

ISSUES

THE CABIN FACES WAL-MART:
PLANNING, ENVIRONMENTALISM,
AND MARKET FORCES ON
PENNSYLVANIA'S SUBURBAN FRONTIERS

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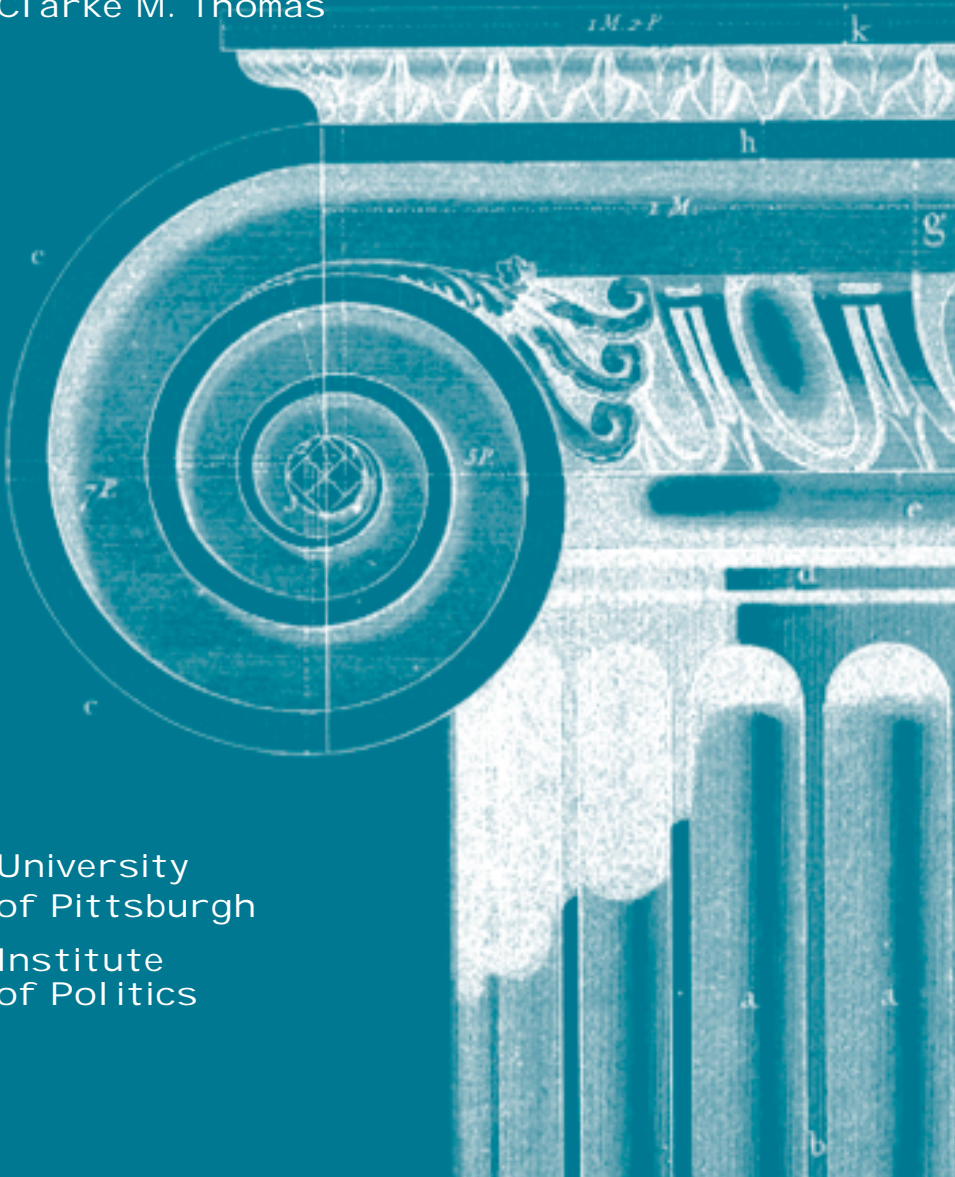


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THE CABIN FACES WAL-MART: PLANNING, ENVIRONMENTALISM, AND MARKET FORCES ON PENNSYLVANIA'S SUBURBAN FRONTIERS

A Report from the IOP Seminar

LIVING LOST VISTAS LOCALS

For John and Susie Jones in 1990, it was the perfect answer for people tired of urban living. A suburban home, with a band of woods on one side and the bucolic vista of a pasture with cows in the near distance.

Good, uncrowded schools nearby. Low taxes. And a decent highway into Pittsburgh not far away.

But now a decade later, disappointment and even alarm have set in for John and Susie. First, there was the realization that with that enchanting farm scene also came the not-so-sweet barnyard smells wafting their way, spoiling such pleasures as outdoor barbecues.

Gradually, it has become apparent that too many other people with the same dream are moving into their country subdivision, thanks to their developer. The band of woods has given way to a row of houses. Gone is the pastoral view.

Classes for the children at school have become more crowded. Taxes for new facilities have gone up. And, especially aggravating, the highway to town has become so clogged that it takes a half-hour longer than 10 years ago to get to the job.

Welcome to urban sprawl!

It's no consolation to the Joneses that this troubling trend is taking place all across the nation. And that no one has a simple solution.

Still, the Institute of Politics at the University of Pittsburgh in four separate sessions of elected officials, citizen activists, and academics in 1999 probed the multi-faceted question.

What may surprise many is to learn that environmentalists, home builders, urban, suburban, and rural residents found considerable agreement—in 12 instances—concerning ways to address so hot a topic as urban sprawl. But no one will be amazed that there was strong disagreement in seven cases, plus caveats in many instances even on those issues where there was a generally positive consensus.

Most important, the discussions highlighted six areas where political and social realities loom large in the path of solutions even where the utmost good will is present.

Note: Institute of Politics seminars are conducted on an off-the-record basis, so that this report contains no personal identification of anyone expressing a view.

First, the areas of agreement.

AGREEMENT (with some caveats)

1. Proposal: There is a need for change in Pennsylvania's land use management laws even in a slow-growth region such as ours because of increased traffic congestion, loss of environmental values and negative fiscal impact on municipalities.

One discussant called this "pretty obvious—like being for motherhood and apple pie." Developers would like to see the development-review process speeded up.

2. Proposal: Consistency between comprehensive plans and subsequent zoning should be required. (The glossary at the end of this document defines the three types of consistency in more detail.)

A caveat expressed in one seminar session: Plans should not be a one-time snapshot but should have built-in mechanisms for alteration to accommodate to changed realities. Also, some participants argued that here was a case for thinking beyond the single-municipality level to multi-municipal concepts.

Currently, state land use law contains the wording that nothing "shall be construed as limiting the right of a municipal authority, water company, or any other municipality to expand service." This permits multiple independent agencies to make decisions affecting the location, type and timing of land development

without any requirement for coordination. State law also currently states that ". . . no action by the governing body shall be invalid . . . on the basis that such action is consistent with . . . the comprehensive plan." This breaks the critical link between the community's vision and policy on one hand and what might happen with actual development on the ground.

In addition to the need for consistency within a municipality, the fact that land use decisions can affect other municipalities, the county and region, and even have statewide impact, means that consistency on a broader basis would increase the rationality of land use planning.

For instance, without some kind of planning arrangement beyond the single municipality, there is no way to site infrastructure items badly needed but unwanted—such as municipal waste facilities. As one discussant put it, municipalities want to be free spirits all in favor of free enterprise, but don't want either free enterprise or a county or regional planning agency to put such a site in their backyard.

Further on the subject of consistency, current state land-use law provides that municipalities with zoning must provide for all uses or be open to a curative-amendment challenge by landowners and developers. Municipalities without zoning, of course, are open to all types of development with few constraints on location. Thus, if the inter-





municipal consistency idea evolved into a joint planning and zoning agreement, the entire larger area could be used to accommodate all uses. This would provide more opportunities for appropriate placement of various types of development while, also, helping to preserve open space.

The agreement would need to provide for some form of sharing of the taxes generated by the more intense uses, such as industrial or commercial concentrations in order to attract into cooperation municipalities that may contain land with higher environmental values, such as wetlands or wildlife habitat. However, objectionable uses could also be located in the most appropriate place in the wider area, thus reducing the potential for negative impact in each and every municipality.

3. Proposal: Consistency should be required among plans for a given municipality, the county, and the region.

Another suggestion from the discussion was to include municipal authorities in this consistency requirement. School districts are another needed entity. As tools for implementing a comprehensive plan, zoning and subdivision controls should be consistent with each other.

4. Proposal: Development application and review procedures should be streamlined, standardized, and professionally administered.

5. Proposal: The state should

finance an aggressive educational campaign to inform municipal officials about sound land use management.

Suggestion: Courses on the subject offered by The Center for Local Governmental Services should be made mandatory for newly appointed zoning officials and planning commissioners. The center is a division of the state Department of Community and Economic Development, with staff that works with municipalities regarding state programs and which publishes "how to" booklets on zoning, local audits, etc. (412-565-5002).

To query as to why there should be a mandatory provision when legislators, municipal commissioners, and council members aren't subject to such a "schooling" requirement, the proposer explained that legally there can't be such requirements for officials elected by the people. But because zoning officials are appointed, such regulations are in order.

6. Proposal: A group should be created to evaluate tax base sharing for the region. While no one objected, one legislator commented, "Good luck!"

7. Proposal: Encourage application and evaluation of new land use management tools through pilot projects such as one being inaugurated in Mercer County. Suggestion: Encourage those in the study to look at all options and to report back in 2000 on "real life" experience.

8. Proposal: Use transferable development rights (TDRs) as a land use management tool. Caveat: For effectiveness with any given municipality, this device should be used at a multi-municipality or a truly regional level, such as the Southwestern Pennsylvania Commission.

9. Proposal: As a way to counter sprawl, expand public investment in existing cities and towns to improve schools, public safety and other quality-of-life attributes. A strong caveat by some: Any such program should be promoted as a way to provide people with a choice for living—urban or suburban—and not as a way to stop economic growth.

10. Proposal: Require an environmental impact assessment for proposed developments prior to approval to identify holding capacity and impacts.

11. Proposal: Require a local fiscal impact assessment prior to development approval to identify life cycle costs and sources of revenues. (“Local” in this instance refers not just to the impact on the respective municipality, but on the school district, municipal authority, and county.)

