these areas to promote commercial development particularly suitable to individual areas. In the Townsend area, for example, zoning should emphasize the "gateway" effect of this area as an entrance to the Smokey Mountains, with uses appropriate to welcome visitors. Some areas probably can be focused around existing development but can take on new life by reducing the over-zoning promoted by the strip commercial concept.

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Clustered zoning will require downzoning some areas to prohibit further commercial development and upzoning others to promote clusters that use shared parking. However, the 750-foot depth of zoning for commercial development could remain appropriate.

Quoting from Lamb's memorandum of November 17, 2003:

“If there is to be some chance for strip commercial development to be controlled, there needs to be more than just statements of general principles. Detailed corridor land use plans for Highway 411 South and Highway 321 will be needed to give geographic specificity to where commercial development will be considered and where not, and thus where zoning for commercial use would be appropriate.”

This rezoning effort would be a highly appropriate activity for the proposed Intergovernmental Commission on Smart Growth to undertake, since it will affect the urban regions and adjoining rural areas of the County.

## **Zoning to Retain the Rural Character of the County**

Retaining the rural character of the County was one of the five guiding principles of the 1999 Policies Plan, and that objective was repeatedly referenced by County residents in the workshops organized by Hunter Interests Inc. for the growth strategy study. Yet the County's zoning for most of the privately owned property in the County requires minimum lot sizes of a half acre. Larger lot sizes are frequently required to meet standards for septic tanks.

The relatively low density of most County zoning has two effects on land use and development: first, it spreads out development and therefore uses land that otherwise could remain in open space such as farmland and forested areas, and second, it fails to create compact development that could enliven urbanizing areas near existing cities and towns. Blount County's zoning is neither fish nor fowl, neither rural nor urban. Instead, it is a recipe for sprawl, which goes against the letter and spirit of the County's Policy Plan.

The propensity of many Americans to want large lots and large houses is being supported by public fiscal policies that value short-term savings over long-term costs. Houses on one-acre lots served by septic tanks, wells, and narrow quality roads seem initially attractive, and they sell well. But years from now, when square miles of territory are covered with such development, septic tanks and wells will need replacing by public water and sewer systems to cure

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environmental problems, and narrow roads will need improving to carry the traffic generated by hundreds of homes. In plain terms, today's style of development is not a good investment for most communities.

In the particular case of Blount County, low-density development is being forced by limitations on public sewer and water systems available to serve development outside city boundaries. Technical Memorandum #6 described this problem, noting that "the County is virtually locked into what is generally considered to be a low-density development pattern." County officials have indicated that the County does not intend to be a provider of public sewer service. Neither Alcoa nor Maryville have worked out a specific, predictable plan for extending such systems into the areas within their growth boundaries. The County has not worked with these jurisdictions to promote such a plan. Nor has it investigated the possibility of allowing developers to design and build systems that could serve their projects. Hunter Interests has described a variety of such systems in previous Technical Memoranda.

## **Recommendation**

Low-density development at a half-acre or more per lot will continue to be the standard choice of developers until sewer systems are made available to allow smaller lots. To enable higher density, urban development, the County should work with its cities to prepare a plan for extending or locating sewer service on a phased basis within growth boundary areas. If necessary, it should consider placing a moratorium on additional subdivision approvals within growth boundaries until such a plan can be formulated and put into operation.

At the same time, much more could be done to discourage low-density sprawl in other parts of the County. Experience in other jurisdictions across the nation indicates that requirements for 10, 15, or 20 acres per lot are necessary to limit the amount of low-density development. The minimum lot size in Blount County is five acres per unit in the R-2 Zoning District near the Smoky Mount National Park. In addition, the County could promote innovative approaches being used throughout the nation to cluster development to conserve open space, including traditional neighborhood designs that provide for small lots in return for provision of attractive civic spaces.

## **Recommendation**

As a starting point, the County should consider raising the minimum lot size of R-1 zoning outside the city urban growth boundaries to five acres. The minimum lot size in the R-2 District should be raised correspondingly to 10 acres. In both districts, small clusters of existing development could be designated as "hamlets" or "villages" and allowed some expansion over time under special regulations. This type of zoning can conserve the open space and rural character so desired by County residents.

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Increasing minimum lot sizes can be accompanied by programs to acquire development rights and/or transfer of development rights. The Technical Memoranda providing examples of Purchase of Development Rights and Transfer of Development Rights ordinances suggest approaches to County adoption of such programs.

In addition, recommendations for improving the County's subdivision regulations propose to require developer set-asides of land to preserve environmentally sensitive lands and provide park and recreational open space for future residents. These conservation approaches can be incorporated in innovative subdivision designs that reduce land required for development and that provide for conservation of green infrastructure.

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## Blount County Technical Memorandum #18

To: Blount County, Tennessee

From: Hunter Interests Inc. and Growth Management Institute

Subject: Alternative Futures

Date: January 27, 2005

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The scope of work for the Blount County Growth Strategy included the task of portraying alternative futures in Blount County predicated on implementation of the Blount County Growth Strategy (or lack thereof), and to generally incorporate consideration of other policy, planning, economic, social, educational, etc., elements.

Blount County in fact faces stark choices and starkly different futures depending on a host of interrelated dynamics. These include underlying population and economic trends, the public's desires pertaining to the physical future of their communities and the natural and rural areas they enjoy, policy and planning decisions, political will, and hard decisions pertaining to budgetary and fiscal decisions. All this and more will shape Blount County's future. The intergovernmental agreements and degree of cooperation between all jurisdictions involved will also be an extremely powerful driver of the entire region's future.

This topic could be the subject of an entire study by itself, although to some degree the materials contained in this report reflect an aggregate view of the future from different perspectives. Below are some brief but targeted observations to be considered in the context of the Blount County Growth Strategy.

### **Alternative One: The Status Quo**

If current zoning, subdivisions, and land development regulations and ordinances remain essentially static, the future of Blount County is likely to be marked by continued suburban sprawl, a significant decline in the amount of green space and attendant "rural character," unattractive and congested transportation corridors, and other negative attributes of unmanaged growth.

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While many of the policies of Blount County government, including those contained in the Blount County Policies Plan, are intended to foster a different future, the realities associated with both ordinances and procedures do not. Thus, as set forth elsewhere in the document, the Blount County Growth Strategy is intended as one implementation tool for realizing the future intended by the Policies Plan and endorsed through a broad-based community outreach effort that has been pursued by the County over time, including the study period for the Blount County Growth Strategy itself.

Some specific examples associated with a future in which the status quo is maintained include the following.

- **Routes 321 and 411** will continue to develop under a zoning ordinance that permits un-compatible uses, and offers little guidance with respect to signs, design features, etc. The lack of sewer or an alternative treatment plan will cause the scale of commercial development (as well as density of residential development) to remain low. For example, a town center or village center for retail, restaurants, office space, etc., would probably be infeasible at this time due to the limitations imposed by the septic-only sewage treatment. This same limitation will have an impact on tax base potential which in turn has various negative ramifications on Blount County's future.
- **Open Space and Rural Agricultural Lands.** As population in the County is expected to increase steadily (approximately 2% per year), so too will the demand for housing. The Blount County Growth Strategy recognizes the role such development plays in the economy and does not seek to limit or restrict population growth. Limited management of the development that will accompany this growth, however, will cause a fairly rapid and irreversible conversion of what are now farmland and other open space to residential subdivisions.

*While the County has thousands of protected acres within the Great Smoky Mountain National Park, this may be the only green resource remaining as time shifts in the economy (movement away from agriculture), demand for housing and development pressure gradually erode the remaining green infrastructure.*

- **The Little River Watershed** is endangered as well, and is likely to suffer greatly in a laissez faire zoning and land development environment. As the soil's capacity for accommodating septic fields is increasingly pressured, further pollution of the Little River is inevitable.

