



A Summary of Approaches Associated with Smart Growth Strategies

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ISSUES AND APPROACHES ASSOCIATED WITH SMART GROWTH

Incentives Model	2
by Mae Lee Hafer	
Addressing Urban Sprawl in South Carolina: The Market Alternatives	7
by Sean Blacklocke	
Growth Management Policy Land Use Regulations	10
by Thomas A. Rourke	
References	19

ISSUES AND APPROACHES ASSOCIATED WITH SMART GROWTH

Incentives Model

Mae Lee Hafer

There are various types of incentives that may be used to promote Smart Growth efforts. The following is a brief description of each type, advantages, disadvantages, and examples where these incentives have been used.

GRANTS/LOANS - Government funds are made available for a variety of purposes, such as direct financing in the form of low-interest loans or grants to seed appropriate development proposals in targeted areas. Advantages: give the government a direct and immediate means for shaping development; can leverage significant private investment; and can serve to take the sting out of regulatory programs. Disadvantages: cast the government into a role of determining which development project is most worthy; can be costly; and can create substantial administrative burdens.

Minnesota has authorized a broad roster of public entities, including rural development financing authorities, housing and redevelopment authorities, and economic development authorities, to issue bonds, grants or loans for economic development purposes that range from rural agricultural research to industrial development to habilitation of commercial buildings. Park City, Utah, has established grant programs that give cash and low-interest loans to landowners to promote the rehabilitation of properties in the local historic district.

In Colorado, the Division of Gaming has provided significant funds for historic preservation as part of a limited gambling program initiated in Colorado in 1992. Of the total funds paid to the state from gaming, 28% goes to historic preservation grants. Twenty percent of the grants go to the three towns where gambling is allowed, and 80% of the grants are distributed statewide.

REVOLVING FUNDS - Local governments establish revolving funds for property acquisition or development. Governments may combine the use of revolving funds with purchase and sellback programs, with the proceeds from resales deposited back into the revolving fund and reapplied toward further purchases. This technique has been applied in land conservation and historic preservation programs around the nation. Advantages: stretch limited financial resources by applying essentially the same funds to numerous development projects; can leverage private investment; and can be useful where the fund can target feasible development or where markets are strong enough to provide some capital gains on property sales. Disadvantages: initial start-up costs can be high and funds may incur the financial risk that the development will fail and deplete the fund or that there will be no resale market.

Revolving funds can be used to finance compatible development. In Savannah, Georgia, the Historic Savannah Foundation established a revolving fund which it used to acquire and preserve more than 250 historic buildings. After acquiring properties, the fund attached preservation covenants, and then resold the properties. In addition to the preservation of the acquired and resold buildings, the fund's activities provided an indirect stimulus for additional historic preservation activity.

PREFERENTIAL TAXATION - Where potential profits motivate landowners to convert low-density land uses to higher intensities, preferential tax programs such as current use assessments can counter these motives by providing incentives to maintain existing low intensity uses. Advantages: equitable means to encourage low-density uses through tax assessments that reflect current rather than prospective values and accomplishing land conservation goals without use of regulations. Disadvantages: may be costly in terms of foregone tax revenues and profit motive may outweigh benefits of a property tax break and lead to inappropriate development.

Local governments levy real property taxes against the assessed value of property. Current use assessments alter assessment practices by requiring assessments to reflect actual current uses rather than prospective potential uses. Where development pressures create higher property values and tax burdens, current use assessments thus provide tax relief to landowners who choose to continue agricultural or other low-density uses rather than using the land for higher intensity uses.

The Colorado Constitution provides a preferential tax system to encourage continued agricultural land uses. Despite the potential highest and best uses that may be available, where a landowner wishes to keep land in continued agricultural use, tax assessments will reflect such continued use, rather than the value of land under more intense uses.

In Minnesota, the Metropolitan Agricultural Preserves Act establishes a preferential tax system in the form of an agricultural preserves program. The program provides a mechanism for the preferential tax treatment of agricultural lands. Under the act, owners of land that has been in long-term agricultural use may apply to local governments to include their land in agricultural preserves. If the subject land satisfies a set of criteria (relating primarily to the size and past usage of the land), the land is assessed for property tax purposes in accordance with its agricultural use instead of its fair market value, with the state reimbursing the county for any resulting lost tax revenues. Once included within an agricultural preserve, land is subject to development restrictions, as well as various prohibitions designed to protect the landowner from special assessments and restrict other government activities affecting the land.

Under the Williamson Act in California, landowners sign contracts with local governments that reduce taxes in future years in exchange for an agreement that the land will remain in agricultural use. Ten-year contracts are automatically renewed each year unless specific action is taken by the landowner to terminate the program. In this way, the contracts are maintained as effective for ten years into the future on a rolling basis. Currently, 16 million acres, over one-half of California's 30 million acres of agricultural land, are enrolled in the program. Of the state's 9 million acres of crop land, 6 million acres are enrolled, and approximately one-half of the range land is enrolled.