12. Proposal: Expand the use of beneficiary impact fees and user charges to cover all off-site costs.

Developers understandably were concerned that requirements for analyses to determine impacts,

especially on a multi-municipal basis, would create additional costs and delays. They felt that these requirements might be layered on top of existing development controls and worried that each impacted municipality would require a separate review.

Proponents of impact analyses felt that these concerns could be allayed if an inventory of sensitive land and sites, as well as infrastructure and public service costs, were prepared ahead of time as a baseline. Baseline data would then not have to be created for each development proposal. Developers and public officials charged with reviewing plans at that point would have the criteria against which to evaluate the proposed development.

The goals of efficiency and professionalism would be further served by a one-stop-shop, within the multi-municipality entity or at the county level, to review development proposals, regardless of the number of municipalities impacted. Note: Ideally, a one-stop-shop should include the various levels of government—federal to municipal, as well as school districts, municipal authorities, water districts, etc.—that is—any entity requiring review and approval for permits. Such a one-stop-shop would help everyone concerned, including developers otherwise facing multiple permit hurdles.

This approach should actually speed development reviews. If the impact assessments indicated that the





proposal respected the sensitive land sites and fully incorporated all development impact costs, minimal time would be required for review.

Next: Those areas where no strong consensus could be achieved.

LACK OF AGREEMENT (but with caveats)

1. Proposal: We must respect the exercise of free choice but ensure that those making the choice pay full cost for it.

The sticking point here was “full cost.” Environmentalists and municipal officials contend that the developers and the newcomer businesses or residents often get a partially free ride on the costs of roads, stoplights, and sewer and water connections that they require. One participant said demands to county, state, and even federal levels for infrastructure “help” after the development is already underway create a dog-chasing-its-tail scenario. A more earthy analogy sometimes made is that municipalities often are like a circus employee with a shovel to clean up behind the elephants in a parade.

But developers balk at the idea that the only beneficiaries of a new development are the newcomers. Existing businesses and residents, they contend, benefit from the improved roads and particularly from the augmentation of the tax base.

2. Proposal: Require adequate facilities as a way to channel development and control sprawl.

The argument for the proposal is that such a fiscal and infrastructure requirement would inhibit willy-nilly growth—the elephant dung syndrome. But developers see this concept as a variant of the “full cost” requirement, another expensive hurdle if they have to provide the facilities. Even if the intent is to require that a municipality must provide the “adequate facilities” before an application can be approved, that, too, can be a barrier to developing a given site.

Environmentalists and planners see this idea as a sound fiscal way—and an appealing one on the grounds that it will save taxpayers money in the long run—to control sprawl. That’s because (1) it makes the costs of development more explicit and, therefore, more likely to be paid by the development itself; and (2) also reduces future public cost for items that should have been paid for by the private development in the first place. But it likely will be a particularly controversial point because for those very reasons developers fear its inhibiting characteristics.

Further comment: While the word “barrier” is negative, that really is what all land use management techniques are—an attempt to make sure that developments meet conditions that ensure public health, safety, and welfare. The free enterprise

system has, since the beginning of the rule of law, been constrained by that condition. The arguments occur over whether a specific development or a specific condition falls within the power of local government. Each side often takes the “of course it does” or “of course it doesn’t” approach.

3. Proposal: A mechanism is needed to ensure that “developments with extra municipal impacts” (DEMI)s are approved by all municipalities that are affected.

The purpose is to protect a municipality from the adverse impact—added traffic, air or water pollution—of a development in a neighboring municipality. And especially when there is no tax or other advantage gained for the impacted municipality.

Developers argue that they have enough hurdles to jump over with the municipality chosen for a development without having to contend with the zoning boards and governing boards of all the adjacent municipalities. The phrase “all communities” is seen as a particular landmine. For instance, suppose municipalities not immediately adjacent, such as ones downstream in a watershed, demand a say-so too?

Again, while there was agreement on the merits of a wider review process, development officials were concerned that it be a coordinated review and not a multiple-step ordeal.

4. Proposal: A comprehensive plan and zoning should be required of

all municipalities with the option to choose the county plan and contract with the county to administer zoning and subdivision/land development ordinances.

The phrase “all municipalities” was the sticking point here, based on practicalities. Even a strong environmentalist at the seminar said that given the many tiny or poverty-stricken municipalities among the 2,500 in the state, it was “ludicrous” to expect all of them to have either the sophistication or the money to draw up such a plan. And not all counties may have that savvy either.

Here clearly is another opportunity for the state to demonstrate leadership by assisting small municipalities to form a cooperative relationship.

The debate at this point highlighted the whole question of the fragmentation of local government in Pennsylvania, to be discussed at greater length below in Issues.

5. Proposal: Use urban growth boundaries (UGBs) as a way to control sprawl and avoid using tax money to duplicate services.

This proposal evoked sharp enough disagreement that it deserves separate treatment further along in this document.

6. Proposal: Require concurrency to keep rural areas rural by requiring that all infrastructure be in place before development or occupancy occurs.





“Concurrency” refers to the concept that infrastructure adequate to serve a new development must be in place concurrent with the development. That requires local-level negotiation on a case-by-case basis on such issues as these: Is the infrastructure to be available before building or occupancy permits are issued? What infrastructure is included—water, sewer, roads, schools? And if the municipality cannot afford to install the infrastructure when the developer wants it, can the developer do so either at his/her expense or with the understanding of a later reimbursement by the municipality?

The argument for the proposal is that this is the most effective way to preserve rural areas, whether farms or open spaces—the very reason many families move to suburbia. But developers fear this would establish “walls” that could be used in many areas to block any extension of development at all.

At the session, one participant said that a major land-use bill, SB 300, would never have passed the Senate in December 1999 had its concurrency clauses not been dropped. Instead, the wording that was retained stated that nothing “shall be construed as limiting the right of a municipal authority, water company or any other municipality to expand service.”

7. Proposal: Expand state programs to purchase land and development rights.

Proponents think of this as a win-win situation. It respects fairness on property rights and due compensation. The open-spaces concept made possible by this avenue clearly embodies the public’s affection for farmland scenery, forests, game lands, and lakes, as well as for state and county parks and recreation areas.

But citizens in many rural areas think otherwise. They view such state purchases as taking land off the tax rolls, with an impact upon citizens and businesses in some of the sparsely populated counties in Pennsylvania’s northern tier which already have a high proportion of state-owned land.

However, discussion brought an element of consensus that the emphasis on state land purchases should be in populated counties such as Allegheny and Butler as the best hope to preserve rapidly dwindling open space.

Further comment: In addition to focusing land and development rights acquisition in areas of rapid development, public policy should include the concept of purchasing valuable environmental lands and waters in more remote areas. This could be done without harm to the ability of those localities to provide quality public schools and services if the state would supplement the municipal and school district budgets to offset any such loss. Certainly, if the argument is to preserve open space and environmentally important places

for all people now and in the future (i.e., a sustainability argument) then the total public, through state taxes, should pay for it.

In summing up this portion of the report, it should be emphasized that in contrast to the three earlier seminars devoted to the providing of facts, attendance fell off to 30 discussants for the fourth session, which happened to fall on a rainy morning (46 had sent in reservations). However, the views of various groups—developers, planners, environmentalists, and academics—were ably represented. Perhaps those who assumed little would emerge from a “what to do?” session would be surprised at the results as outlined above.

One reason for so much progress that day was that some of the “global” solutions, suggested in earlier sessions, were avoided. That is, the group didn’t ponder wholesale mergers of municipalities, or completely revamping county government. Nor was any significant moving away from present reliance on the property tax debated.

However, these and other issues emerged from the session, even if not the subject of debate themselves. The following is a report on them.

ISSUES

1. Fragmentation of local government, with a multiplicity of municipalities and municipal authorities.

The inviolability of present municipal boundaries was accepted as a “given,” even though one legislator present noted that the Legislature had had the gumption twice in succession to consolidate school districts. But time and again discussion of acceptable remedies for urban sprawl foundered on this barrier.

For instance, the problem of DEMIs is compounded by the proximity of geographically small boroughs and townships in relation to each other in so many cases. On one level, it makes sense that adjacent municipalities have a say-so in decisions about these DEMIs, which often involve the “elephant dung” syndrome described in the “Lack of Agreement” section above. But from the standpoint of developers such a provision would represent just that many more approval hurdles to be surmounted. At the least, some provision for a multi-municipality framework would avoid going through the same costly process over and over, both for developers and for opponents.

Similarly, any proposal involving comprehensive plans in many cases would make more sense if small municipalities either were legally merged or were incorporated in multi-





municipality arrangements. Better yet, of course, would be a placing the comprehensive planning responsibility at the county level and sharing benefits, thus lessening the “beggar thy neighbor” competition among municipalities.

The present fragmentation also complicates efforts to utilize TDRs, which often might be most useful if made more feasible across municipal boundaries.

2. Lack of consistency of plans from one jurisdiction to another.

This issue arises partly from the fragmentation problem discussed just above. But it extends beyond fragmentation and moves more directly to the county and even the regional level. It is a problem for developers in obtaining permits encompassing projects larger than one municipality. But it also undermines efforts to channel growth and tax expenditures in ways to minimize urban sprawl and maximize quality-of-life considerations such as open spaces and traffic congestion.

Other points made in the discussion: (1) Plans of the Southwestern Pennsylvania Planning Commission should be factored into any program for consistency; (2) Attention should be paid to studies that spotlight such geographical hazards as landslide possibilities. One discussant went so far as to contend development should be prohibited in such areas.

3. Property tax reform, and especially the concept of tax base sharing.

Again, the property tax system seemed to be considered untouchable in terms of real reform, such as its abolition in favor of an income-based system. And certainly any full-fledged discussion would find many championing the property tax system as a way to obtain revenues from businesses and individuals regardless of their earnings picture in any given year.

However, tax base sharing on the Minneapolis-St. Paul model is very much heralded as a way both to promote growth without inter-municipal competition for jobs and tax revenues. Under the Twin Cities Fiscal Disparities Program, each of 300 taxing jurisdictions—counties, municipalities, school and special districts—in a seven-county area, contributes 40 percent of the growth in the value of its commercial-industrial tax capacity since 1971 into a regional pool. The pool is distributed on the basis of population and total market value or property per capita relative to the rest of the region.