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Furthermore, development along the river is likely to increase over time, thus exacerbating the environmental issues while at the same time eroding green space, view sheds, and recreational infrastructure that is at the very heart of Blount County's tourism industry as well as a key component of the "rural character" and quality of life the County residents cherish.

- **Adequate public facilities**, especially schools, are already succumbing to the pressure created by more and more single-family homes that tend to attract households with children. While that in and of itself is not a bad thing, the lack of fiscal ability to provide for services and facilities, coupled with a widening imbalance in the tax-service ratio (an average single family home results in a net fiscal loss to the County as demonstrated by the Economic and Fiscal Impact Model prepared for the County) makes the laissez faire atmosphere fraught with potential problems. A fiscal solution must be sought that includes building the commercial/industrial economic base (currently hindered by the septic-only sewage treatment situation), and adjusting the residential taxing bases to assure adequate facilities (including schools, roads, etc.) can, in fact, be provided to County residents.

## **Alternative Two: Managed Growth Using the Blount County Growth Strategy and Its Attendant Recommendations**

Reflecting back on the essential purpose of the Blount County Growth Strategy, which is to serve as an implementation tool for the Blount County Policies Plan, it is the future of the County that is precisely at the center of the growth issue. If the County manages growth pursuant to the Blount County Growth Strategy and the interrelated plans and policies that affect its implementation, a future very different from that which may evolve under the status quo scenario summarized above may be achieved. Some examples include:

- **The future of Routes 321 and 411** can be dramatically altered from the negative scenario depicted in Alternative Future #1 if various recommendations of the Blount County Growth Strategy are followed. (For more information please refer to Technical Memorandum #9: Transportation Issues; Technical Memorandum #16 Adequate Public Facilities Discussion; and, Technical Memorandum #17: Selected Zoning Recommendations. Revisions to the RAC zoning that limit permitted uses to a wide-ranging yet compatible mix will have a positive effect on the character of these important corridors over time. Likewise, implementation of the recommended overlay districts and design guidelines will effect physical improvements that will further enhance the quality and character of development, thus improving the traveler's experience whether that person is a tourist heading for (or home from) the National Park, or a County resident shopping or conducting ordinary business. It is envisioned that several overlay districts would be put into place with appropriate design guidelines prepared for each. Thus, for example, an overlay district that encompasses a stretch of Route 321 approaching Townsend might have particulars associated with ensuring a high quality "gateway experience," while more highly developed (and developing) commercial segments (e.g., Routes 411 and 321 South) could focus on the character of larger buildings and their orientation to each other and the public at large.

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- **Open space and agricultural lands** can be preserved through a combination of initiatives stressed by the Blount County Growth Strategy. Implementation of related subdivision regulations, Purchase of Development Rights programs (PDR), Transfer of Development Rights (TDR) programs, support for the Foot Hills Land Conservancy and other land conservation programs can have their effect. Many of these same initiatives can serve to enhance the economic viability of agriculture and tourism, sectors that relate to the whole open space vision for the future.
- **The Little River Watershed** can be protected through the use of improved sewer and water treatment facilities, buffering of development through zoning overlay district implementation, and enforcement of development regulations pertaining to run-off, storm water containment, etc. The preservation of the Little River Watershed is critical to maintaining the tourism base in Blount County, and is an integral aspect of the quality of life desires of the community.
- **Adequate Public Facilities** in Blount County are also at the crux of the growth issue/dynamic, and would be required under the zoning recommendations recommended in Technical Memorandum #16 (Adequate Public Facilities Discussion) and Technical Memorandum #17 (Selected Zoning Recommendations). Slowing suburban sprawl in the County (an effect of the overall Growth Strategy if implemented) will also have an impact on ensuring the provision of adequate public facilities and services. Similarly, the implementation of the Maryville Urban Growth Strategy will contribute to easing the burden, or at least the incremental increase in pressure, on public facility development in the County.

The permutations of Blount County's future related to continuing with the status quo, or taking a proactive role in managing growth through implementation of this strategic plan reach toward infinity. The strategy and the associated effort at implementation may be viewed as an inverted pyramid, with cause and effect, contingent futures, leveraged actions, etc, stretching out in an ever-widening interrelationship of growth dynamics. Clearly, policy and decisions makers as well as its citizens in Blount County can, and will, shape its future regardless. The key is making cognizant choices that together will have the effect of delivering a physical and economic environment that is in keeping with the vision of the people as it has been woven into and otherwise interpreted by the Blount County Growth Strategy.

## Technical Memorandum #19

To: Blount County

From: Hunter Interests Inc.

Subject: Regional Development Trends and “Hotspots”

Date: May 2, 2005

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### I. Introduction

Development trends in Blount County are influenced by a number of key factors including transportation and access, public facilities such as water and sewer, schools, and amenities. Other factors such as proximity to the airport, tourism, and desirable geographic features such as the Tennessee River and the Smoky Mountains, have exerted their own unique influences on real estate development. For instance, as the main transportation hub for the Knoxville MSA, the Tyson-McGhee Airport has leveraged significant new hotel construction in recent years, particularly within the Springbrook Corporate Center in Alcoa. The area within and around Townsend has been the recipient of lodging development as well, by virtue of its location on the edge of the Great Smoky Mountains National Park and its role in accommodating tourists.

The following analysis examines the likely impact of growth and development trends in Blount County that will impact it in the future. The purpose is to understand those external factors that are likely to change the demand for land, and the forces of development in Blount County. Attention will be focused on likely future changes in the regional highway and transportation network, as well as large development projects nearby that are likely to have spin-off impacts.

#### A. Residential

A review of historical data furnished by the Blount County Property Assessor’s Office reveals that significant residential construction in the 1960s had already begun to move out of the cities of Maryville and Alcoa and into other sections of