TAX CREDITS - Tax credits have proven to be successful in the fields of housing and historic preservation and involves offering income tax credits or deductions for expenditures for approved conservation programs. Advantages: accomplish land conservation goals without use of regulations and can induce significant private investment in housing construction and open space conservation. Disadvantages: can be costly in terms of foregone tax revenues; credits may reward land speculation in long run; and profit motive may outweigh benefits of a property tax break and lead to inappropriate development.

The federal Low-Income Housing Tax Credit is available to qualified low-income housing projects. The program requires that a minimum number of units be set aside for low-income tenants and the amount of rent charged during a 30-year period be restricted. Owners of qualified properties may claim 9% of the qualified purchase price/basis of the property per year for 10 years for new construction and non-federally-subsidized rehabilitation expenditures. A second tax break allows for approximately 4% credit of the qualified basis per year for 10 years for existing properties and federally-subsidized qualified expenditures. These credits have generated hundreds of millions of dollars in private investment in low-income housing.

To encourage preservation of historic structures, Colorado has a program that allows a credit not to exceed \$50,000 per qualified property or an amount equal to 20% of the aggregate renovation costs incurred, whichever is less. Rehabilitation costs must exceed \$5,000. For any given taxable year, the maximum amount of the credit that can be claimed cannot exceed \$2,000, plus an amount equal to 50% of the difference between the tax liability of the taxpayer and \$2,000. The tax credit may be carried forward for a maximum of five years if the taxpayer is unable to fully take advantage of the credit in one year.

FEDERAL LAND PRESERVATION INCENTIVES - Federal, state, and local laws offer financial incentives for land protection. Advantages: effective in context of agricultural and wetlands protection and provide protection without direct regulation. Disadvantage: may involve costly government subsidies.

Federal and state laws sometimes offer financial incentives for land protection. The federal Food Security Act of 1985 and the Food, Agriculture, Conservation, and Trade Act of 1990, known as the "farm bills," established a number of programs designed to provide incentives for retaining wetlands. Perhaps the most significant such program was provided in the "Swampbuster" provisions of the Food Security Act. These established a Wetlands Reserve Program, which offers incentives for wetland preservation.

Under this program, participating farmers prepare and implement wetlands conservation plans, and the federal government pays the farmer for the value of the use of the conserved lands as well as a portion of the costs of restoration and conservation. In addition, if the farmer chooses to convert wetlands to agricultural use, the farmer would be rendered ineligible for federal agricultural price supports, crop insurance, or any other federal agricultural subsidy programs. By maintaining a preservation incentive while eliminating competing incentives to convert wetlands, the federal government has provided a program that promotes the retention of wetlands without causing financial harm to farmers.

Also included in the 1985 and 1990 farm bills are programs establishing a Conservation Reserve Program. Under this program, the federal government offers payments to farmers who elect to remove erodible crop land from production, thereby reducing environmental damage from runoff and preserving wildlife habitat.

SANCTUARIES FOR EXISTING USES - Zoning techniques create exclusive sanctuaries that prevent the encroachment of incompatible uses. Advantages: create protected areas for threatened

uses and discourage other uses from locating in the vicinity; and help to resist speculative intrusions into areas with desirable land uses that might be forced out by the market. Disadvantages: may exclude compatible uses, ultimately creating pressure for more intense development; and may reduce agricultural or industrial land values by reducing market opportunities to convert lands to other uses.

Many productive and desirable land uses encounter difficulties when new development locates nearby. The problems begin when relatively low land values in agricultural or industrial areas attract residential or commercial development. After construction, new residents find that neighboring agricultural uses are nuisances. This leads to conflict, often involving expensive litigation, and in many cases the initial users leave the area to seek new locations to avoid such conflicts and expenses.

Where local governments wish to retain these types of uses, zoning techniques can create exclusive sanctuaries that prevent the encroachment of incompatible uses. "Right to operate" provisions in such sanctuaries would essentially immunize operators engaged in certain protected uses, such as farming, against nuisance claims, rezonings, or other pressures to require changes in operations that would be detrimental to the farm. This approach has been useful in retaining various industrial uses in cities such as Baltimore, Philadelphia, Chicago, and Portland. The approach has also been adapted for agricultural purposes, as in Minnesota's Metropolitan Agricultural Preserves Act. Under that act, farmers are protected from local regulations that would unreasonably restrain farming practices (such as hours of operation) and are insulated from urban property value assessments.

There are other incentives available to protect the commercial viability of farmland. In Southampton, New York, on the easternmost portion of Long Island, commercial farm markets are allowed as an agricultural use if a certain percentage of the produce is from that farm. Other commercial land uses such as horse boarding are defined as an agricultural use to maintain the economic viability of the area. These incentives allow farmers to produce additional income, but do not set a precedent for nonagricultural commercial uses.

DENSITY BONUSES FOR LAND CONSERVATION - Increased densities are allowed to encourage developers to use open space design techniques in new developments. Advantage: reward developers for protecting and preserving open space, rural character, and sometimes specific resources such as ridge lines. Disadvantages: may not be appropriate where large-scale land preservation is preferable; conservation objectives may be diminished if incentives are too generous; and developments designed to qualify for bonuses may ignore other important planning objectives.