Thus, tax base sharing cleverly balances regional goals with local autonomy. Development anywhere in the region helps everybody, reducing the customary winners-and-losers results from economic growth. It cuts the incentive for “fiscal zoning” where municipal officials give away the store

to attract businesses with the highest tax-to-cost ratio. For example, a Wal-Mart pays lots of taxes but sends no kids to school and has infrequent use of fire and police departments, making it a winner for a municipality, at least in the short run.

A surprise in the Minnesota example is that only about 15 percent of the total property tax capacity is in the pool. That results from the fact that (1) residential property is excluded and (2) only 40 percent of the growth in the value of commercial and industrial property since 1971 is in the pool.

In Allegheny County at present, tax base sharing would take advantage of present and prospective growth in the Greater Pittsburgh International Airport area in the west, particularly benefiting municipalities in the hard-hit once-industrial valleys. Of course, airport municipalities can point to the many decades when the mill valleys gave never a thought to sharing their industry-fattened treasury gains with anyone else. But this is a new era requiring new thinking if the entire region is to grow and benefit from growth.

Absent any wholesale reform of the property tax system, this step would do much to ameliorate many of its unfair aspects.

4. Some form of UGBs and the concept of concurrence, that is, restricting infrastructure placements outside of designated growth areas.

Clearly, this is one of the most contentious battlegrounds between environmentalists and planners, on the one side, and developers, on the other.

A form of UGBs has been tried both in Lancaster County and York County (see report in next section of this monograph), but discussion tends to center on Portland, Oregon, with the longest experience with the subject. The Portland system, involving four counties, designates areas for development and discourages growth elsewhere. It is cited by planners and environmentalists as a sterling and tested concept.

But builders contend it has driven up housing costs there, greatly diminishing affordable housing. That assessment, in turn, is contested by planners who argue that Portland is part of a West Coast economic boom, indeed in part fueled by its UGB's role in retaining the natural environment. But, they add, housing prices have also rocketed in Seattle, San Francisco, and other West Coast communities that do not have a UGB system, so that citing that aspect alone in Portland's case doesn't add up.

Further comment: Another way to relate Oregon's UGBs to Pennsylvania is to note that in the Keystone state, there is a comparative free-for-all, resulting in private developers escaping costs that eventually impose themselves on the public purse (e.g., the need for





interchanges on McKnight Road in the North Hills). In Oregon, it can be argued, the private sector cannot shift these types of costs to the public, as the public is in charge of the type and timing of public investments. While that may result in some increase in land values within the UGB, the public investment in infrastructure is highly efficient because it is not underused as in most cities that are suffering major out-migration, and the real estate tax base is kept healthy.

An important distinction somewhat overlooked in the seminar discussion is whether the UGB concept is thought of as a restrictive arrangement, as in the Portland case, or as a planning tool with flexibility as circumstances change.

In that respect, one of the best suggestions coming out of the December 10 Institute of Politics session was that of urban service districts. The approach would be designating areas where infrastructure tax dollars would go. This would constitute a “carrot” for development, but without the red flag that the UGB concept holds in many minds of prohibiting development elsewhere.

Further comment: Municipal boundaries are historic and often make no rational sense. Some school districts coincide with municipal boundaries (Clairton and Duquesne), but in most, not. Even municipal authorities suffer the same drawbacks as being bounded by historic, non-

rational boundaries and therefore grow or shrink for political reasons, rather than service efficiencies. The concept of Urban Service Districts is one way to increase efficiency and, if sold correctly, should garner political support that would override municipal officials’ fear of losing power. Lines, based on existing studies, can be drawn on maps to define districts that will produce the goods or services at the least cost.

5. Transferable development rights as a way to allow free choice and development.

TDRs are but one of a number of ways by which certain lands can be saved from development. Others are outright purchase of land and/or development easements and—as discussed above—tax base sharing.

TDRs are a way in which a property-owner’s rights to dispose of his property as he/she wishes can be reconciled with a public need to preserve that property for some common use, such as farmland or open space land. That is, in return for accepting the “public need” designation, the owner can be afforded the right to transfer elsewhere the monetary value of what he/she would have received from the commercial development of his/her property.

The outcome, it is argued, is a win-win situation for the owner, for the general public, and for the developer who can purchase the TDR for use elsewhere.

The role of government is limited to creating the market by prohibiting/reducing the potential for development on some land and by recognizing that the rights to develop that land can be severed and sold. A developer in the receiving area can buy some or all of these rights to increase the amount of development in the receiving area above that permitted by the existing zoning map. The details regarding the amounts or rights and their use must be set forth in the enabling act and zoning code.

TDRs meet the public interest by preserving land but yet realizing increased taxes due to the increased density and, therefore, value of development on the receiving land. No outlay of government money is required, other than staff costs for “blessing” and monitoring the deals.

As outlined in the Agreement section above, the TDR concept can be much more workable if it can be used elsewhere outside the owner’s municipality boundaries. An equitable system for sharing the increased value attributable to the TDR would need to be made. That is, if the receiving district garnered all the gain, there would be no incentive for the sending municipality to participate. However, additional costs from additional municipal services in the receiving district would need to be factored into the sharing arrangement.

Finally, at the other extreme of government involvement is the

acquisition of property or its development rights. In this case, government uses tax dollars to buy and hold the land.

Conceptually, zoning is a type of government usurpation of development rights when, for example, a more intense land use is prohibited in favor of one with less community impact. This is acceptable in theory since landowners have no inherent right to make the maximum profit on their land. But the courts have held that if the restriction deprives the owner of any reasonable return, the government will have taken the land and must pay for it.

IN SUM

The December 10 session provides the Legislature, municipalities, environmentalists, and planners with some specific pathways for future action—or for discussion where consensus couldn’t be reached. It suggests such approaches as multi-municipality arrangements, tax base sharing, and urban service districts as mutually beneficial ways to work around seemingly intractable obstacles to change.

The choice shouldn’t be between endless urban sprawl, on the one hand, and no growth on the other. The endeavor should be not to curb people’s choice to live in the suburbs or the pull for commercial enterprises to follow them there. But, rather, it





should focus on ways to minimize the deleterious impact that willy-nilly development sometimes can have.

It should be recognized, too, that suburban residents increasingly have a quality-of-life stake in avoiding urban sprawl. To be sure, some of their reaction is that of the new club member who wants to bang the door shut to any newcomers now that he is inside. Nevertheless, it is suburbanites who suffer particularly from traffic congestion and consequent air pollution, as well as the loss of the scenic vistas and open spaces that attracted them in the first place.

The “good citizen” instincts of developers and homebuilders can be appealed to, as well as their instinctive economic realization that orderly growth can stave off angry regulatory efforts on the part of disgruntled voters, suburban, rural, and urban.

Hopes for success in changing land use management in Pennsylvania hinge upon:

1. Dealing with the vagaries of the legislative process and the politics of the state legislature. Success there, in turn, depends upon two other factors:

2. Relating land use management to some commonly accepted values.

Most people have a sense of fairness that, if it does not cost them too much, will motivate them to support the concept that the user/beneficiary pays. Backers of that viewpoint need to do a better job in

analyzing and articulating facts to make a convincing case. While property-rights values are strong, most of the argument deals with making the owner whole in financial terms. The market will continue to be the most powerful determinant of location decisions. This must be respected, but those making choices should be better informed of the costs, benefits, and their incidence.

3. Coming down in favor of some specific tools that are consistent with these values. For both the short run and the long run, we suggest the unifying concept of planning as a tool, along the following lines:

- a. Listening to the market.

- b. Free choice—informed by both short- and long-range costs and benefits.

- c. Preservation of environmental values. Proof that people want clean air and water and green space is demonstrated by the powerful legislation passed in the past three decades by an often reluctant Congress and implemented by sometimes balky states.

- d. Fair compensation for private land to be preserved by using tools such as the acquisition of development rights and transferable development rights.

- e. Local choice—constrained, however, by having to mitigate impacts on neighbors.

- f. Land use management administration that is professional,

streamlined, and coordinated in the case of DEMIs. The idea is to save both the taxpayer and the developer time and money while producing a higher quality product. To that end there would need to be a logical, nested set of guidelines (a.k.a. plans) that included an assessment of long-term fiscal and environmental impacts. It would need to be a living document implemented by zoning standards and

a capital budget in order to “manage” growth within a timetable and fiscal apparatus suitable to a municipality’s capacity.

In sum, the Institute of Politics seminars pointed the way for achievable action, consistent with and moving toward long-term societal goals as outlined in this section. Let the effort begin.

A Light in the East: Three Pennsylvania Counties and their Approaches to Sprawl

Pennsylvania law makes it tough to control urban sprawl. But three southeastern counties have demonstrated it can be done—using different approaches.

Chester, York, and Lancaster, like other counties, have had to cope with two Pennsylvania peculiarities. One is the vast number of municipalities, large and small—more than 2,500 townships, boroughs and cities in all. Second, each of those municipalities has absolute control over subdivision and zoning decisions within its boundaries. So any planning beyond the municipal level—whether multi-municipality, county, or regional, as in many other states—is strictly voluntary.

But the Planning Departments in Chester, York, and Lancaster counties have found approaches that along with gentle persuasion have brought a

measure of success that has eluded others in the state. They range from the use of money from a crucial bond issue (Chester) to designating growth areas (York) to establishing specific urban growth boundaries (Lancaster).

Of course, it has helped that all three counties are experiencing growth pressures external and internal: Chester County from Philadelphia and Wilmington, Delaware. Lancaster County, next west, squeezed from both Philadelphia and Harrisburg, plus internal growth from a flourishing economy. And York, feeling it from Harrisburg and also from Baltimore County, just across the state line, and from Baltimore itself.

In each case, county commissioners and county planning commissions have been willing to take the initiative and the political heat in moving planning approaches ahead.





They have been helped by a public worried about the effect on the quality of life of the loss of farmland and open spaces. (Lancaster County Planning Director Ron Bailey says polls show that the most popular thing the county commissioners can do is to buy up land for open-spaces purposes.)