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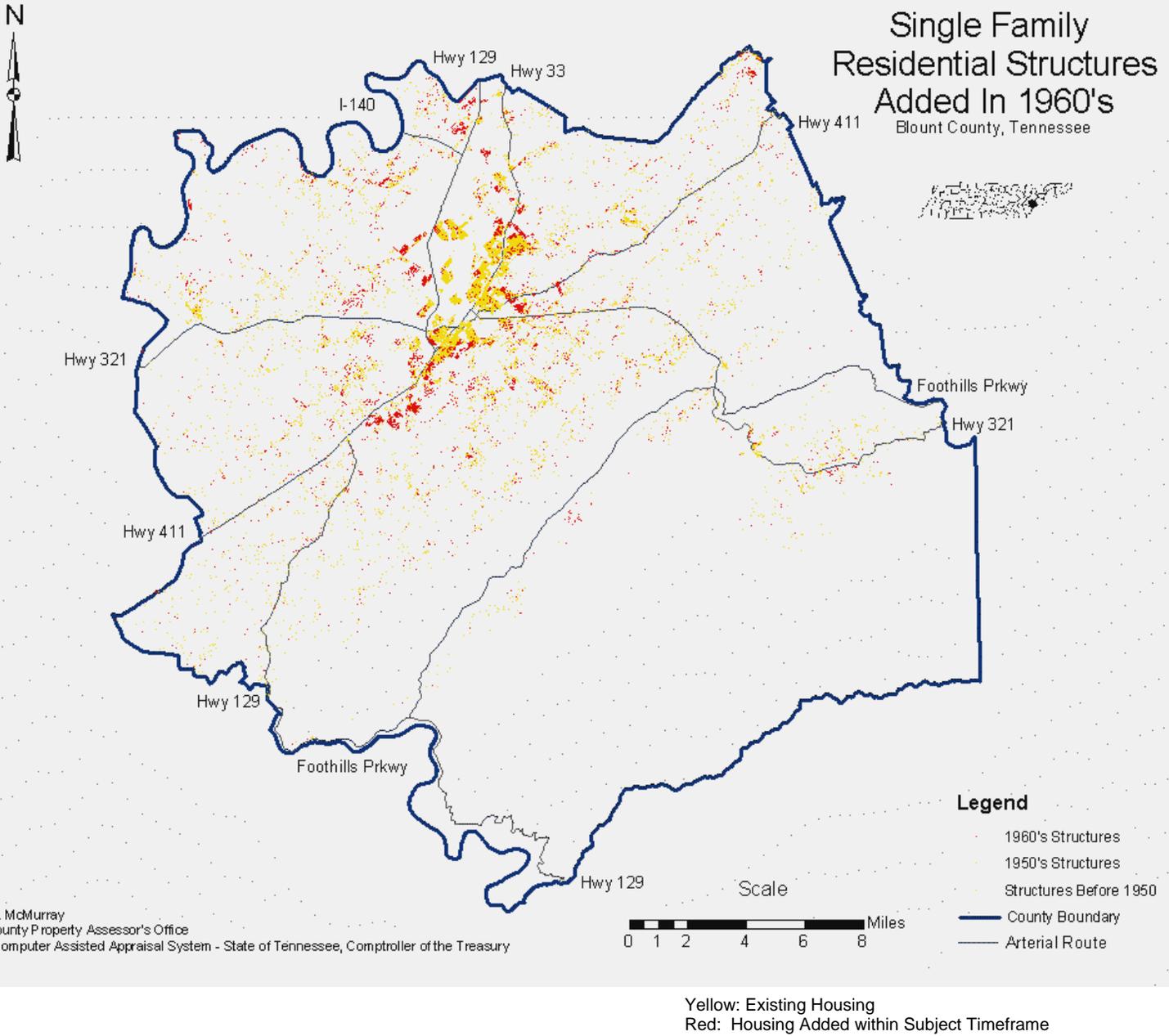
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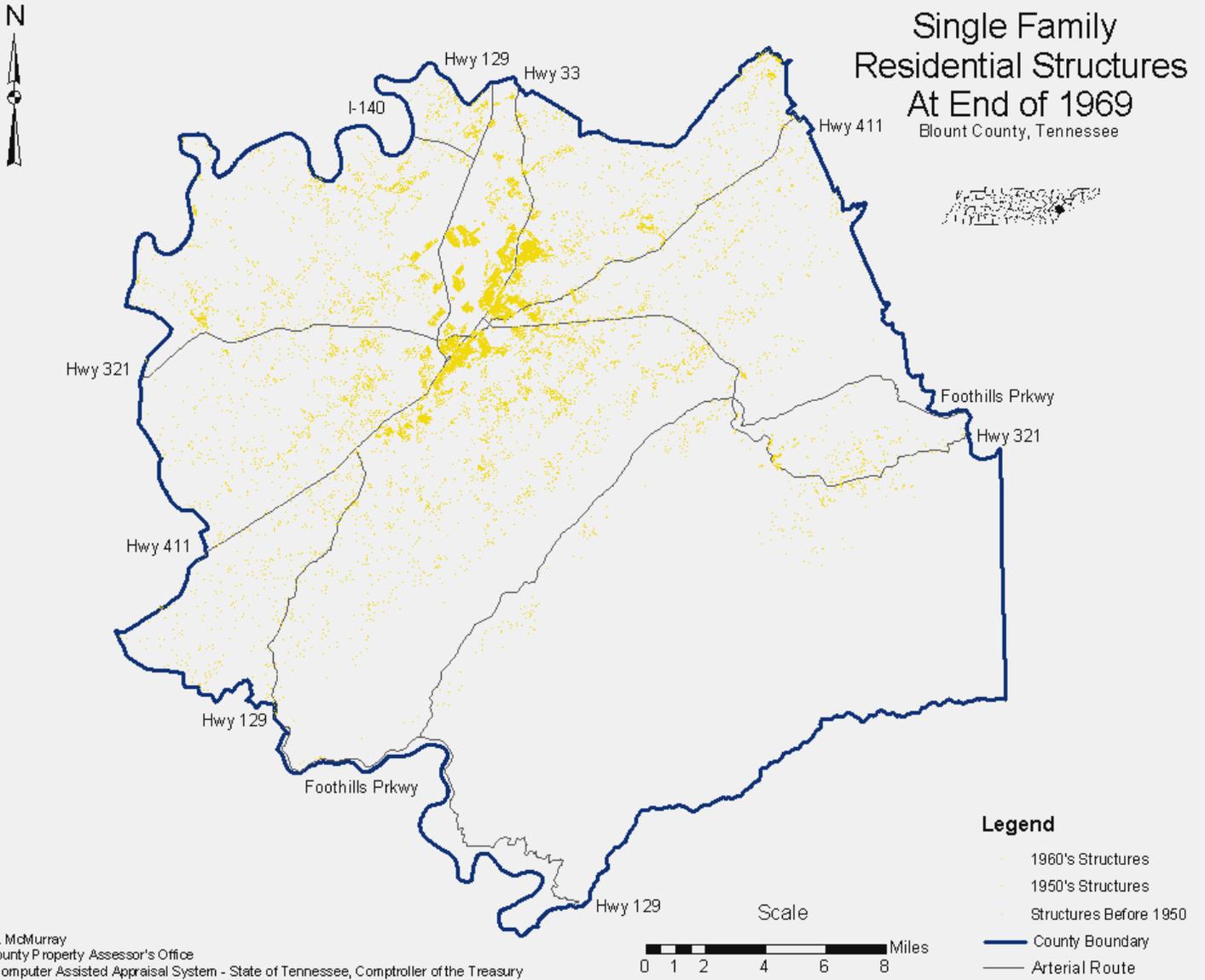
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the County. Indeed, the growth hotspots of the decade were clustered along Highway 411 South, and Highways 129 and 33 North. Through the 1970s and 1980s, development clusters had migrated farther away from the main transportation corridors and town centers. The suburbanization of the rural areas was proceeding in earnest, characterized by leapfrogging development in the pursuit of inexpensive land.

By the end of the 1980s, the heaviest density of residential development had occurred within a band running southwest to northeast along the south side of Route 411. The northwest quadrant of the Pellissippi Parkway and Route 129 had also been heavily developed, sections of which are within the Alcoa city limits. During the same period, the town of Seymour experienced sufficient residential development to evolve into a relatively coherent community. The following series of maps shows residential structures added, by decade, from 1960.