In Gallatin County, Montana, land may be divided into 20-acre parcels without any governmental review or approval. To encourage more compact development, the county offers a program with up to a four-fold increase in house lots. To qualify for the bonus, the subdivided lots may not exceed one acre in size, and the balance of the land must be preserved as open space.

In Charlevoix County, Michigan, density bonuses can be awarded on a sliding point scale that takes into account the length of shoreline, ridges, or public road frontage that clustering would be protected from development and visual intrusion. Additional credit is granted for various elements such as opening land for public use and buffering of existing conservation lands.

EDUCATIONAL AND INFORMATIONAL PROGRAMS - Technical assistance offered to local governments and private citizens helps make planning and other programs more effective. Advantages: help local governments to understand the full range of options available to them regarding growth management and the pros, cons, and implementation aspects of such programs; make private landowners aware of government assistance and incentive programs; and help to lessen the impact of regulatory programs. Disadvantages: informational and educational programs can be costly; periodic updates and informational flows must be sustained on a continuing basis; and programs are often targeted by budget cutters.

Most state governments engaged in implementing growth management systems offer technical assistance to local governments as well as funding to prepare mandated plans. Indeed, in some states like Florida and Oregon, local implementation lagged until state assistance was forthcoming. Maryland funds “circuit-riding” planners who offer assistance to smaller local governments in preparing plan and undertaking development reviews.

Colorado, through its Division of Local Affairs and other agencies, maintains eight regional offices and a core staff that offers a wide variety of technical assistance to local governments on a variety of matters, including land use and growth management. In 1993, the Division sponsored a series of regional workshops that examined recent developments in land use planning and law. While impressive in terms of scope and output, this technical assistance program has a very small budget and small staff.

In some jurisdictions, there is also a significant effort to keep private landowners informed of the range of land conservation incentives and other programs available to them. Where a plan endeavors to prevent undesirable development by maintaining existing agricultural uses, the landowner’s understanding of tax relief programs, easement sale or donation options, and wetlands reserve subsidies furthers the objectives of the plan.

Addressing Urban Sprawl in South Carolina: The Market Alternatives

Sean Blacklocke

The most pointed issue currently facing federal environmental policymakers is arguably urban sprawl. South Carolina lawmakers, presiding over one of the fastest growing states in the nation, have also begun discussing whether and how to address sprawling development in their respective jurisdictions.

Among the more common alternatives being considered alongside regulation and tax incentives are market approaches. Specifically, transferable development rights programs (TDR) and purchasable development rights programs (PDR) have been discussed. TDR's and PDR's are the two market mechanisms that have been most commonly used in the United States to manage urban growth. Although both programs are market mechanisms designed to improve upon the current institution's ability to drive efficient land use, the two approaches are quite dissimilar in their potential implementations. This is apparent in considering application of the respective ideas in South Carolina.

This paper describes TDR's and PDR's with respect to their potentials for appropriately and successfully addressing urban sprawl in South Carolina. First, the theory underlying the TDR alternative is explained. Second, a summary of past experiences in the United States with TDR's is provided. Past and potential future applications of the TDR approach in South Carolina are then discussed. The same discussion on PDR's follows. Finally, strong conclusions on the feasibility of implementing each of the respective market alternatives are drawn from this cursory analysis.

Transferable Development Rights Programs

A TDR program directs land development toward already-developed areas in a community by providing a market whereby rural landowners can sell their right to convert their properties to high-density developments. Buyers are either government or private developers seeking to increase development within an urban boundary. The policy has the effect of preserving rural land on the urban fringe while compensating the rural landowner the dollar amount he or she foregoes by preserving the land in its existing state.

There are an estimated 125 TDR programs currently in use in 25 states throughout the country. Most notably, Montgomery County, Maryland has successfully utilized the system to increase development density in suburban areas and protect open space in rural areas. It is notable that Montgomery County had preexisting zoning with density restrictions prior to implementing the TDR program. This seems to be the case with other programs as well, many of which reside in Colorado, New Jersey, and New York.

It is logical that any community concerned enough about urban sprawl to create and administer markets to buy and sell development rights has established and successfully defended zoning designations, probably including explicit density restrictions. Upon review of readily available TDR case studies, no communities were identified that were able to impose differential density restrictions on urban and rural land and simultaneously implement a TDR program.

In South Carolina, Beaufort County pioneered efforts to establish a TDR program. The proposed program was developed by a renowned Chicago-based consulting firm and was well received by county councilmen and local environmental advocacy groups. But, the community's response to the initiative was as predicted – “too complex.” In fact, the plan has been more or less smothered by conflict over the new zoning designations and density restrictions and legal issues surrounding reversal of annexation.