And in the three counties there have been enough far-sighted municipal officials and, yes, developers and homebuilders to make possible planning beyond the parochial level. These are men and women who realize that some planning and zoning larger than their own territory is necessary if they are to retain the very quality of life that has made their regions attractive to commerce as well as to individual families.

All of these ingredients are necessary, given the nature of Pennsylvania law. But fashioning them into a successful approach is something else. Let us now examine how each of the counties has gone about it.

CHESTER COUNTY

Money talks, explains Bill Fulton, Chester County's planning director. Specifically, the key was voter approval in 1987 of a \$50 million bond issue placed on the ballot by the county commissioners. The stated purpose was to provide money for reserving agricultural, open space, and recreation lands.

The rationale was that in the mid-1980s the 780-square-mile county was experiencing an accelerated development at the rate of 12,000 lots a year. "While Chester County had had sprawl for 10 to 15 years before that, the effect was becoming quite evident with clogged roads and other problems of suburbanization," Fulton explains. At the time, he was the assistant director to George Fasic.

In one of the highest turnouts in county history, 82 percent of those voting said "Yes" to the \$50 million bond issue. Not only the money but that citizen affirmation has bolstered planning and implementation efforts ever since, Fulton says.

"You're talking about a land ethic here. Land is very important in Chester County—environmentalism, that's not just 'protect the bog turtle.'

The bond money was allocated (1) to land preservation organizations—the Brandywine Conservancy Trust and the Natural Lands Trust—(2) to the county's Agricultural Land Preservation Board, (3) to the county's own efforts and, highly important, (4) to municipalities willing to cooperate. Significantly, to date, 67 of the 73 municipalities in Chester County have prepared open space programs.

By the early 1990s, the bond money had been spent. "Public consciousness had been raised," Fulton says. "But the developers were unhappy with our taking land they

wanted to develop. By 1992, we realized we had to do something of significant magnitude to stay on course.” For one important thing, later initiatives would be funded by the County’s General Fund.

The County Planning Department studied the demographics and found that at the current rate of growth, the 380,000 population would grow to 500,000 people by 2020. “We were going to have to throw out an anchor” to slow the implications.

Interestingly enough, although Chester County is considered part of the Philadelphia area, it does not border directly on Philadelphia County. “We are not a Philadelphia suburb,” Fulton declares, even though the fabled Main Line suburban rail route comes through the county. Indeed much of its growth impact is coming across the state lines from Wilmington (including Dupont executives) and Baltimore, with even a five-year backlog for houses in the \$1 million to \$2 million category. Some people even commute to jobs in New York City, Fulton says.

To try to anchor that growth, the department first developed what it called “Landscapes: Managing Change in Chester County, 1996-2020; Comprehensive Plan Policy Element.” The report, adopted by the county commissioners in 1996, showed that the county’s population had doubled since 1960, increasing to an estimated 412,000, with projections it would

reach 500,000 by 2020. At least 50,000 acres of open land had been lost since 1970. At current land use rates, 43,000 new housing units would be needed, gobbling up another 60,000 acres of land.

What was needed, the document said, was a Vision 2020 for working together. That led to the fashioning of the Community Planning Tool Box. This lists every design and legal “tool” available in Pennsylvania to enable progress. (No outside examples were included.) National recognition of these efforts came in 1999 when the Planning Department received from the National Planning Association its Outstanding Planning Award.

The Landscapes document demonstrated gaps between the county’s comprehensive plan and existing local plans. Armed with that information, the Planning Commission went on the road to persuade the municipalities to sign “memorandums of understanding” about closing the gaps.

The sweetener was an offer of up to \$70,000 to any municipality willing to move ahead to close those gaps between its plan and the county’s. They could do that either by hiring a consultant or by hiring the county planning staff. So far, of the 45 contracts, 25 percent have gone to independent consultants and 75 percent to the county staff. And to date, all but three of the 73 municipalities have signaled com-





pliance. “We frankly didn’t expect those numbers so fast,” Fulton acknowledges. “I think that speaks volumes for the commitment of municipal officials to the plan.”

The approach is to work with the municipality to match its needs, whether rural or suburban. “No model ordinances; we don’t endorse that,” Fulton says. “In the 1970s, we planners were guilty of a ‘one size fits all’ approach. Now we say, ‘choose what you are and which tools you want to use.’”

The goal is to organize planning regions roughly matching the county’s 13 school districts. Already, eight municipalities have joined in the Northern Federation. Another group of municipalities is clustering around the county seat town of West Chester. A third regional planning group hinges on Kennett Square.

No attempt is made to set urban growth boundaries on the Oregon model because state law doesn’t make that possible, Fulton said. As the Landscapes document puts it: “Growth boundaries are a means to delineate where more intense development is appropriate and where it is not . . . Decisions on where to locate new public facilities, such as roads and sewer lines, are made easier when growth boundaries have been identified.” Again, the approach is gentle persuasion infused with money to get municipalities to work together on subdivision and zoning policies.

A major appeal in the total effort is that of sustaining and enhancing quality of life. “Landscapes” makes clear this is no la-de-dah matter. “By continuing sprawl, our strong, information-based economy will be threatened. The largest employers in the county are not the same companies that existed 10 years ago. Using computer technology, these new companies, and the qualified workers they employ, are free to locate wherever they want . . . If sprawl destroys the outstanding quality of Chester County, many jobs will leave.”

For just one example of the new economy, 35,000 people-a-day come to work in the Great Valley Corporate Park in the northeastern part of the county.

Despite progress, many problems remain. Some farmers take advantage of tax-abatement programs designed to keep the land in agriculture, but later sell anyway.

Then Fulton points to what seems to be “the American dream, a house on a one-acre lot.” To counter that, planners have been trying to persuade municipalities and developers to use 3/4-acre or even 1/2-acre lots—something that will save land.

Developers in turn say they are only responding to market demand. To change that factor, there needs to be more education of the public to accept smaller lots, they say.

A helpful, two-sided perspective comes from W. Joseph Duckworth of

Wayne. Not only is he a developer, president of the Arcadia Land Company, but he also is chairman of the Chester County Planning Commission. Moreover, he is on the boards of two environmental groups, the Natural Lands Trust, a Philadelphia-region organization, and 10,000 Friends of Pennsylvania.

Duckworth says, “The land use pattern that we see is the result of developers essentially following the rules laid down by the municipalities, favoring single-family housing. It is not the developer’s job to change the rules. That’s up to the public if it doesn’t like the results in terms of what people call sprawl. What is happening is that open-space preservation is OK with everybody, except when tax rates get too high.”

A problem is that the typical municipality doesn’t have a full-time planning staff. “Anything new is feared by elected officials,” Duckworth finds from experience. “Leadership comes from within the planning profession, not from part-timers giving one or two times a month to the subject. The existing zoning has been in place since the 1920s, so changing that is very difficult. It takes education and, even then, courage.”

Creating density through what are called walkable communities has often been controversial. One successful project has been The Gardens in Uwchland Township in the Downingtown area. But when com-

missioners in Kennett Township tried to create a walkable community to be known as Rosedale, the immediate neighbors objected out of fear that the housing would be less desirable, lower-priced and therefore compromising to the neighborhood.

Another dilemma Duckworth mentions is that there are relatively few examples in Pennsylvania of the new walkable communities that enhance the density principle. “We have to take people to Maryland to see how you can have developments that work well and also save open space. King Farm in Rockville and Kentlands in Gaithersburg do that with reasonable density—3- to 5-units-per-acre. In Chester County the average is 1.2 acres because the prevalent, large-lot zoning in many municipalities requires it.”

That explains why Bill Fulton, when congratulated by a visitor on what Chester County has accomplished, shakes his head. “It’s still uphill. We are losing 14,000 acres a year. That’s the equivalent of a full township!”

Now let us take a geographic leapfrog westward across Lancaster County to York County.

YORK COUNTY

“Cluster housing development is the best way to have green areas. The zoning requirements in many municipalities make it difficult to have density. To counter





sprawl, we should be working to make the cities more livable, tackling the problems—crime, schools, taxes, and traffic—that discourage people from settling there.”

“To open up the Codorus Creek waterway, one of the most desirable places in York County for homes, something should be done about a chemical company’s putting its wastes in the creek—creating not water pollution but smells. The failure of some municipalities to cooperate leads to absurdities, such as homebuilders having to settle for head-to-head cul-de-sacs because one municipality won’t let a natural artery come through.”

A couple of planners talking? Guess again!

Making these comments are two York County developers, members of the baby-boomer generation. They are Clark Drenning, chairman of the Land Developers Council of the York County’s Builders Association, and Don Larkin, immediate past chairman. The association with 1,000 members is the third largest of its kind in the state.

To be sure, the two also make comments at variance from what one would expect from professional planners. But the fact that Drenning and Larkin espouse so many of the concepts one usually associates with those on the other side of the table suggests that the York County Planning Department, under Jack

Dunn the past 35 years, has done something right in its “gentle persuasion” approach with developers and with York County’s 72 municipalities.

As Drenning puts it, “We have a good working relationship with the Department. That has included the designation of growth areas.” York County has framed what one could call “soft-edge” urban growth boundaries (UGBs), indicating where growth should take place but without setting hard-and-fast lines. Drenning adds, “One result is that 82 percent of the growth has been in those designated areas.”

Larkin weighs in with an observation based on the nation’s most noted experience with UGBs, that of Portland, Oregon: “Urban Growth Boundaries are great for business, but in the long run it makes housing unaffordable within those boundaries.”

Both Drenning and Larkin stress that in a market economy “we build where we do because that’s where the customers want to live. We’ve got to sell the public on different styles of housing and make them desirable.”

Here’s where there can be a concurrence of interest among developers, planners, and environmentalists. Quality of life is the ideal for everyone, with amenities such as green spaces and recreation areas and a lessening of traffic congestion needed to that end. The trick is to convince people that a house on a one-acre lot

is not always the best answer, these developers suggest.

Larkin sees hope in several aspects of the evolving demography. His firm, Don Larkin Communities, is finding increased demands for “consolidated housing”—townhouses, condominiums. That means, for example, a developer can build 78 townhouse units on 9 acres, instead of 78 houses on 78 acres. Multi-family units can be built at two to three times the rate of single-family dwellings, meaning a developer’s capital is tied up for a much shorter period.