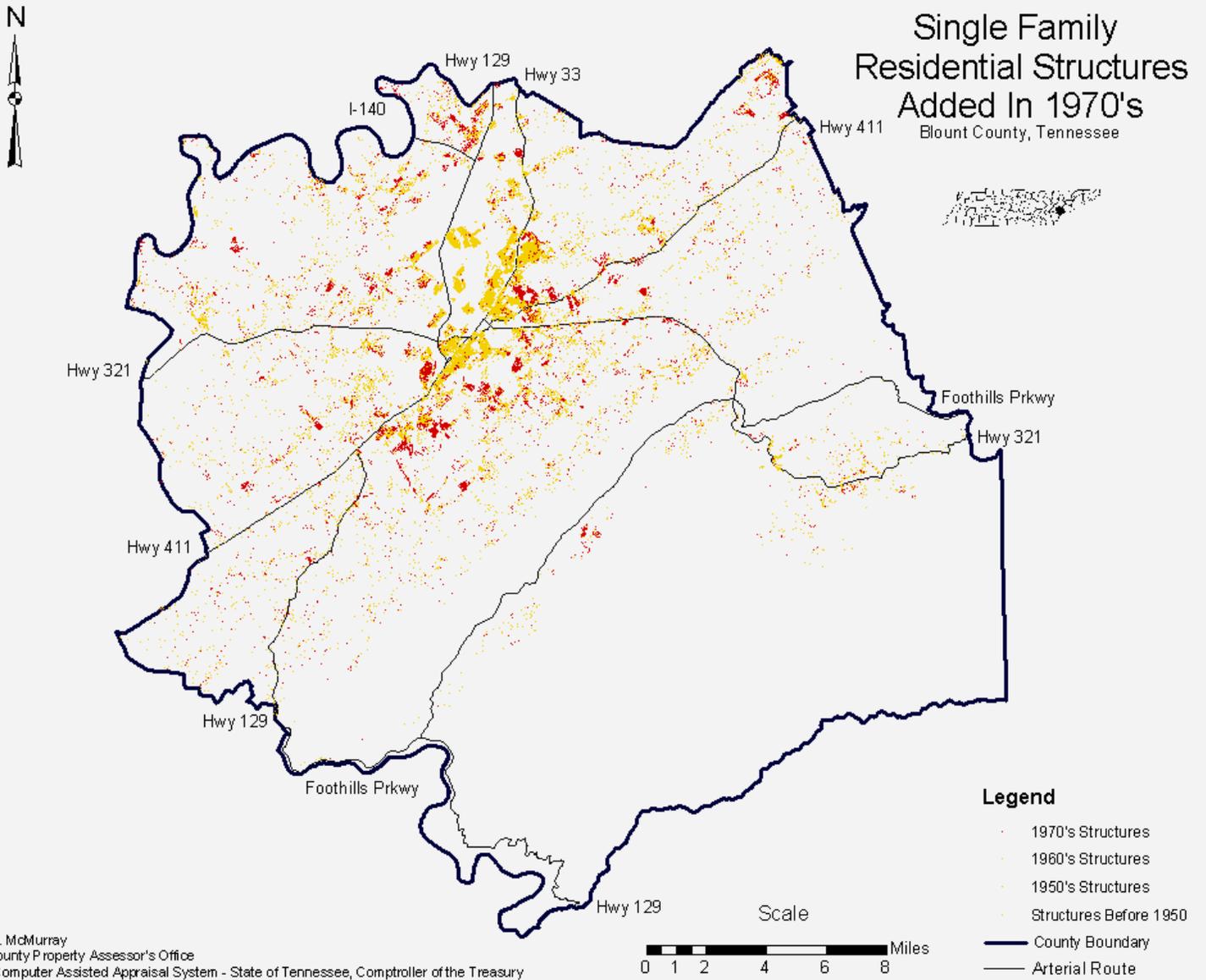


**Figure 1**  
**Single Family Residential Structures Added in 1960s**



**Figure 2**  
**Single Family Residential Structures at End of 1969**

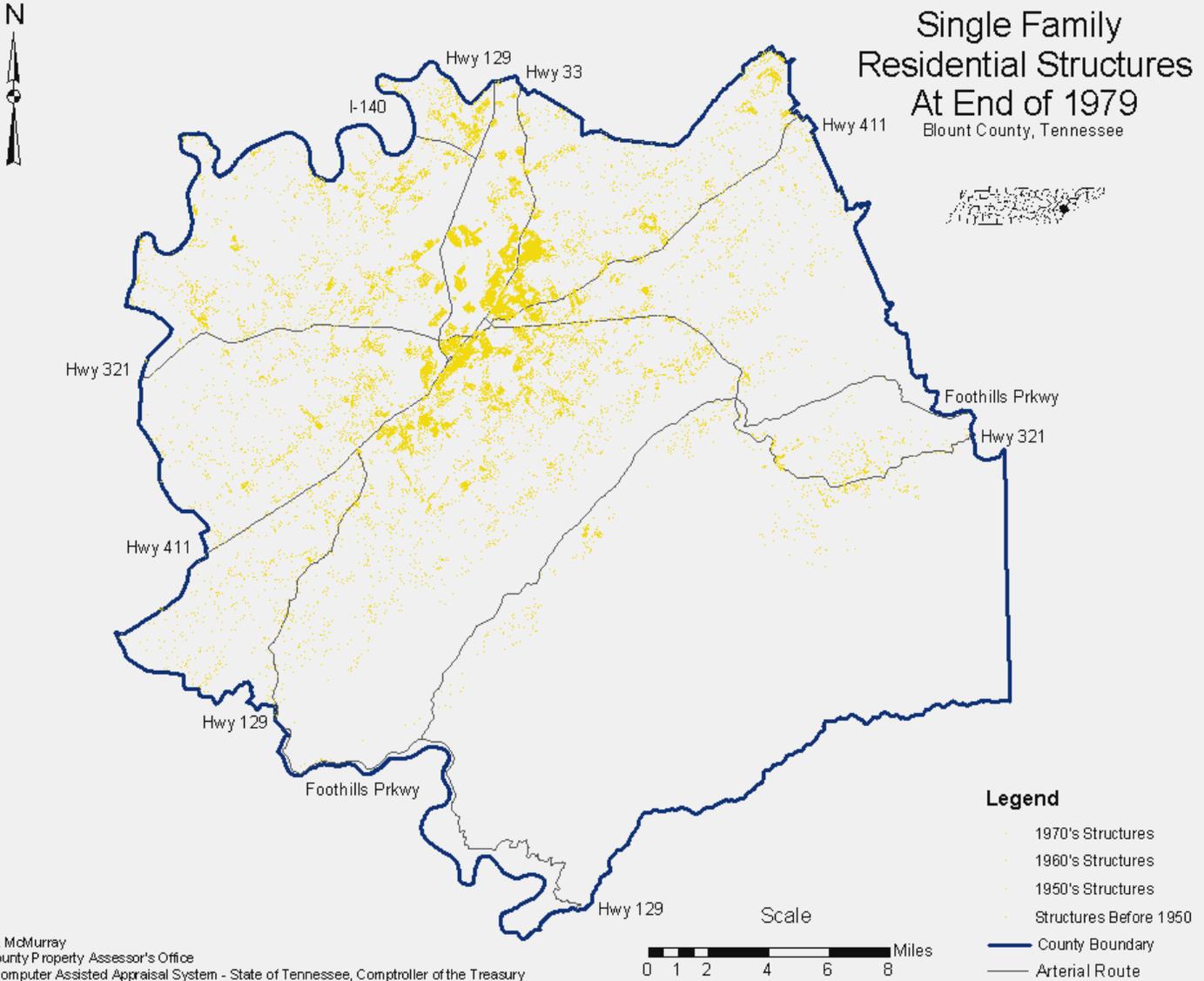
**Single Family Residential Structures Added In 1970's**  
Blount County, Tennessee



Trevor M. McMurray  
Blount County Property Assessor's Office  
source: Computer Assisted Appraisal System - State of Tennessee, Comptroller of the Treasury