Purchasable Development Rights Programs

Unlike TDR's, PDR's have been judged widely successful under even the simplest land-use planning regimes. Under a PDR program, payments to landowners are drawn from land trust funds, funds created by the public and available for the sole purpose of compensating landowners that opt not to sell or develop. The land upon which the development rights are purchased is generally perceived by the public as better maximizing true economic rents in its natural state rather than in a developed state. It's thus, in theory, a market exchange between a landowner and the public at large.

This mechanism for land protection was prevalent prior to the early 1970's in the United States. But, the many federal, state, and nonprofit buyout funds dwindled over the last three decades giving way to increased regulation.

Currently, PDR's are having a resurgence. The Clinton Administration's fiscal year 2000 budget proposal includes an additional \$1 billion in land and water conservation fund spending for purchasing conservation easements on private lands and \$10 billion in “green bonds” to be made available to communities for anti-sprawl purchases. Local “smart growth” funding initiatives exceeded an additional \$7 billion throughout the United States in 1998.

State and local funds to protect open space have been established in California, Colorado, Connecticut, Delaware, Florida, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, and Wisconsin, and possibly others. Funding sources originate predominantly from private donations, tax transfers or increases, and bond issuance. Most programs seem to be a mixture of at least two of these sources.

There are several federal government trust funds available for purchasing development rights ranging from those administered by the Fish and Wildlife Service, to the Department of Agriculture, to the Department of Defense. Conservation advocacy groups, most notably the Nature Conservancy, are active throughout the United States in acquiring property and protecting it in perpetuity. In fact, it is assumed that every state utilizes a PDR program of some type to limit land development. Of particular interest is how federal and national-private funds are allocated for purchases among states.

South Carolina communities have utilized federal, state, local, and private PDR's. The most notable federal funding source used for buyouts in South Carolina is the Conservation Reserve Program. The state's Heritage Trust Program is the highest profile PDR at the state level, and Beaufort, Georgetown, Richland, and York Counties have all recently approved significant increases in their local government trusts. The not-for-profit Nature Conservancy has steadily purchased properties or property rights in South Carolina for several years. Dollar estimates of expenditures could not be identified.

Proposed in South Carolina is the Farm and Forestland Protection Act, legislation that would create additional state funding for allocation to counties seeking to purchase conservation easements. The problem with this initiative, as has been the case in other rapidly growing states, is one of scarcity and equity. Historically, funds have not been sufficient to comprehensively and effectively give true market competition to the state's development interests, and compensation to developers to forego profits have not been incorporated.

Conclusions

Environmental policymakers in South Carolina have a multitude of alternatives to consider in addressing urban sprawl surrounding the state's metropolitan areas. Possibly the two simplest alternatives to analyze are the market solutions, TDR's and PDR's.

The outcomes in terms of land use are fairly easily predicted under a TDR scenario, and administration of such a program has been demonstrated in other states to be feasible. The problem with application of this alternative in South Carolina is one of initial allocation of rights. Markets only function when there is clear ownership of the goods to be traded. In the absence of zoning, as is the case in one-third of the counties in the state, there is no applicable initial assignment of development rights. Thus, there can be no market for them. In the other two-thirds of the counties that are currently attempting to comprehensively reassign these rights, disputes over initial allocations prohibit progression to dialogue on the efficiency gains from trade. The Beaufort County experience may be indicative of the outcome in applying this approach in even the most advanced planning regions in the state.

PDR's *are* already highly institutionalized and accepted in South Carolina and seem to be surmounting the historic funding constraints in other states with the help of the Clinton Administration. Possibly the multi-agency Environmental Council recently formed under the leadership of Governor Hodges will be able to coordinate the many existing PDR programs in the state to form a state-level trust that is truly capable of combating urban sprawl. The remaining argument against sole reliance on PDR's, aside from the free-rider problem, is that the public does not have adequate information about the value of the product (i.e. open space, lower taxes, cleaner water, etc.) to drive the real estate market to true equilibrium (that which accounts for private *and* social costs and benefits).

Few would likely argue against allowing the public to decide how to address urban sprawl in South Carolina. Many in the state would argue that a move toward market institutions to communicate public wishes and away from government on any issue is a progression. South Carolina's environmental policymakers are thus left to decide whether filling the void of information linking public resources to individual wealth is more formidable than successfully predicting and delivering increased public satisfaction in land use via the other non-market alternatives.

Growth Management Policy Land Use Regulations

Thomas A. Rourke

Communities in the United States have engaged in land use regulation and growth management since the early 1900s. Since that time, thousands of cities, towns, and counties throughout the country have adopted comprehensive land use plans and have zoned their communities in accord with those plans. While comprehensive planning and zoning have become the basic tools of development and growth management in most places, there is increasing recognition that these traditional approaches have shortcomings and may need to be supplemented with other tools.

Comprehensive Planning and Zoning

States that have adopted the requirement that zoning be in accordance with a comprehensive plan interpret that requirement in one of three basic ways. First, in some (including Colorado and New Mexico), the plan is, at most, advisory. In a second set of jurisdictions (including Iowa, Minnesota, and Nebraska) if the local government adopts a plan, the plan has implications for some land use decisions. In the remainder of jurisdictions—and growing in number—local governments cannot exercise zoning powers unless a plan is adopted and regulations are in accord with the plan (Arizona, Idaho, Oregon).