Demographic trends suggest that a majority of people now buying are older than 45, without school kids. People are retiring at a younger age, too. They desire a place where they don’t have to mow the lawn or shovel snow, and where they can lock the door and take off on vacations, letting someone else handle the responsibilities.

Moreover, even younger people are working longer hours and don’t have the time for lawn and yard chores. An important note, Drenning interjects, is that “we no longer are selling just ‘shelter.’ Often we are selling a life style, with a swimming pool, mail services, day care—the kind of amenities best provided in a multi-unit setting.”

Much of this dovetails with the perspectives of the two top officials in the York County Planning Department. They are Jack Dunn, who retired

March 31, 2000, as director for 35 years, and his associate, Felicia Dell, who has succeeded him.

Although York County historically was considered an agricultural county, in the 1980s farmland went into a minority position. Whereas in 1960, the farmland/non-farmland split was 70/30, by 1992 it was 43/57. Indeed, since 1940, farmland has decreased by six square miles annually. The population has grown from 340,000 in 1990 to an estimated 375,000 at the beginning of the 21st century.

As Dunn and Dell describe the broader picture of sprawl, some pressure on York County is coming across the Susquehanna River from Harrisburg into the northeastern corner. But what may surprise many people is that a major impact is coming from Baltimore. It may be startling to realize that the northern edge of Baltimore County abuts York County on the Mason-Dixon Line. Since the 1960s, people working in that county and even in Baltimore itself have moved into York County because the housing is more affordable. And the commute to Baltimore from some townships is only 40 minutes or so.

Curiously, Dell says, Baltimore County’s good stewardship in land use has had a reverse impact on York County. Maryland isn’t cut up into municipalities the way Pennsylvania is, and planning is done on a county-wide basis—a planner’s dream.





But Baltimore County decided to zone for open-space protection the 100-square-mile Hunt Valley area just south of the Mason-Dixon line. From Maryland's point of view, conserving this horse-country region with a 50-acre lot minimum made sense.

However, Dell explains, the result has been that the population thrust from Maryland has leapfrogged that area and put renewed pressure on southern York County.

But that, in turn, has caused five southeastern municipalities to form a regional comprehensive plan, the first such grouping in York County in 20 years. They are Shrewsbury Township, and the boroughs of Shrewsbury, Railroad, New Freedom, and Glen Rock.

Across the decades, Dunn says, the thrust of York County's comprehensive planning has been a two-fold differentiation between areas: (a) where growth is inevitable and (b) those to be reserved for agriculture or conservation. This is the basis of the York County Comprehensive Plan adopted by the County Commissions in 1992.

"Since Pennsylvania law doesn't permit a county to decide growth patterns, our process has been to provide guidance to the municipalities," Dunn explains. "We spent time looking at what the municipalities were doing and where infrastructure was planned." The studies often went down to individual

tracts. Primary growth areas were those with both sewer and water lines, and secondary areas were those with only one or the other.

On this basis, growth-area boundaries could be negotiated, municipality by municipality. Dunn says, "We used a soft-sell approach, trying to avoid the idea of 'the big county coming along and telling you what to do.'" The background of this Penn State graduate (geography) and experience with a private-sector engineering firm and in the governmental sector with the State Department of Commerce undoubtedly has helped.

A sign of success is that most of the municipal comprehensive plans and sewage facilities plans that have been reviewed by the Planning Commission since 1992 have been found to be consistent with the goals and objectives of the County Comprehensive Plan.

By and large, the vision has been that land south of U.S. Highway 30, across York's midsection, would stay agricultural. Some of Pennsylvania's finest farmland lies south of the city of York in a crescent shape extending from the southeast region of the county to the northwest area. Dell said that the projections are that there is enough land within the county's designated growth areas to absorb the potential growth of the next 20 years.

"But we are pushing for density to make that possible," Dell explains.

“The aim is to balance growth and also preservation of open spaces, farmland, public lands, game lands, water resources.” Dunn interjects, “We hope to capture 80 percent of that 20-year growth within the urban boundaries.”

The Planning Department’s philosophy on farmland is outlined in a paragraph from a 2000 publication entitled “A Strategy for Agricultural Land Preservation in York County, Pennsylvania.” It reads:

“[A]lthough it is accurate to say that approximately 6,000 acres of farmland was lost to development in 1998, it is more informative to say that approximately 2,000 acres of farmland located outside of growth areas was lost to development. Or stated the other way, although approximately 6,000 acres of farmland was lost to development in 1998, 4,000 acres was lost in areas designated for development. We need to understand and accept the fact that some farmland loss is necessary to accommodate growth, and if it is occurring within designated growth areas, it should not be criticized. It is believed that preservation efforts will be more fully supported by the development community if a more accurate presentation of the magnitude of the problem is presented.”

The county’s preservation efforts include the urban and the historical. Unlike too many other towns, in York, downtown redevelopment did not mean blasting down buildings, but, rather, the saving of Revolutionary

War buildings such as the Golden Plough Tavern and the (General Horatio) Gates House. York for a time in the 1770s was the capital of the new United States after the British captured Philadelphia, with the Articles of Confederation debated and signed there.

What about the “big box” stores that have created so much controversy in some places? Two Wal-Marts have been sited in the greater York city area and another in Hanover. One of the greater York stores, in Springettsbury Township, replaced half of York County’s first suburban mall, the York Mall. This is a typical example of aging and subsequent turnover process in suburban malls. But all three are within the urban growth boundaries, Dell points out.

Even with insufficient powers, the Planning Department has found it has to lead the way. Dunn and Dell say that most developers are local and don’t want to become too adversarial with local officials.

There is a common conception that developers use a “divide and conquer” technique, playing one municipality against another. But, developers say, too often it works the other way.

For instance, developer Drenning described a situation in which a road dead-ended at a municipal boundary line. When the next township was being developed, it seemed perfectly logical to extend the road. But, no,





public controversy arose, and in the end the developers had no recourse but to build at considerable cost twin cul-de-sacs, separated by a strip of land that logically should have been a connecting road.

Now let us turn back eastward to Lancaster County where more rigorous urban growth boundaries have been established.

LANCASTER COUNTY

Urban growth boundaries. That's the buzz word in planning and development circles in discussing urban sprawl. UGBs are the magic solution for some and a bane for others.

Ron Bailey, planning director for Lancaster County, is an acknowledged expert on the subject. A California native, he went to college in Oregon, whose Portland region is the poster boy for the UGB concept. Before his coming to Pennsylvania, he worked in the planning department in Washington State's Clark County, across the Columbia River from Portland.

And since 1988 he has shepherded within Lancaster County as strong a UGB system as seems possible within Pennsylvania law. Since the county commissioners in 1991 adopted a county policy plan, eight UGBs have been established with five more in the works. In addition, in a more territorially defined category, 14 village growth boundaries

have been established. Of 60 municipalities, 25 are now in the UGB system in one way or another.

First off, Bailey underlines the important distinction between the UGB systems in Portland and in Lancaster County. In Portland, the UGBs are hard-and-fast boundary lines cutting across municipal lines. They were set 20 years ago by a regional government with an elected board and elected chief executive. Called METRO, this metropolitan service district handles a whole series of regional issues—solid waste, the zoo, elements of mass transit.

What has complicated Portland's situation is the welcome growth of a computer industry that has bolstered a sagging economy once based on timber, fish, and extractive industries. New employment, highly paid jobs, and double-digit growth in the 1990s have swamped the housing market, something that would have driven up housing prices in any event, Bailey says. But the homebuilder industry across the country has painted the UGB system as the culprit because it has stalled development in outside areas, even while land within the boundaries has filled up.

Yet, Bailey points out, nothing like that super-zoning approach is possible in Pennsylvania where zoning powers remain with each municipality and where even multi-municipality arrangements are, in effect, voluntary. When even the counties don't have

zoning powers, any kind of regional regulatory approach is impossible.

What Lancaster County has accomplished is the voluntary establishment of a series of UGBs through the cooperation of the county, the municipalities, and developers and homebuilders. The UGB process is used as a planning tool, not operating by regulatory fiat as in Oregon. And it avoids a locked-in situation by providing for more boundary-line flexibility as conditions change in the future.

The definition in the Lancaster County "Growth Management Plan" adopted by the county commissioners in 1997 states: "A boundary around an area that includes a city or borough at its center, developed portions of townships, and enough buildable lands to meet future land use needs over a 20 year period to the year 2010. An urban growth boundary separates areas appropriated to growth from areas intended for agricultural, rural, and resource uses. Urban Growth Boundaries are given official standing by their incorporation on future land use maps and adoption in the county and local comprehensive plans."

The idea is to encourage investment within the boundary. "If you do it outside, we will not be planning the infrastructure you will need," Bailey says. "With fiscal restraints, we cannot build each road and sewer line for everyone, everywhere. The same for sewage

treatment plants." A UGB gives a better idea of what capacity to build.

Bailey says, "Our success has been built on the power of persuasion. We are lucky that we have so many outstanding municipal officials who see the need to cooperate."

But clearly, too, Lancaster citizens have become increasingly aware of the pressures of growth upon one of the most idyllic and agriculturally prosperous regions in the world. Drive along State Highway 340 to the east of Lancaster, the county seat, and see some of the richest farmland in the world—limestone-enriched topsoil going down 10 to 14 inches, with total soil depths to bedrock as much as 60 to 75 inches in places. Bailey says the county's agricultural value exceeds that of 10 other states and soon is expected soon to top that of the entire state of Maryland. Yet since 1959, more than 100,000 acres have been lost, something like 8 acres a day.

For tourists, Lancaster County's appeal is enhanced by the sight of skilled Amish farmers plowing and harvesting with horse-drawn equipment and their families riding in buggies.

The presence of the Amish has required some flexibility on construction outside the UGBs, such as allowing 20 percent of new housing units to be built outside the lines. Amish land may go to the oldest sons, but with farmland availability tight, younger sons go into cottage industries





in added houses on the family farm or near it.

Given Lancaster County's "green and pleasant land," no wonder suburbia has spilled over from Harrisburg and even from Philadelphia (leapfrogging Chester County). But Bailey says that only about half the growth in population from 420,000 in 1990 to an estimated 475,000 in 2000 is due to commuter residents. The other half has been internal growth, including, to be sure, commerce and industry drawn by the county's quality of life. In any case, the result has been an increase twice that of the growth of the entire five-county Philadelphia region.