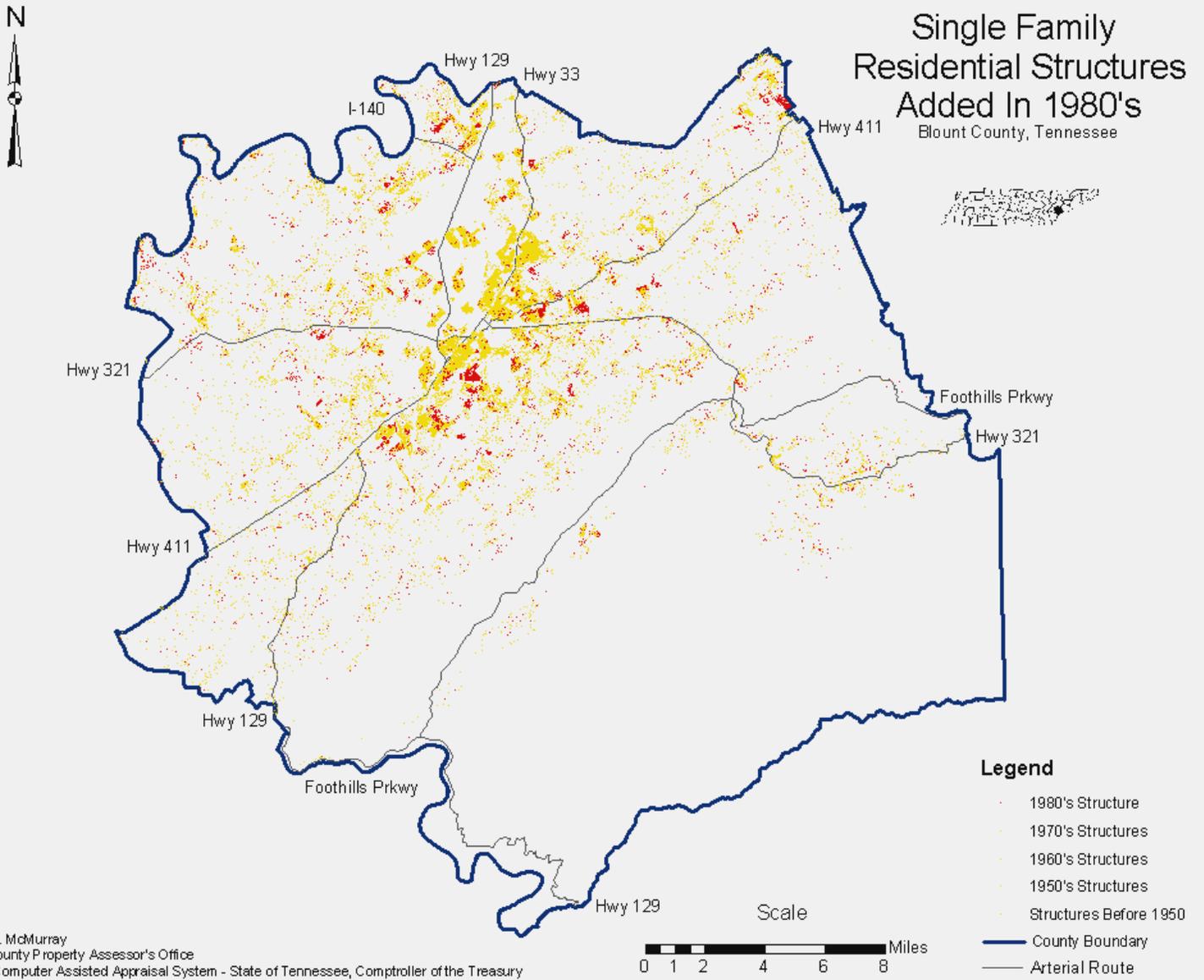
Yellow: Existing Housing  
Red: Housing Added within Subject Timeframe

**Figure 3**  
**Single Family Residential Structures Added in 1970s**



**Figure 4**  
**Single Family Residential Structures at End of 1979**

**Single Family Residential Structures Added In 1980's**  
Blount County, Tennessee

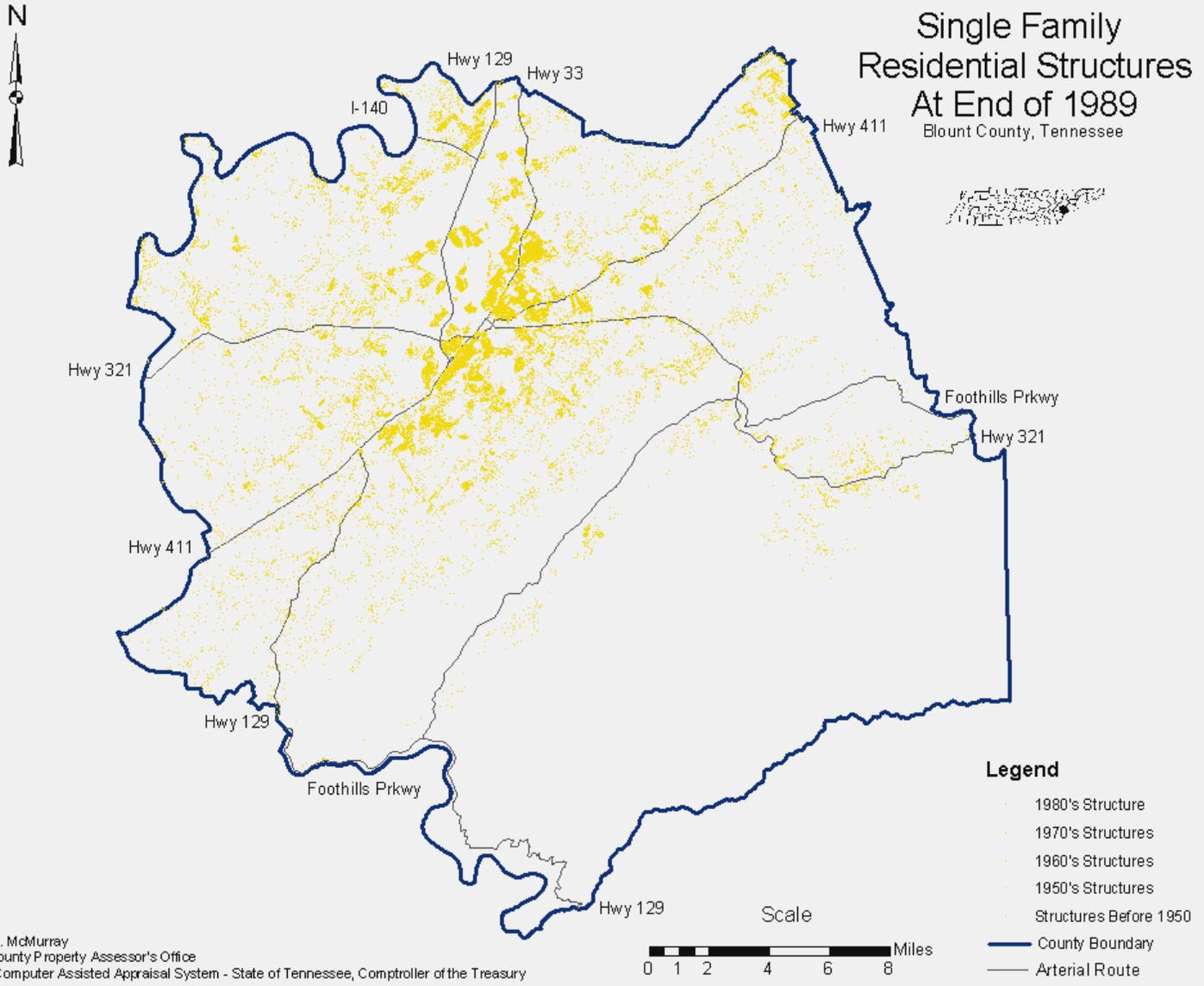


Trevor M. McMurray  
Blount County Property Assessor's Office  
source: Computer Assisted Appraisal System - State of Tennessee, Comptroller of the Treasury