Advantages:

- Planning and zoning can establish a basic rational framework for making development and land use decisions in a community.
- By encouraging local governments to think carefully about regional land use and growth issues such as transportation, infrastructure, and open space, comprehensive planning requirements can be very valuable.
- Basic zoning can protect uses such as residential from adverse impacts of industrial and commercial developments.
- In their more sophisticated forms, zoning ordinances can address a wide variety of environmental and design impacts of development.

Disadvantages:

- Local governments may not have adequate resources to undertake the studies and background work to produce an effective plan without assistance from the state or regional planning entity. Moreover, if there is no enforcement mechanism to ensure the implementation of approved plans, then comprehensive plan requirements may produce thick plans without real results.
- zoning ordinances requiring rigid separation of uses can make creative, mixed-use developments difficult.
- Zoning ordinances often do not address some important aspects of growth management such as timing and rate of growth.
- Zoning controls may increase property values for some landowners, but adversely affect others.

- Local comprehensive plans and zoning ordinances often fail to address the regional and statewide impacts of development.

Statewide Planning

While individual local government jurisdictions typically administer land use plans to regulate development within their jurisdictional borders, where the spread of growth and development brings communities into close proximity to one another, growth patterns in each community begin to affect neighboring communities without regard for political jurisdictional boundaries. Where this occurs, statewide planning has sometimes been adopted to address multi-jurisdictional areas of mutual concern.

One oft-cited state growth management example is Oregon. After an unsuccessful legislative effort to require cities and counties to adopt comprehensive plans and zoning regulations, the state established in 1973 a fairly specific set of state goals relating to issues such as preservation of agricultural land and economic development. Local governments, with some state funding assistance, must develop plans and implementing regulations consistent with these state goals. All local plans are reviewed by a state Land Conservation and Development Commission to ensure consistency with these goals and may be challenged in court as well to determine compliance. Under the system, all communities are encouraged to establish urban growth boundaries to limit sprawl into the countryside.

The State of Washington has also undertaken statewide planning, but has followed a different path than Oregon. Adopted in 1990 in reaction to growing pressures to protect a “Northwest” way of life and preserve the state’s mountains, rivers, and forests, the Growth Management Act requires that each county experiencing growth pressures must create a comprehensive regional plan with its constituent towns and cities. The plans must contain certain mandatory elements (e.g., rural land classification, housing needs, transportation) that must be internally consistent as well as consistent with plans of adjacent counties. Each plan must also designate an urban growth area sufficient to handle projected development in the county for the next twenty years. Later legislation added financial assistance for planning, authorization to increase local real estate excise taxes to raise funds for implementing the plans, and sanctions for noncompliance.

Other states that have adopted some form of statewide planning controls or growth management systems include California, Vermont, Hawaii, Maine, Maryland, New Jersey, and North Carolina. Statewide planning is reportedly under active consideration in a number of other states including Connecticut, Pennsylvania, and Virginia.

Statewide planning efforts contain:

- **Concurrency:** Localities must pay as they grow, that is, infrastructure must be available concurrently with the impacts of new development.
- **Compact urban development patterns:** Policies require or strongly encourage localities to limit urban sprawl, often by the creation of urban growth boundaries.
- **Consistency:** Mandatory local plans must be consistent with state-adopted growth management and economic development goals.

- **Protection of the environment:** Most states have adopted a strong policy to protect natural systems, particularly in rural areas.
- **Promotion of affordable housing and economic development:** Neither goal was typically included in 1970s-style growth management legislation. Affordable housing is now a goal in most, requiring higher densities in urban growth areas. Economic development has also been added, recognizing that in all states there are areas of slow or no-growth and that jobs are a top priority.

Advantages:

- Statewide planning mandates can expand the vision of local governments to consider the impacts of growth beyond their boundaries.
- Provisions to encourage affordable housing and economic development may assist developers who face local opposition to higher density housing, industrial projects, and other similar uses.

Disadvantages:

- Local governments lose some autonomy over land use and development decisions.
- Statewide planning mandates can be expensive and burdensome without state funding assistance.
- Statewide planning may necessitate the creation of another state bureaucracy.

Regional Planning Initiatives

In the absence of statewide growth management systems, some jurisdictions have adopted regional planning efforts to address land use development issues. These initiatives vary greatly from place-to-place.

For example, in Minnesota, the state created the Metropolitan Council in the Minneapolis/St. Paul region and vested it with strong authority over such regional systems such as transportation. The council has also instituted a regional tax revenue sharing program and adopted a regional comprehensive plan that must be followed by local governments. All local plans must be approved by the council, which also has established a Metropolitan Urban Services Area (MUSA) line, outside of which water, sewer, and other urban infrastructure is not allowed in most circumstances.