One important marker is that while in the 1980s farmland was being lost at the rate of 6,000 acres a year, Bailey says that in the past two years that has dropped below 2,500 a year.

Political will to do something about the situation is bolstered by polls that show the top issues for citizens to be (1) sprawl, (2) loss of farmland, (3) traffic congestion, and, finally, a non-sprawl issue (4) public safety. And the most popular act that elected officials can take, Bailey says, is to spend money purchasing land for open space purposes.

However, a prominent home-builder, Rob Bowman, says there is a lot of hypocrisy involved here. People talk about sprawl but want homes on big lots. They complain about "big box" retail outlets, "yet you see Wal-

Mart's parking lots full. There's a lot of 'do what I say, not what I do.'"

Bowman, a past president of the Lancaster County Building Industries Association, supports the idea of planning and praises the efforts of the County Planning Department. "People are going to keep coming to Lancaster County. We have no control over that, so how do we approach it? We can't be an ostrich. In the Sunbelt, development was done by the national corporations. Here we are doing it ourselves. If we don't do it well, the big guys will come in and do it for us."

The developer sounds like a planner when he declares, "We have to come up with a vision. You've got 10,000 more people coming in. Where are they to live? In tents? This is a market-driven economy and that's what we respond to. We need to work for solutions for land-use alternatives that meet that approach. There are not just two sides to this matter any more. There are no villains."

Bowman feels the county planners need to be empowered by the state legislature to be able to do more.

Planner Bailey agrees with the need for finding alternatives. He suggests a need for changing municipal zoning laws to give greater latitude for arrangements crossing municipal boundaries. He sees working with developers to diversify the market offerings, such as with townhouses. Bailey would like to move to a standard of five units to an acre. That, of course,

means work to popularize such ideas with the public, “changing the concept of what constitutes a beautiful home in a beautiful community.”

THE ‘CURATIVE AMENDMENT’ PROBLEM

A foil to decent planning even at the municipal level is the little known legal device known as the “curative amendment.”

Pennsylvania law for 20 years has required that every plan must allow for every possible use, or else risk being found unconstitutional. This provision allows a landowner to challenge a zoning plan on the basis that it is prohibiting him from doing what he wants with his land. If he wins in court, the municipality is blocked from establishing any regulations.

Here has been a case of Oscar Wilde’s aphorism about “No good deed goes unpunished.” Some groups backed the amendment as a way to make sure no municipality could practice exclusionary zoning, such as for racial reasons. Environmentalists wanted it as a way to make sure wetlands and the like could be preserved.

But the upshot is that the process has been used by landowners cooperating with developers to force municipalities to accept everything from mobile homes to billboards to rock quarries.

For example, in a Bucks County

suburban area, a landowner challenged a municipality’s plan on grounds that it had no provision for a quarry. He filed a curative-amendment appeal and won. The result was that the municipality was unable to set any limits on trucks, lighting, and operating hours for the quarry operation.

Planners such as Lancaster County’s Ron Bailey cite this as an example of where municipalities hugging their autonomy have backed themselves into a corner. Were there changes in the law to fortify plans larger than those of a municipality, besieged townships and boroughs would have a protection benefiting both themselves and the larger cause.

OBSERVATIONS

The examples of Chester, York, and Lancaster Counties in finding ways to channel growth show both the possibilities as well as the limitations within the restrictions of Pennsylvania law.

They demonstrate the power of the market as well as the growing desire for quality of life. A great number of elected officials, as well as developers and homebuilders, realize their stake in coping with both drives. Certainly within the Pennsylvania system of zoning laws, the attitudes of local municipal officials toward cooperative efforts are key. And one





has only to consider the comments made by developers such as York County's Clark Drenning and Don Larkin to suggest that painting the entire development community as hopeless may be overlooking assets in the struggle against sprawl. An overarching need is to find ways to convince the general public that citizens must make adjustments in their concepts of the good life if they are to be a part of the solution and not the problem.

Some of the remedies need to come from the state legislature. Not the least is the realization of the deleterious results of the continued cutbacks of state support for schools.

As pointed out by developer Larkin, a major way to reduce suburban sprawl is to make life in the cities more attractive, with good schools an especial key.

But for needs more specific to planning and zoning, we turn to vision statements by various actors in the field. These ideas, coupled with those developed in the Institute of Politics seminars reported earlier in this document, should form the basis for road maps at the state, county, and municipal level for action in coping with urban sprawl with all its implications for Pennsylvania's future.

APPENDIX

Glossary of Terms Used in the Report

BOARD OF ADJUSTMENT.

SEE ZONING HEARING BOARD.

Capital Budget. Used by states and municipalities to identify projects that have a long life, such as a bridge. These projects are usually financed indicating present conditions and trends plus means to implement the plan. The scope and depth of a comprehensive plan is quite flexible, but the modern trend is toward leaner documents but with sharper focus on key strategies.

Concurrency. This requires that the infrastructure necessary to support a new development be in place before it is occupied. Arguments occur in defining what infrastructure should be included. Roads, water, and sewer service are not usually in dispute, but schools, libraries, and playgrounds can be. Also, discussion can be heated concerning the credibility of the municipality's timetable to provide the infrastructure and the developer's right to do so to meet a more ambitious timetable.

Consistency. There are three types of consistency: (1) *internal consistency* refers to the logical link in the creation and execution of a municipality's comprehensive plan, zoning, sub-division and land

development requirements, official plan and capital budget. (2) *horizontal consistency* refers to the compatibility of land use plans and tools among neighborhood municipalities. (3) *vertical consistency* refers to the compatibility of land use plans and tools up and down among the state, region, county, and municipality.

Curative Amendment. This is a provision in the Pennsylvania Municipalities Planning Code that permits landowner to challenge a zoning ordinance or map that restricts the use of the owner's land. A study and hearing must precede official action in the request.

Developments with Extra-municipal Impacts (DEMI). These are developments that, because of their size, such as regional shopping mall or location adjacent to the border of a municipality, will cause impacts such as traffic and storm water runoff in neighboring municipalities.

Full Cost. This includes all present costs such as those required by construction plus all future costs such as operation and maintenance and finally rehabilitation, replacement, or demolition. Often those who caused the costs or who benefit from the project or program do not pay full





cost. Instead, society in general may pay through subsidies or, for example, increased congestion.

Impact Fees. The idea is that those causing the impact should pay for it. In land use discussions, however, the idea gets complicated by the question of how far from the main point of impact the cost ripples spread. Also, there are issues concerning offsetting benefits such as local commercial spending increases due to new subdivisions. Finally, there is the difficulty in sorting out the costs and benefits to the direct users and to society at large.

Infrastructure. This most commonly refers to public physical items such as roads and water and sewer lines. The term is increasingly applied more broadly to include public services and the collection of laws and institutions referred to as social infrastructure. In general, however, infrastructure is that which is considered essential to the operation of a municipality, state, or nation.

Planning Agency. In Pennsylvania, municipalities may create a planning agency. This can be a planning department, a planning commission, or a committee to advise the elected board. At the request of the governing body, the planning agency prepares a comprehensive plan, and prepares and recommends a zoning

ordinance, subdivision and land development regulations, and a capital improvement program among other duties.

Subdivision. This has a range of meanings. Commonly, a new, suburban housing development is referred to as a subdivision. In more legal terms it is the division of a parcel of land into two or more pieces. In Pennsylvania, municipalities may adopt a “Subdivision and Land Development” ordinance to govern the parceling of land and the development that may occur on it. In contrast to zoning that identifies what types of land uses may occur where, a subdivision and land development ordinance determines how that development takes place. Thus, the ordinance contains standards for the width of streets, placement of fire hydrants and water and sewer lines.

Tax Base Sharing. This permits municipalities to cooperate to share wealth. Wealth may be created by new industry in one municipality while wealth may be the retention of major open space and forest in another. This arrangement permits land uses to be located most appropriately anywhere in the entire cooperating region rather than each and every municipality being pressured to accommodate each type of land use. This helps prevent fiscal

zoning in which each municipality tries to attract the high tax payers and leave out low income people or uses accomplished often through subsidies or reduced standards. Fiscal zoning can open the municipality to low quality uses, environmental degradation, and high future maintenance and replacement costs.

Transfer of Development Rights. The concept is simply that the rights to develop a piece of land may be severed and sold to a developer for use on another piece of land. The owner of the sending land receives the same amount of money as if the land had been developed. Also, the land remains in open space or agriculture. The owner of the receiving land wins also because now a higher density is provided on the receiving piece. Relative to many other means to guide development, this tool relies greatly on the free market to identify appropriate sites for development and the price for development rights, while government is minimally involved.

Urban Growth Boundaries. This approach is simple in theory but highly complex and contentious when attempted. In general, the state requires that urban regions locate a boundary around an existing city that will accommodate growth for twenty years. This may mean more acreage for development but, more in keeping

with the concept, it will result in provisions for higher density development within the boundary. Outside the boundary, development is highly restricted. By limiting sprawl, higher densities preserve more open space and can support more efficient public services such as transit and maximum use of water and sewer lines. A high degree of common vision throughout the region is critical to the use of this tool.

Urban Services Districts. This concept ignores traditional municipal lines on the map when identifying the most efficient area for a public service such as the location of fire stations, the creation of storm water management districts, and the provision of water and sewer service. Urban service districts are particularly logical because they are drawn on criteria such as hills, valleys, rivers, and demographics rather than political history. When these districts are drawn and managed on efficiency criteria, they can provide some of the same benefit as urban growth boundaries without the political conflict posed by the latter.

Zoning. This is one of the oldest tools of land use management. The zoning map identifies areas—zones—in which only certain types of land uses may take place. The zoning text which spells all of this out identifies permitted uses, density, and the





height and bulk of buildings built within each zone. Recently, the idea of strict separation of housing and commercial, for example, is being softened to permit more inclusive—livable—neighborhoods that contain not only housing but some offices and retail services as well.

Zoning Board. See **zoning hearing board**

Zoning Hearing Board. Sometimes called a **zoning board** or **board of adjustment**. If a municipality enacts a zoning ordinance it must create a zoning hearing board to hear, among other duties, appeals from the zoning officer and requests for variances from the strict interpretation of the zoning ordinance where physical limitations on the land may deem it. This is different from the Planning Agency (see page 30).