Yellow: Existing Housing  
Red: Housing Added within Subject Timeframe

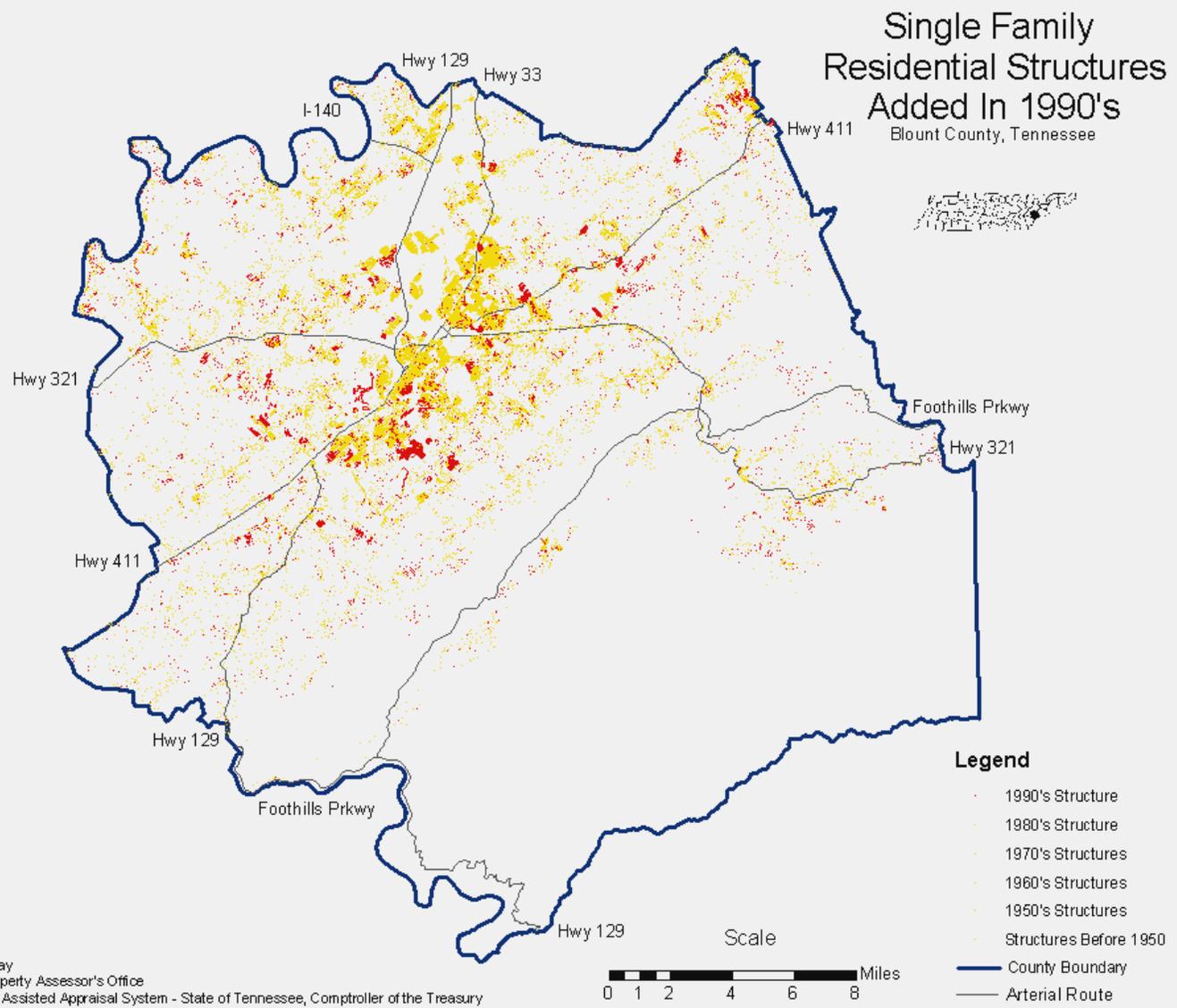
**Figure 5**  
**Single Family Residential Structures Added in 1980s**

Single Family  
Residential Structures  
At End of 1989  
Blount County, Tennessee



Trevor M. McMurray  
Blount County Property Assessor's Office  
source: Computer Assisted Appraisal System - State of Tennessee, Comptroller of the Treasury

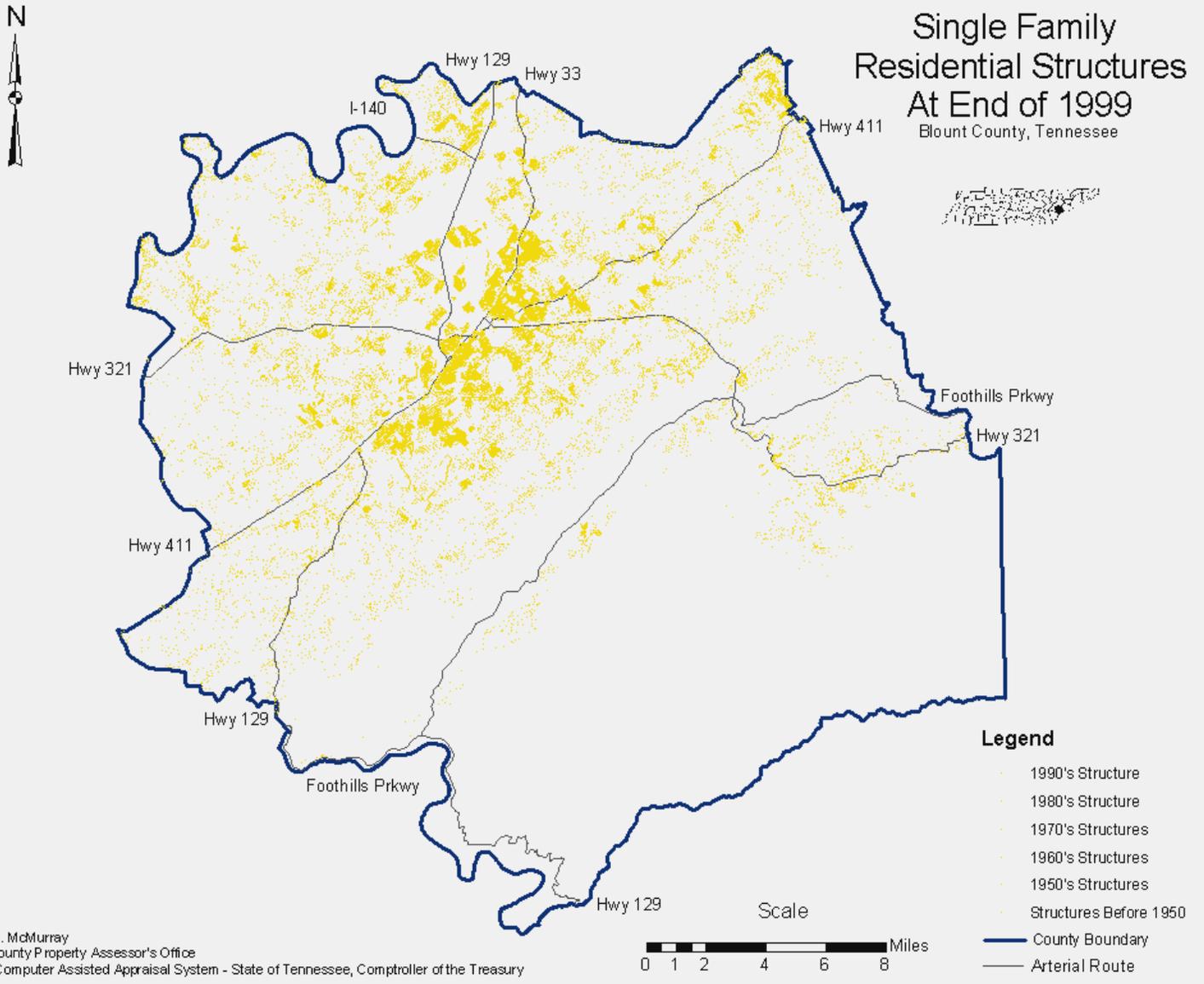
**Figure 6**  
**Single Family Structures at End of 1989**



Trevor M. McMurray  
Blount County Property Assessor's Office  
source: Computer Assisted Appraisal System - State of Tennessee, Comptroller of the Treasury

Yellow: Existing Housing  
Red: Housing Added within Subject Timeframe

**Figure 7**  
**Single Family Residential Structures Added in 1990s**



**Figure 8**  
**Single Family Residential Structures at End of 1999**

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Louisville and the balance of upper northwest Blount County have been largely spared the type of dense residential development that has occurred just to the east along the major roads. Nonetheless, the allure of the waterfront has attracted both dense townhouse development and high-end, estate-style development.



**The waterfront along the Tennessee River will continue to attract both large-lot and dense development.**

The appeal of the mountains has also drawn its share of development to Walland, Townsend, and the area in the southeast quadrant of the County, the Laurel Valley golf course community being a fine example. As the maps illustrate, however, the progression of development over the past 40 or more years has followed a pattern of sprawling out and away from Maryville and Alcoa, with many more homes constructed outside of the cities' limits than within.

Table 4 shows residential construction in Blount County from 1997 through 2001.

<b>Table 4</b>					
<b>Blount County</b>					
<b>Residential Construction Activity</b>					
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Units	1,403	1,340	1,476	1,363	1,098

Source: East Tennessee Development District; Hunter Interests Inc.