A recent western example of regional growth management legislation comes from Mohave County, Arizona, (including Kingman, Lake Havasu City, and Bullhead City) which grew by almost 70% in the 1980s. State legislation was adopted to address several problems: (1) Restrictions on the ability of counties to plan and zone without landowner consent; (2) Lack of authority by cities or counties to regulate the time and sequencing of development; and (3) Lack of authority for cities to exercise extraterritorial land use jurisdiction. The new legislation authorizes Mohave County and its constituent cities to enter into intergovernmental agreements relating to joint development plans, development review procedures, and implementing regulations. One of the most novel aspects of the legislation is that it establishes an extraterritorial planning and zoning jurisdiction twenty

miles around each city. Within such areas, joint city/county planning powers may be exercised within three miles of corporate limits or within three miles of an unincorporated population center where growth in excess of 6% annually is expected. In other areas, property owner consent is required. Local governments are also given a wide range of powers to finance infrastructure, including imposition of impact fees.

Advantages:

- Regional plans can suggest development patterns that can benefit all participating entities by providing coordinated regional transportation, infrastructure, and open space systems for the benefit of all.
- Regional planning endeavors help foster cooperative attitudes among participating jurisdictions that might otherwise take competitive stances toward one another. Such cooperative attitudes can lead to productive working relationships that can be effective in resolving other regional land use issues.
- A regional approach can provide solutions to development impacts that do not respect jurisdictional boundaries (e.g., traffic, air pollution).
- Must also coordinate with capital improvement plans to be effective.

Disadvantages:

- Where local governments do not want to share their land use decision making powers, regional plans can be difficult to negotiate.
- Regional plans are typically advisory only and are only effective where the participants are able to pass appropriate implementing regulations.
- Local governments may view regional planning bodies and plans as eroding local prerogatives over land use decisions.
- Regional planning commissions are not elected at-large and thus may be viewed as not being representative.
- Regional planning commissions may create an additional layer of bureaucracy and expense.

Intergovernmental Agreements

Intergovernmental agreements provide an alternative to state-authorized regional planning commissions where two or more jurisdictions create their own planning frameworks rather than relying upon the frameworks provided in the regional planning commission statutes. Where intergovernmental groups negotiate plans for regionally coordinated development patterns, the individual jurisdictions agree to adopt plans and implementation measures which then become "mutually binding and enforceable" among the parties. Additionally, local governments can form regional service authorities.

Similarly, the City of Boulder and Boulder County have used an intergovernmental agreement to preserve open spaces in the city's environs. One of the key aspects of the agreement provided that new development would occur only in those areas where the city and county agreed to provide urban services. This application of capital improvement policies in a regional intergovernmental agreement has effectively preserved open areas, including strategic vistas, recreational areas, and entrance corridors around the city of Boulder while directing urban development to the urbanized core of the city.

Advantages:

- Intergovernmental agreements are negotiated voluntarily so that participating local governments do not feel coerced into participating. Because they are freely negotiated, they are typically easier to enforce than regional plans.
- Intergovernmental agreements can specifically address a wide variety of growth management issues.
- In negotiating intergovernmental agreements, officials of constituent localities establish a working relationship that may help address a variety of other growth management issues.

Disadvantages:

- Since they are voluntary, intergovernmental agreements may not address key growth issues or may not encompass an adequate geographic region to be effective.
- Intergovernmental agreements may not have enforcement mechanisms, making them little more than “gentlemen’s agreements.” They may also be revoked or not renewed by succeeding elected officials.

Annexation Policies

Annexation is a process governed by state law, through which municipalities incorporate property located outside their corporate boundaries. Developers often seek annexation as a means for gaining access to urban services supplied by municipalities such as water and sewage treatment for new development. Where annexation policies articulate criteria for new property annexation decisions, municipalities can use such policies as leverage for ensuring that new development is compatible and fiscally sound.

On the other hand, while municipalities in Colorado view the annexation process as an arduous one unless voluntary, county governments maintain they have little or no say in voluntary annexations that can have serious impacts on them from both a fiscal and land use development perspective. For example, a large development in a rural area that does not comply with county zoning regulations might voluntarily annex to a small rural town to obtain development approval, thus undermining the county’s policy of encouraging major developments to locate in or adjacent to established cities.

Advantages:

- Incorporated cities can use annexation policies to influence development siting decisions and overall growth patterns.
- Annexation policies give cities leverage in requiring new developments to fund public facility extensions.

Disadvantages:

- In the absence of regional coordination policies, one local government’s attempts to control orderly growth through annexation policies may not be effective in regard to regional

or metropolitan area growth patterns.

- Restrictive annexation policies may increase costs of land and development.
- Expansive annexation policies may thwart growth management efforts of other jurisdictions and result in costly service obligations.

Extraterritorial Land Use Jurisdiction

In response to problems associated with unrestricted development in unincorporated areas which might adversely affect the value or use of property within a municipality, a number of states have adopted legislation conferring extraterritorial zoning, subdivision, or planning powers to municipalities.

As an example, in Mohave County, Arizona, extraterritorial zoning and planning powers are extended up to twenty miles outside the boundaries of selected municipalities. More typically, the extraterritorial jurisdiction extends three-to-five miles.