NAHB's Smart Growth Report
 by
 Charles J. Ruma
 1999 President
 National Association of Home Builders

EXECUTIVE SUMMARY

Building better places to live, work, and play has been the guiding principle driving the home building industry for decades. Home builders have always worked hard to make the communities they build the very best places for America's citizens to start their lives, raise their children, fulfill their dreams. A "better place to live" has meant different things to different generations of Americans. For many immigrants and city dwellers in the early part of this century who resided in overcrowded tenements that lacked the basic conveniences, a better place to live meant a single-family home with a backyard outside of the city. To the post-World War II generation, the step up to a better community and a better life meant a three-bedroom/two-bath rambler in the new suburbs, such as Levittown and similar communities.

From the 1960s through the '80s, Americans exercised their freedom to choose where to live, opting for even-larger homes further out in the suburbs, leading to the rise of "edge" and fringe cities from Tyson's Corner, Virginia to Irvine, California.

Now, with the nation's population

continuing to rise and the country in the eighth year of a remarkable economic expansion—both of which have led to robust residential growth throughout the decade—the definition of a better place to live is changing again. Americans are calling for "smarter" growth and more livable communities.

And builders are responding again. We're responding with our own "smart growth" plan—a plan that calls for meeting the nation's housing needs in smarter ways. With all the talk today about smart growth, it's hard to know what this term really means and how it can be used to fulfill the housing demand our nation is facing and the desires of Americans for something "better."

In this report, you'll find the National Association of Home-builder's Statement Policy on Smart Growth. The statement defines smart growth as meeting the underlying demand for housing created by an ever-increasing population by building a political consensus and employing market-sensitive and innovation land-use planning techniques. It means understanding that suburban job growth and the strong desire to live in single-family homes will continue to





encourage growth in suburbia. Smart growth also means meeting that housing demand in smarter ways by planning for and building to higher densities, revitalizing our nation's cities and older suburbs, and preserving meaningful open space and protecting environmentally sensitive areas.

Above all, smart growth recognizes that no single growth plan will work for all communities. Every locality has different housing, economic and environmental goals—goals that are not mutually exclusive. The authority to determine land use is vested in local government, as it should be, and that's where smart growth strategies must begin. The challenge is for localities to come up with long-term, comprehensive growth plans that take consumer preferences into account along with other goals set by citizens regarding housing affordability, open space, infrastructure, and the environment. Any comprehensive growth plan should also address means of reducing barriers to the amount and kind of housing called for by that plan.

The path toward smart growth is full of obstacles and rough terrain. Our nation's growing population will need homes, and consumer choice will dictate that the large majority continues to be single-family homes in the suburbs. The overwhelming majority of housing consumers are unwilling to settle for anything less

than a single family home in the suburbs. In the latest NAHB survey of consumer attitudes, 88 percent of respondents said they prefer to live in a single-family home. And they adamantly oppose the idea of living in or near higher-density single-family homes, townhouses, or multifamily rental apartments. Given these realities, how is smart growth to be achieved?

The following six principles, developed by home builders, land developers, and planning experts, can help guide us toward smart growth:

- Anticipating and planning for economic development and growth in a timely, orderly, and predictable manner.
- Establishing long-term comprehensive plans in each local jurisdiction that make available an ample supply of land for residential, commercial, recreational and industrial uses, as well as land set aside for meaningful open space and to protect environmentally sensitive areas.
- Removing barriers to allow innovative land-use planning techniques to be used in building higher-density and mixed-use developments as well as infill developments in suburban and inner-city neighborhoods.

- Planning and constructing new infrastructure in a timely manner to keep pace with current and future demand for housing, and finding a fair and broad-based way to underwrite the costs of infrastructure investment.

- Achieving a reasonable balance in the land-use planning process by using innovative planning concepts to protect the environment and preserve meaningful open space, improve traffic flow, relieve overcrowded schools, and enhance the quality of life.

- Ensuring that the process for reviewing site-specific land devel-

opment applications is reasonable, predictable, and fair.

To achieve these guiding principles of smart growth, our nation's communities will need to unite in a spirit of participation, cooperation, and compromise. We will need to focus on solutions and reach consensus. The nation's homebuilders are committed to working with everyone to help make smart growth achievable. And we're committed to carrying out these smart growth principles in order to continue to fulfill Americans' desire for better places to live, work, and play.

Sensible Solutions for Growth Control :
A Blueprint for a Better Pennsylvania
by the
Pennsylvania Builders Association

INTRODUCTION

The home building industry understands the need to wisely and properly plan for growth. In fact, it does support such measures. During the past three years, the Pennsylvania Builders Association (PBA) has invested a great deal of time in reviewing the issue of growth and development. The PBA believes there are sensible solutions to the issues surrounding growth and development. But these solutions should not include

measures which will drive up the cost of housing and create a society where homeownership becomes a luxury and a privilege of the few at the expense of many. People choose how they will live; any discussion of growth controls which ignores that fact is doomed to failure. Builders understand this, and we respect the rights of our citizens to pursue their version of the American dream. And that's precisely why the PBA will always support the rights of people to live in decent, safe, and affordable housing of their choosing.





The PBA does not dispute there are some real issues to tackle on growth and development. But finger-pointing and blame-casting will not solve the issues. Builders prefer to focus on solutions. The building industry has worked very hard these past years in trying to craft those solutions. Builders are not the problem; we are people with sensible solutions who understand that growth and development is good and that most people prefer to live in a economically vibrant climate. We believe the following blueprint for sensible solutions hold the answers to many of the questions surrounding how Pennsylvania can grow:

MUNICIPAL GOVERNMENT ASSISTANCE

Educate municipal leaders and the development community on the importance of sound and innovative land use practices

Innovative land use practices such as neo-traditional development, mixed use zoning, joint zoning, performance zoning, and the growing greener proposals, along with the value of cluster development and higher densities, must be communicated to municipal leaders and the development community in order to change land use patterns in Pennsylvania.

Financial incentives to encourage municipal cooperation and consolidation

Legislation mandating municipal cooperation or consolidation will never pass in Pennsylvania. Beyond the few municipalities with the foresight to consolidate and a number of municipalities with the wisdom to cooperate with their neighbors, most municipalities fail to cooperate, jointly plan, or zone in a way that would benefit all their citizens. It is apparent that financial incentives in the form of targeted Pennsylvania discretionary funding must be used to motivate these municipalities. Ultimately, the adoption of joint municipal zoning is the appropriate remedy for many land use problems.

Planning assistance

The Department of Community and Economic Development must expand the scope of its planning assistance to municipalities. State planning assistance grants must be dramatically increased in the Pennsylvania General Fund Budget.

Extend local tax reform to include municipalities

Local tax reform legislation for school districts, passed by the Pennsylvania General Assembly in 1998, was a good first step. The ability to shift from property to income taxes must be extended to municipalities. It is apparent that few, if any, school

districts are moving to take advantage of local tax reform. It is important that the legislature investigate why the new law is not being used.

Support a fair and equitable property assessment system to assess all property at fair market value

Inequitable property assessments are driving many homeowners out of their communities; it is a primary reason they are moving from one Pennsylvania community to another. These inequities are also a major impediment to buyers seeking a new home. Property assessment reform legislation is long overdue in Pennsylvania.

REVITALIZATION OF OUR
URBAN CORE

Reform and improve the public school education system in urban areas

Quality of area schools is the number one concern most often cited by prospective home buyers with children. Pennsylvania must invest the necessary resources to bring urban school districts up to the caliber of our suburban school districts.

Improve public safety in urban areas

There will be no influx of citizens into any urban area where there is a problem with crime. Pennsylvania must continue to make fighting crime a priority and concentrate on resources

to increase public safety in our urban areas.

Provide financial incentives to encourage new residential development and redevelopment in urban areas.

Property tax abatements on new residential development, currently allowed under Pennsylvania law, must be used by more urban municipalities.

Encourage municipalities to reduce code and regulatory barriers to rehabilitating and remodeling older buildings

The 1996 BOCA National Building Code and the 1998 CABO One- and Two-Family Dwelling Code, without additional municipal ordinances, should be the standard for construction, rehabilitation and remodeling in our urban areas. Construction rules, restrictions and requirements currently in effect in numerous urban communities across Pennsylvania, which exceed generally recognized standards for the protection of public health and safety, must be reduced or eliminated.

Encourage mixed land use development in communities to create or improve neighborhoods

Until municipalities eliminate or reduce single-use zoning requirements in their communities, it will be impossible for developers to create the compact villages that, historically,





have made Pennsylvania an attractive place to live and work.

Develop parks and connected bikeways, walkways and greenways throughout existing communities

It is clear most Pennsylvanians want readily accessible green space, even in existing communities. Municipal and state financing of parks and connected bikeways, walkways and greenways in existing communities is further incentive for people to remain in those communities and not move into the suburbs to find those amenities.

Enhance the quality of life, infrastructure, work force, and financial advantages to draw businesses to developed areas through programs such as . . .

- state incentive programs for residential, commercial, and community-appropriate industrial development in developed areas. One example is the governor's recently-enacted Keystone Opportunity Zone (KOZ) initiative, which uses tax abatements to revive economically-distressed urban and rural communities, and
- financial incentives for reuse of old buildings and tax/lien forgiveness to "recycle" buildings and preserve historic sites.

**INFRASTRUCTURE
PLANNING AND
FINANCING**

Provide for adequate, broad-based infrastructure planning and financing

There is little to no infrastructure planning at the municipal level. Municipalities, particularly in growth areas, should be encouraged to do infrastructure planning. With the extensive amount of aging infrastructure in most of Pennsylvania's municipalities, infrastructure planning is a wise idea. The PennVEST program for water and sewer infrastructure needs to be dramatically expanded. Increased transportation infrastructure financing is absolutely essential. In this current period of cheap gasoline, it is politically feasible to increase gasoline taxes.

Encourage intergovernmental cost and revenue sharing

Large commercial developments situated in and generating revenue for one municipality can have a cost impact on adjoining municipalities. The state government must encourage intergovernmental cost and revenue sharing.