The average annual number of units constructed during the five-year period equals approximately 1,336. Annual residential construction averages for Maryville and Alcoa equal approximately 135 and 32 units, respectively, for a combined average of 167 dwelling units per year. Consequently, an average of 1,169 dwelling units per year are built in areas of the County outside of its two largest municipalities, in a pattern that becomes less coherent over time.

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The most recent development patterns illustrated in Figure 7, Single Family Structures Added in 1990s, suggest that the Growth Boundary areas designated as 411 South, Carpenters Grade/Mint Road Area, and Montvale saw the highest concentration of residential development in the 1990s (and 1980s as well). A smaller, but very evident concentration of development also occurred in the Growth Boundary area designated as 411 North. The four easternmost Growth Boundary areas would be most directly impacted by an extension of the Pellissippi Parkway to State Road 336.

Upon completion of the Pellissippi extension to SR 336, the northeastern section of the City will have a speedy connection to Knox County and the Oak Ridge area. One outcome of this improved accessibility to key regional employment centers should be to enhance the attractiveness of this area to potential residents, the possible net effect being acceleration in the rate of residential development.

The proposed Maryville-Alcoa Bypass, more commonly known as the southern loop, would provide a southern and western loop around the City. This would potentially relieve some of the congestion through Maryville by diverting much of the transient travelers and some of the localized traffic. Similar to the Pellissippi extension, an added consequence would likely be acceleration in development of the area proximal to the new Bypass, and beyond. It is certainly within the realm of possibilities that Blount County could experience a noticeable increase in its overall population and housing growth rates as the effective distance to Knoxville and Oak Ridge is shortened, barring some external growth limitations as a result of public policy.

Almost certainly, the interchanges created at Routes 411 and 331, and SR 336 would see a degree of increased development activity. The intersection of Pellissippi Parkway and Topside Road provides a case in point in support of this assumption. This area presently supports a mix of uses, including multifamily residential, commercial office, and retail, with additional new commercial development in the pipeline.

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**The images above show the variety of use types near the intersection of Pellissippi Parkway and Topside Road. Upper left: Apartments. Upper Right: Marriott Business Services office building. Lower: Auto-oriented center.**

## **B. Commercial and Industrial**

Most of the existing commercial development clusters outside of Maryville reside within the Alcoa city limits, such as the aforementioned Springbrook Corporate Center, the “Motor Mile,” and, of course, the Aluminum Company of America plant. Indeed, the businesses shown in the group of pictures above are within the Alcoa city limits.

Commercial development within other municipalities and unincorporated areas of the County are mainly located off of the main connector roads such as State Road 333 west and Route 321 east. Although some of the commercial development along State Road 333 in Louisville is clustered, such as the Topside Business Park, other commercial uses are relatively isolated and appear somewhat incompatible with the surrounding rural environment.

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**The Topside Business Park on SR 333 is generally in the vicinity of commercial uses.**



**This car wash and mini storage facility in Louisville sits in isolation on a rural stretch of SR 333.**



**Another commercial use in a rural area along SR 333 in Louisville.**

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The more highly traveled Route 321 east, consists of a mix of local and transient serving retail, auto-oriented uses, and community serving uses close in to Maryville that thin out as one travels east out into the County. Heading south towards Townsend, the commercial uses become more transient and tourist-oriented, but somewhat incoherent in their grouping. For instance, in one cluster, an antique store coexists with a tattoo parlor and an adult video store.



**These images show soft commercial clusters on Route 321  
On the top, a church is next to a western apparel store.  
On the bottom, an antique store resides next to an adult  
emporium and tattoo parlor.**

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Entering Townsend on Route 321, the dominant commercial enterprises are visitor and tourist-oriented uses such as lodging, food and beverage, museums, etc. A specific section of Townsend has been designated an historic zone as a means of preserving certain structures and limiting what can be developed there.



**Lodging properties such as this constitute a sizeable portion of Townsend's commercial sector.**



**This railroad exhibit and museum/restaurant are located within Townsend's historic district.**

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## **Summary Conclusion**

The future patterns and trends of development will be strongly subject to influence by three key factors: modifications in the transportation network, availability of public utilities, and public policy. Highway extensions usually create conditions favorable to development of all types, since access is generally improved to employment and activity centers. Absorption of undeveloped rural land will mean increased residential development pressure in those areas, which in turn should be the subject of growth management strategies. Businesses will continue to seek opportunities along the area's connector roads to capitalize on increasing local population and tourist visitation.

Market demand and the availability of land are what attract real estate development to an area or region. Market demand ebbs and flows based on numerous factors, not the least of which are economic. Real estate development is an economic sector unto itself, a fact that is not lost on most landowners. Indeed, many rural landowners recognize that their land's highest value lies not in farming, but in development. As long as there are people willing to buy land, there will be willing sellers.

Market forces will determine development patterns in the years to come, as evidenced by the residential sprawl and incoherent mix of uses in certain commercial clusters within the County. The application of responsible public policy and growth management techniques can ensure that development is guided and channeled in such a way as to accommodate demand while preserving open space.

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## Blount County Technical Memorandum #20

To: Blount County

From: Hunter Interests Inc.

Subject: Discussion of the Urban Growth Boundary, Chapter 1101 Legislation, and Annexation Policies Relative to the Blount County Growth Strategy

Date: May 1, 2005

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### I. Introduction

The movement toward managing growth in Tennessee has its genesis in the public expression of concern over a changing rural landscape, one that had drawn settlers and farmers in one era, and increasing numbers of families, retirees, and vacationers in another. In 1998, the State of Tennessee enacted Public Chapter 1101 to provide a new framework for annexation, incorporation, and the development of growth plans statewide. Through Public Chapter 1101, the General Assembly provided the structures and processes for local governments to cooperatively (an important word) determine their own future, but did not impose a single, mandated, statewide solution. Rather, Chapter 1101 provided flexibility so that local governments could tailor their growth plans to suit the unique character of their area.

To a large extent, the formation of the Blount County Growth Strategy and the City of Maryville Urban Growth Strategy have *their* genesis in the enactment of the Chapter 1101 legislation, and serve to some extent as implementation strategies of this statewide effort to manage growth. The Blount County Growth Strategy also serves as an implementation strategy for the Blount County Policies Plan that includes many self-determined efforts to manage land use, preserve the rural character of the County, provide adequate public facilities, and other basic themes of smart growth management.

The unprecedented cooperation of a County and City in growth management, as evidenced by the congruent development of both the Blount County Growth Strategy and the City of Maryville Urban Growth Strategy, represents both a field of great opportunity and a field of great practical and philosophical issues that must be addressed. A central concern for Blount County is the potential impact of an annexation policy by the City of Maryville (enabled and encouraged by Public Chapter 1101) that could, in theory, allow the City to grow to the limits of the Urban Growth Boundary.

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As there has been relatively little action associated with the implementation of the statewide growth management effort initiated by Public Chapter 1101 (beyond the establishment of Urban Growth Boundaries throughout the state—a major accomplishment in and of itself) there are few if any models that can be used to analyze the effects of facilitated annexation of county lands by municipalities. Indeed, Blount County and the City of Maryville are on the cutting edge of this frontier. therefore, forecasting complex cause and effect scenarios becomes an exercise in “crystal ball gazing” that goes beyond proven economic, demographic, and planning methodologies used in projecting future outcomes. Nonetheless, in this Technical Memorandum, an attempt is made to evaluate some of the dynamics that are now in play, including the formation of growth strategies in the County and the City that have many points of interface and are otherwise designed to foster a cooperative approach to growth management. That being said, it is clear that there will be a fair amount of push-pull dynamic associated with their respective implementation, and that too is recognized as a fact of the matters at hand.