In Colorado, several state statutes give one jurisdiction certain powers over land use activities in a different jurisdiction. For example, municipalities may enforce major street plans on all land within three miles of their boundaries and prohibit or regulate certain nuisance type uses such as bawdy houses, feeding pens, and rendering plants within a mile.

Advantages:

- If extensive enough, both in terms of powers and geographic scope, extraterritorial land use authority can help address impacts of developments that affect more than the host community.
- Extraterritorial land use authority, if handled adroitly, can be a starting point for regional cooperation on growth management issues.

Disadvantages:

- Being subjected to the extraterritorial land use authority of another jurisdiction may be a source of irritation to other local governments and create a climate of recalcitrance.
- Citizens in the extraterritorial jurisdictional area of another local government may not have adequate representation in land use decisions being made by officials for whom they do not vote.

Urban Growth Boundaries and Designated Development Zones

Where cities designate areas for urban growth, growth management policies can guide new development patterns by directing urban service extensions to such areas and withholding them from others. The essential concept involves the use of urban service extension policies to define the areas where new development will or will not have access to municipal urban services, thus steering new development toward designated growth areas. Most recent state growth management initiatives have required localities to establish urban growth boundaries within which new development is to be targeted and accommodated.

Thus in the Portland, Oregon, metropolitan area, a regional government entity has delineated an urban growth boundary, administered by local governments in compliance with state legislative mandates. This program has proven generally successful in confining growth to the areas within the boundary. Within the boundary, development has often bypassed previously “urbanized” areas and located in outlying “urbanizable” areas (defined as available and suitable for urban development upon the extension of urban services), but the overall program has proven successful at containing leapfrog development, preserving outlying areas for agricultural and other less intensive uses, and maintaining order in metropolitan growth patterns.

Some communities have established urban growth boundaries in the absence of a statewide mandate. For example, the City of Boulder, Colorado, has delineated the boundary for the extension of urban services and worked with Boulder County to channel growth to areas adjacent to already developed areas, thus precluding development and costly service extensions in the mountainous areas bordering the city.

Another approach that has similarities to drawing urban growth boundaries is that of designating development areas to which new growth is targeted within a region. This urban containment policy was used first in England during the 1960s and 1970s when London was growing rapidly and other areas of the country were suffering from lack of growth. A greenbelt was created around London within which no urban development could occur. In places, this greenbelt was 10 to 20 miles wide, thus making it, in effect, an urban growth boundary. Existing cities and new towns were then targeted for growth using a variety of incentives to assist firms that wanted to locate in these alternative locations. The policy proved to be quite successful in steering growth to other areas and maintaining open space around London.

Advantages:

- When used in combination with appropriate capital improvement policies, adequate public facilities ordinances, intergovernmental agreements, and policies limiting annexations to delineated urban growth areas, growth boundaries can help steer development toward these areas and prevent the costly overextension of public services.
- Growth boundaries can influence growth patterns in a simple understandable fashion.
- Creation of urban growth boundaries has proven to be an effective tool to protect open space and agricultural and forest lands.

Disadvantages:

- Urban growth policies alone provide no guidance to development patterns within the growth boundary and do not address development quality issues.
- Use of urban growth boundaries as a growth management tool can be undermined if surrounding jurisdictions allow urban-type development outside the line.
- If not enough property is provided to accommodate development within the urban growth boundaries, overly strict delineations may drive up the cost of land.
- Property values outside the urban growth boundary may be affected because there is a presumption against urban-style development.

Conclusions:

Hence, the environmental consequences of growth have primarily been dealt with through regulatory methods. At the local level, sensitive lands ordinances can address a variety of problem areas. Development attractiveness can also be addressed by a number of well-tested regulatory tools relating to landscaping and vegetation protection, sign controls, river corridor preservation, and view protection. Sprawling development can be addressed by these, as well as through private land conservation efforts that create conservation easements and allow for limited development. Other tools include comprehensive planning and zoning, urban growth boundaries, sensitive lands regulations, and agricultural land/open space zoning.

Increasingly, local governments are recognizing that it will take a variety of tools to deal with the infrastructure, facility, housing, and other demands created by growth. Fast-growing communities in Florida, California, and Washington have dealt with this issue primarily through adequate public facilities and concurrency ordinances. Government acquisition is also a good tool for dealing with park overcrowding. Impact fees are frequently used in Colorado and other states.

There are many good examples of open space and agricultural land protection programs across the United States. Additionally, this is an area where private efforts have been successful. The main tools are private land trusts, agricultural land/open space zoning, intergovernmental agreements, and urban growth boundaries. Other tools include acquisition techniques, development guidance such as planning, quality development tools such as cluster development, grants, tax incentives, and resource inventories.