SOLUTIONS TO SPRAWL

Allow for non-residential regional land uses

The Pennsylvania Municipalities Planning Code (MPC) should

be amended to allow municipalities to regionally plan, zone and provide for non-residential land uses. Approvals should be conducted at a regional, rather than municipal, level if the participating municipalities so choose.

Preserve environmentally-sensitive land and open space, while protecting private property rights through tract densities

The MPC should be amended to require municipalities to preserve environmentally sensitive land and open space, while protecting private property rights through tract densities. As tract densities are increased, more open space is preserved. Municipalities must zone residential land so property owners as a matter of right are able to develop at least one house for each acre of their parcel land.

CONTEXT FOR LAND USE POLICIES AND DECISIONS
IN PENNSYLVANIA; FRAGMENTATION OF LAND USE
AUTHORITY; POSSIBLE SOLUTIONS

by

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Note: The following is an excerpted version. For the complete version, please contact 10,000 Friends of Pennsylvania, 117 South 17th Street, Suite 2300, Philadelphia, PA 19103, (215) 568-2225.

The legal context for land use laws and decisions—state power over land use delegated to municipalities in Pennsylvania.

By virtue of Article 10 of the Bill of Rights to the United States Constitution, power over land use is a power reserved to the states because it is not specifically delegated to the federal government. It is a state power

fiercely protected by state and local governments, and little susceptible to usurpation by the federal government through interpretations of the commerce clause or other provisions of the federal constitution. However, federal policies on infrastructure spending for highways, transit, water and sewer facilities, mortgage guarantees, open space protection, and other measures have a large impact on local land use . . .

State land use regulation in other states and in Pennsylvania

State land use regulation takes several forms. State laws authorizing





permitting or funding various activities and facilities through state agencies are land use laws in the sense that these decisions impact land, air, water, the character of communities and the quality of life their residents enjoy. For example, solid waste facilities, surface and underground mining, quarrying, water and sewer facilities, roads, industrial uses, airports, port facilities, parks and greenways, etc. are land uses permitted, funded, or, in the case of roads, transit, and state parks, undertaken by state or local agencies, all of which have clear land use implications.

However, land use laws refer more narrowly to laws authorizing counties and local governments to do comprehensive planning, and to enact subdivision and land development, zoning and other ordinances affecting land use. These are local laws that specify permitted uses in areas of a municipality and requirements for the development of land, such as site improvements (subdivision and land development ordinances) and restrictions on use, density, height, setbacks, and open space requirements (zoning ordinances). Pennsylvania's law on these subjects is the Municipalities Planning Code (Act

247) adopted in 1968, and amended several times since then.

State land use laws range from highly state directed programs to land use laws that are almost entirely locally directed, such as Pennsylvania's . . .

Locally Directed Land Use: Pennsylvania

State programs that are largely locally directed are the rule in most states. Pennsylvania's historic tradition of local government and its large number of local government, 2,569—56 cities, 964 boroughs, 1,548 first and second class townships and one incorporated town—make Pennsylvania perhaps the national poster child for local control.

It is important to realize, however, that even in Pennsylvania, local municipalities have only the powers delegated to them by the state legislature. So, for instance, they do not have power to do coordinated planning and zoning on a regional basis in a legally meaningful way unless given that power by the legislature. At present, the only form such authorization takes is the power to adopt a joint comprehensive plan and a joint zoning ordinance, which few have elected to do.¹

¹The Intergovernmental Cooperation Law, 53 Pa CS §2301 et seq., does authorize municipalities to cooperate "in the exercise or performance of their respective governmental functions, powers or responsibilities" through agreements and ordinances. Because this law is extremely general, it has been argued by municipal solicitors and others that it cannot supercede the much more specific requirements of the MPC and case law. The land use bills pending in the General Assembly, HB 13 and SB 300 of 1999 would authorize use of this law in the MPC, but without any direction as to how it is to be used. HB 14 spells out a specific process for using such agreements to do planning and zoning, which specificity would help to sustain multi-municipal planning and implementation in court.

Though state government agencies in Pennsylvania defer to local municipalities on land use issues, the state has power to preempt local land use regulation by statute, either explicitly or implicitly if a given state power could not coexist with an asserted local power. An example of such statutory preemption is the regulation of solid waste facilities, which the courts have said cannot be regulated through local zoning ordinances, except as to certain land use aspects like siting and setbacks.

More than most state laws, Pennsylvania land use laws, a combination of the Municipalities Planning Code and court decisions, are a recipe for sprawl.

These rules require that if Pennsylvania's 2,567 municipalities² choose to plan and zone (which is optional), they must each plan and zone for all uses—all categories of residential, industrial, commercial, institutional uses, as well as the necessary transportation, water and sewer infrastructure, and, ultimately, schools to accommodate projected growth. Pennsylvania's rules do not allow rural communities to remain largely rural; and they do not provide mechanisms for coordinating planning, development, transportation, and infrastructure investment among municipalities so as to sustain the many older cities and

towns, as well as accommodate new development.

While the MPC has many good provisions, the fact that it applies to so many municipalities in isolation means that the build-out scenario, if all municipalities chose to plan and zone (over a third do not), would cover the state with buildings. On the other hand, if they do not plan and zone, anyone can put anything anywhere with whatever state permits might be required.

Moreover, without any legislative direction to look at a region larger than one municipality, court decisions often sustain "curative amendment" challenges to local ordinances and give site-specific relief (unique to Pennsylvania) by allowing landowners to put their proposed uses on their land regardless of local zoning, even though such uses are provided in neighboring municipalities.

The curative amendment process in the MPC was intended to provide a mechanism for landowners to challenge local zoning ordinances to assure that municipalities do not abuse their zoning powers by excluding affordable housing or taking other unconstitutional actions.

The curative amendment allows a landowner to challenge a zoning ordinance on the grounds that it does not adequately provide for his proposed use, either in law or in fact, or on other constitutional grounds,

² The MPC does not apply to Philadelphia or Pittsburgh so the number of municipalities is reduced by 2.





and if the governing body or a reviewing court finds his challenge to be valid, he is usually allowed to put his proposed use on his property regardless of local zoning (the “site-specific” remedy initially crafted by the courts). Unfortunately, the curative amendment has not served the purpose for which it was intended, particularly as to housing, since developers do not have to build what they propose . . .

The Costs of Sprawl

Since “The Cost of Sprawl” study done for HUD by the Real Estate Research Corporation in 1974, a number of studies in different states have established that sprawl is a more costly development pattern than compact forms of development that support older communities in these respects: higher infrastructure costs for public investments, i.e., roads, public and private utilities, and public schools; higher overall costs for duplicative municipal services and infrastructure maintenance; more expensive private residential and nonresidential development costs; more adverse public fiscal impacts; higher aggregate land costs; higher transportation costs including more vehicle miles traveled (VMT), longer travel times, more automobile trips, higher household transportation spending, less cost-efficient and effective transit, and higher social costs of travel (loss of community, road rage, etc.). Studies have also calculated

that sprawl results in loss of agricultural lands, and the loss of fragile environmental lands, such as wetlands, forested areas, stream corridors, and aquifer recharge areas . . .

A Window of Opportunity

In most of the states where strong land use and regional mechanisms have been put in place, there has been strong gubernatorial and legislative leadership. Pennsylvania has not had this kind of leadership from either party, perhaps because of the political forces described. However, the confluence of several forces suggests that the next two years offer a window of opportunity that has not previously opened. These forces are: the public and media reaction against sprawl in both urban and suburban areas; Governor Ridge’s 21st Century Environment Commission Report naming responsible land use the number one issue for the next century; cautious, but interested commitment from the Governor’s office, particularly as to the way in which these issues relate to economic development; continuing and increasing interest of legislators, who have again proposed bills amending the MPC that would strengthen the abilities of counties and municipalities to plan and act effectively for growth and development and conservation in their communities.

Conclusions and Recommendations

1. The authority to do regional land use planning and implementation in southeastern Pennsylvania is governed by state law, which must be changed to include clear enabling provisions for such action by counties and municipalities and other governmental entities.
2. Authority for regional metropolitan approaches to systems or functions, such as transportation or tax base sharing, must also come from the legislature.
3. As the example of Minneapolis/St. Paul demonstrates, it is possible to overcome the negative aspects of fragmentation by addressing those functional issues that are regional in nature through a county or regional body, leaving local issues to local governments.
4. In the area of land use, joint planning and zoning among municipalities, which requires a common zoning ordinance and is now authorized in the MPC, should continue be supported with incentives so that more municipalities will use it. S.B 300 and H.B. 13 strengthen this option by providing incentives to use it.
5. For growth areas and any other areas that wish to use it, a more extensive regional planning and implementation option should be provided that would not require a joint zoning ordinance, but would require consistent implementation of a multi-municipal plan. Such an approach is embodied in H.B. 14 of 1999, which would foster coordination of planning and action at the state, county, and local levels by enabling the development of county and multi-municipal plans on a voluntary basis using inter-governmental cooperative agreements. Such plans would be facilitated by counties, using their planning expertise, and would designate growth areas and rural resource areas, tie major infrastructure investment to growth areas, and authorize the use of multi-municipal tools such as growth boundaries, tax base sharing, and transfer of development rights. The plans would be carried out through implementation agreements among counties, participating municipalities, state and local agencies and authorities with consistency requirements and review developed by agreement. Incentives in the form of state financing assistance and changes in the curative amendment review criteria are proposed. A process for streamlined permitting in growth areas is also authorized.
6. While the legislation that has been proposed would apply to all counties





and municipalities on an optional basis, there may be political merit in limiting such legislation to growth areas, second- and third- class counties for example. Specific legislation for specific regions on specific issues, such as metropolitan or county approaches to tax revenue, may also be more politically feasible than generally applicable laws.

7. At this juncture, there is no political will at any level of government to impose mandated approaches to land use issues in Pennsylvania's municipalities. However, the voluntary, flexible, but legally effective process described in paragraph 5 is a democratic, community-oriented approach suited to Pennsylvania's particular governance structure and traditions. It would enable counties and municipalities to develop their own solutions—for instance, to decide together where growth areas and rural resource areas should be identified and it would enable land use, and infrastructure and school planning to be coordinated—and to have governing bodies and state and local agencies working off the same page.

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