## **II. Summary of the Maryville Annexation Policy Pursuant to Chapter 1101 and the City of Maryville Urban Growth Strategy**

In order to understand the implication of Chapter 1101 and Maryville’s annexation policy on Blount County, it is important to first have a basic understanding of what these are. The intent of Chapter 1101 is generally well known (even if it is not agreed with) and was intended, in part, to discourage municipalities from annexing along commercial development corridors in a spider vein encroachment into county lands that contained the greatest economic potential. At the same time, it was meant to afford municipalities greater ease in expanding in order to accommodate anticipated growth, and to otherwise retain growth and development pressure within designated UGBs, as part of the statewide effort to manage growth.

A first line of conflict arose as municipalities and counties negotiated the geographic boundaries of the UGBs, a process not unlike two foreign powers setting new national boundaries in conquered lands. Issues of economic resources, land-use, public opinion, politics, infrastructure, and the very future itself were subjects of intense focus. Even today, these issues are not entirely, or even close, to being reconciled, and the process of growth management that Blount County and the City of Maryville are now engaged in is sure to contain pitfalls, challenges, and disputes. Hopefully, it will also offer areas of agreement, opportunities for mutual benefit, and a future that holds a high quality of life for all in the region.

With the Maryville UGB in place (albeit subject to possible change in the future), the City has a foundation piece of its overall annexation plan in position, i.e., per Chapter 1101, a facilitated and guided annexation process. How, when, where, and at what pace that annexation process is implemented will depend on a host of factors—many of which are covered in the City of Maryville Urban Growth Strategy, and by extension the Blount County Growth Strategy. In essence, the City of Maryville Urban Growth Strategy calls for a phased annexation plan to be developed with key and continued input from the County, and based on economic modeling that will project new public facilities and infrastructure costs associated with growing the City boundaries, among other things.

The other side of the fiscal coin involves impacts on the tax base, impacts on student population and school capacity, costs of additional services, and other important factors to be considered in any annexation scenario (particularly now that Chapter 1101 encourages annexation of “blocks” of land that may include high concentrations of pupils, unproductive open space—from a tax perspective, and other areas besides commercial corridors). These balancing factors will probably have the effect of maintaining a fairly slow annexation process; however, it remains that a methodical, phased annexation plan is being pursued.

### **III. Annexation from the County's Perspective**

The very word “annexation” can stir a visceral response within individuals who may, or may not, stand to be impacted in anyway by such action. It seems to touch a nerve in the realm of property rights, civil rights, and other tenets of American life that we hold dear. This is no different in Blount County and indeed there is a recognized philosophical (as well as practical) opposition to annexation as a government policy generally, and a policy of the City of Maryville specifically. Nonetheless, it has been a fact of life in the past and it will remain a fact of life in the future, albeit under a new set of rules for the playing field.

#### **What is there to lose?**

From the County's perspective, “annexation” immediately conjures the notion that it is losing something to the City, and indeed there is a truth to this on certain levels. Control becomes the first element coming to mind, as the County would likely cede zoning to the City, thus giving it control over both zoning and sub-division approvals. This would not necessarily, be a bad thing for anyone involved, but it would be a matter of relinquishing a degree of control over land use and development.

Loss of tax revenues is probably the greatest concern, with new sources reverting to the City after a period of years. The economic and fiscal implications of annexation in this regard have not been fully dimensioned. However it is generally accepted that there could be a negative impact on the County's tax base growth potential under the implementation of a phased annexation plan that pushes outward toward the UGB.

Property rights was mentioned previously as a precept that is closely tied to opposition of annexation policies, and to the extent that property owners and residents would be treated under the City's more stringent zoning and subdivision approval regulations, there could be a perceived loss in this area as well. Perception—like beauty—is a matter of the beholder's eye, and not everyone would be expected to view annexation by the City as loss of rights. Indeed the additional services and sureties provided by the City would likely be perceived by many as a net gain.

#### **What is there to gain?**

From the County's perspective, it would appear that there are also advantages to cooperating in a phased annexation plan that allows the City of Maryville to grow. Among these would be the shifting of fiscal costs associated with resident services

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to the City, the shifting of a portion of the growing pupil population to the City (more residents in the City of Maryville school system), and placement of new development on City infrastructure including water and sewer.

At another level, the County stands to gain a better opportunity to maintain green space and the rural character that consistently ranks highest among residents as a goal and objective of County government and planning policy. By guiding more dense development into the UGB, the County will reduce development pressure somewhat and thus have a greater opportunity to preserve farms and other open areas while they still exist. Make no mistake that residential and other development will continue to take place in the County for the foreseeable future—there is no doubt that it will. Indeed, it is clearly recognized that the economic dynamic associated with real estate and the development and building trades are important to the County. The shifting of development pressure and density via annexation represents only an incremental redirection of this force, but perhaps enough to allow the retention of some farms and open space that can be preserved for future generations.

Streamlining of certain regulatory issues is another area of potential gain for the County under a phased annexation scenario. Specifically, the dichotomy that exists between the County and the City concerning development approvals in the UGB “no man’s land” (the land area currently outside the City limits, but inside the UGB) could be resolved. The problems that developers and homeowners have regarding the County-based zoning, and City-based subdivision approvals, must be resolved. Annexation is one way to achieve this, although a concerted effort to arrive at a mutually agreeable solution in the meantime would be a laudable accomplishment.

## **Is there a solution?**

As the County balances the manifold pros and cons of annexation, further implementation of the intent of Chapter 1101, implementation of its own Growth Strategy, and interfacing with the City of Maryville’s Urban Growth Strategy, many issues and opportunities must be put on the table and sorted out. Both the Blount County Growth Strategy and the Maryville Urban Growth Strategy call for the formation of an organization that will serve as a unifying element in the quest for smart growth management in the region. This organization is currently referred to as the Growth Management Coordinating Committee (GMCC) in the County strategy, and the Intergovernmental Committee on Smart Growth (ICSG) in the Maryville strategy, but their recommended purpose is essentially the same—to act as the interlocutor between County government, the City governments of Maryville, Alcoa and other jurisdictions, interest groups, and the public at large.

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It is envisioned that this organization could act as something of a mediation council on matters such as annexation. A forum where pros and cons, reasons and responses, could be heard would provide a meaningful and useful platform for working out the intricacies of such actions on a case-by-case basis. While the County and City would clearly hold their own counsel on matters such as this, a third party that included representatives of both bodies, as well as several others, might provide an important facilitating medium necessary for a cooperative growth management effort.

When talking about solutions between the County and the City regarding the implementation of growth plans, and specifically annexation per this Technical Memorandum, the consulting team has occasionally referred to the perceived need for “creative horse trading.” This means that there will have to be continued negotiated agreements on a myriad of issues, opportunities, actions, policies, plans and other elements of a cooperative growth management effort over time. For example, the issue of the City gaining tax revenues through annexation of commercial property could be mitigated through some type of pro rata revenue sharing mechanism. The additional density of commercial development afforded by connection to the City’s sewer system could thus be a gainer for both bodies. The building of new schools and accommodation of students could be similarly negotiated to mutual advantage in an environment of cooperation. Similarly, agreements on purchase, maintenance, and use of green space could not only benefit both bodies, but could benefit the region’s residents greatly in the quest to preserve the rural character and natural environment. Closely linked to this is the mutual acquisition and maintenance of rural lands and open space as the economic base of the area’s tourism industry.

Another area subject to “creative horse trading” may in fact be the Urban Growth Boundary itself. If the County perceives it is losing something (per the summary above), and the City perceives it may not need the entire UGB incremental land area for expansion, perhaps this could be an area in which productive bargaining could yield additional, mutually satisfactory results. Again, the body conceptualized as the GMCC or ICSG could assist in the facilitation of these discussions.

Clearly, there are many important issues associated with the Public Chapter 1101 legislation and the phased annexation policy of the City of Maryville. However, in the spirit of mutual cooperation on growth management as evidenced by the congruent development of the Blount County Growth Strategy and the City of Maryville Growth Strategy, it is hoped that a process and outcome will emerge that benefits all citizens of the region involved.