These regulatory tools include:

- 1. Quality Development Standards:** Regulations adopted in zoning ordinances to ensure high quality attractive development and site design. Often address landscaping and vegetation protection, preservation of special views, controls on signs and billboards, and river corridors.
Examples: Bozeman, Montana; Park City, Utah; Fairfax County, Virginia; Cincinnati, Ohio; City of Denver; Highlands Ranch, CO.
- 2. Cluster Zoning:** Concentration of development densities on a small part of parcel and preservation of the remainder in open space.
Examples: Southampton, New York; Montgomery County, Pennsylvania; Phantom Canyon Ranches (Fort Collins) CO.
- 3. Urban Growth Boundaries:** Policies and regulations that delineated boundaries within which urban development must occur. Land outside boundaries protected for agricultural, silvicultural, and open space uses.
Examples: Portland, Oregon; Boulder/Boulder County; Denver Regional Council of Governments; Larimer County, CO.
- 4. Agricultural Land/Open Space Zoning:** Land use regulations establish large minimum lot sizes for development—often 40 acres or more—to preserve open space and farm land.
Examples: Santa Cruz County, California; Weld County, CO.

5. Adequate Public Facilities and Concurrency Ordinances: Ordinances requiring specified levels of public services as conditions for new development approvals or that services be available before development starts.

Examples: Orlando, Florida; King County, Washington; Douglas County, CO.

6. Exactions, Dedications, and Impact Fees: Requirements for improvements, land dedications, or payment of fees as condition for development approval.

Examples: Adams County; El Paso County, CO.

7. Fair Share Concepts: Approach to ensure adequate land is available for variety of development types, including affordable housing, sometimes by requiring that localities meet “fair share” of regional needs, or requiring developer to provide certain percentage of affordable units in a residential development.

Examples: New Jersey; Oregon; Summit County; Aspen, CO.

8. Open Space/Park Purchases: Government acquisition of property with full title ensures land will be protected and/or opened to the public.

Examples: Great Outdoors Colorado Trust Fund; Boulder/Boulder County; Jefferson County, CO.

9. Intergovernmental Agreements: Multi-jurisdictional land use plans and strategies negotiated by two or more local governments to address regional impacts of growth and development.

Examples: Aspen/Pitkin County; Durango/La Plata County; Berthoud/Larimer County; Boulder County/Lafayette/Erie; Fort Collins/Larimer-Weld County Communities, CO.

Other developmental planning tools include:

10. Private Land Trusts: Private, non-profit entities that can facilitate land acquisition and preservation of sensitive lands by serving as conduits for or recipients of land grants or conservation easements. Can offer significant income and estate tax benefits to private landowners.

Examples: Colorado Open Lands/Evans Ranch; Nature Conservancy / Phantom Canyon Ranch, CO.

11. Private Land Conservation Efforts: Private sector initiatives to undertake limited development that concentrates development on less sensitive parcels and protects open space and natural resources.

Examples: Mill Hollow, Pennsylvania; Evans Ranch; Upper Elk River Valley Compact, CO.

12. Tax Incentives and Credits: Preferential tax assessments and tax credits/deductions offered to encourage low-density uses, accomplish land preservation goals, or provide affordable housing.

Examples: Colorado; Minnesota; California; Federal Low-Income Housing Credit.

**March, 1999
Clemson, SC**

References

Department of Land Conservation and Development for the State of Oregon

Explains thoroughly the processes by which Oregon regulates land.

<http://www.lcd.state.or.us/>

Growth Management Services by the Washington State Department of Community, Trade, and Economic Development. Helps communities plan for growth and development, consistent with the state's Growth Management Act.

<http://www.wa.gov/cted/growth/>

Wyoming Governor's home page

Contains an Open Spaces Guidebook, with effects by sprawl on open space loss, a description of various techniques to preserve open space, and a thorough resources listing.

<http://www.state.wy.us/governor/openspace/openspaces.htm>

Colorado's Smart Growth Initiative

Coverage on a variety of issues, such as Property Rights, Vested Rights and Intergovernmental Growth Issues.

<http://www.state.co.us/smartgrowth/>

The California Agricultural Land Stewardship Program

Describes incentives to promote long-term protection of agricultural land.

<http://www.consrv.ca.gov/dlrp/ALSP/index.htm>

Housing Density, Urban Sprawl, and Growth Management (HUD)

<http://www.teleport.com/~mrtom/hdens.html>

National clearinghouse on Sprawl - <http://www.sprawlwatch.org>

The Smart Growth Network <http://www.smartgrowth.org>

Extensive resources, particularly reading lists, in smart growth as it relates to: economics, the environment, and community. Also contains action resources including events, presentations and tool-kits for "Brownfield Development" and "Eco-Industrial Parks."

Policy.com: The Policy News and Information Service

This edition of Policy.com contains dozens of articles and reports on topics related to sprawl, such as: Traffic Congestion and Air Quality, Conservation Mechanisms, ISTEA and the Environment, Urban Revitalization, and How America is Fighting Sprawl.

<http://www.policy.com/issuewk/98/0420/index.html>

The Lincoln Institute of Land Policy

Explores and explains taxation of land and buildings; land use and regulation; and land values, property rights and ownership. <http://www.lincolninst.edu>