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GROWTH MANAGEMENT

CALIFORNIA STRUGGLES TO SAVE THE DREAM

Something is happening across the country that will fundamentally affect the way land uses are determined. Since 1985 seven states have adopted state growth management programs (Florida, New Jersey, Georgia, Maine, Rhode Island, Vermont, and Washington). Several others, including California, are considering adopting them. These programs are responses not only to public concerns about a declining quality of life, but also to a new consensus among business and environmental interests. They agree that sprawling patterns of growth cause traffic congestion, deteriorating air and water quality, and escalating demands for infrastructure. They agree that project-by-project conflict over development is a no-win game.



Judith E. Innes

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State governments see growth management as a way to make difficult decisions on the allocation of infrastructure funding. Local governments have begun to recognize that despite their land use authority, they can do little more than react to development in neighboring communities and to regulatory or investment decisions of state agencies.

In short, current growth patterns and decision-making processes are increasingly seen to be in no one's interest. The answer, these seven states have decided, is to establish a framework of objectives and a new set of processes for making growth-related decisions. Their ultimate purpose is to encourage growth patterns that will make for more desirable communities, more efficient use of public resources, and a more sustainable environment.

These statewide growth management programs are innovations in government and in land use control. They are primarily systems for coordination among local and state governments and the agencies that, for example, regulate air quality or provide highways. They coordinate by sharing power among the players, for the most part, rather than by regulating from the top down. As envisioned by these programs, growth management is not single-purpose, like the previous generation of environmental regulation; it is an attempt to achieve many disparate public goals—e.g., economic development, environmental protection, and affordable housing—in a balanced manner. Statewide growth management forces the necessary tradeoffs by focusing on land use as the arena in which the struggle between these objectives is played out. Many agencies are now required to consider for the first time the land use implications of their decisions. These programs are also strategies for the management of public investment.

Consensus-building groups play crucial roles in both the design and implementation of these growth management programs. Typically the groups are carefully designed commissions and task forces that include the full range of interests who have a stake in growth. These "stakeholders" may include representatives of local government and regional and state agencies, representatives of environmental, agricultural, housing, business, and development interests, as well as leading citizens representing the wider public. These groups are not merely advisory;

they often develop specific policies and implementation strategies. They are run in a way that encourages mutual learning and searching for common ground, rather than emphasizing differences and conflicts. They seldom rely on hearings with expert testimony, citizen speeches, and rules about who can speak. Instead the groups often include the experts as members, and allow informal, wide ranging discussion. Care is taken that all members' points of view and knowledge are heard and discussed, and the groups frequently use professional facilitation.

GROWTH MANAGEMENT PROPOSALS IN CALIFORNIA

After several years of steadily mounting pressure stemming from inadequately managed growth, California's leaders are responding with a variety of proposals for state and regional growth management programs. This issue of the Land Use Forum reports on the most important activities at the state legislative and executive levels, as well as in the regions.

Governor Pete Wilson has placed growth management on his agenda. In his message (p 81) he makes it clear that he considers growth management to be an urgent issue in California. His Interagency Growth Management Council has been studying growth issues over the past year. The Governor has identified six principles that he will apply in evaluating the Council's recommendations.

Peter Detwiler, principal consultant to the Senate Committee on Local Government, reviews four comprehensive statewide growth management bills now pending in the legislature, along with another focusing on the Bay Area (p 87). These bills, products of five years of legislative learning, represent a range of strategies, but converge in several ways. One bill relies on a state agency for implementation; others establish a state growth commission. One creates opportunities for altering local fiscal incentives that many believe are the cause of inefficient patterns of growth. All the bills agree on at least two points: that some statewide framework of policy and procedures is required, and that regions will have to play a significant role in the planning and mediation of growth-related decisions.

Susan Sherry describes the Growth Management Consensus Project (p 91), which brought together representatives of

key stakeholders in growth management, including environmental and other public interest groups, business, local governments, and ethnic and low-income groups. The project, set up under the auspices of the legislature and California State University, Sacramento, has had a challenging task. It has begun important work in opening communication among many players in the growth management process and in identifying areas of consensus and "emerging agreement."

In the Bay Area, Los Angeles, and San Diego, efforts have been under way to develop strategies and new institutional arrangements for planning and management of growth. This issue includes interviews with two people who have been instrumental in these regional initiatives. Gary Delsohn talks with Ira Michael Heyman, former Chancellor of the University of California, Berkeley, and now a member of its law school faculty (p 95). Professor Heyman chaired the year-long effort of Bay Vision 2020. This group of citizens was appointed jointly by the business, environmental, and local government interests of the Bay Area to explore regional problems and solutions. It recently proposed consolidation of the functions of three state and regional agencies and the appointment of a regional commission to review and coordinate local plans.

In the second interview, Debra Greenfield discusses San Diego County's Proposition C with Supervisor Brian Bilbray, who was one of its principal authors (p 97). This measure set up voluntary regional cooperation as a growth management strategy. In his remarks, Supervisor Bilbray stresses the importance of consensus in making regionalism work. The implementation of this proposition will be worth watching as an indicator of how effective a voluntary approach can be.

As readers review these articles, it is helpful to consider the experience of those states that have begun to implement growth management programs. We now turn to the fundamentals of those programs, and the lessons to be learned from them.

GROWTH MANAGEMENT PROGRAMS IN OTHER STATES

Growth management legislation in other states varies considerably in what it includes. The most common features are:

- 10 to 12 broad state goals;

- requirements for important players, particularly local governments and often state agencies, to make and implement plans that are consistent with state goals;
- principal responsibility for land use planning and zoning at the local level;
- planning and coordination at the regional level;
- review and comment procedures by various players on one another's plans;
- technical and financial assistance for local and regional planning;
- incentives and sanctions for local cooperation;
- provision for conflict resolution, including mediation or administrative hearing bodies; and
- statewide geographic information systems to provide a common data base for joint decision making.

Some programs have unique features that are drawing considerable attention. Florida, for example, relies on a requirement for "concurrence" of development impacts with adequate services and infrastructure. No plan or development order can be approved unless it can be demonstrated that services and infrastructure such as roads and parks will be available simultaneously with the impacts of development. Localities must set adequate and realistic standards for levels of service and identify the cost of needed facilities and the revenue sources. New Jersey has a plan that includes a map dividing the state into "planning areas," within which the state will follow different policies for regulation and infrastructure. New Jersey is also developing regional design principles for patterns of future settlement into centers and corridors. Vermont requires state agencies to conform to local and regional plans that are consistent with state goals.

Each state uses a different implementation mechanism. At one extreme is Florida's "top-down," regulatory approach, where a powerful state agency makes and enforces all the rules. Vermont at the other extreme, has a laissez-faire model, with no required local planning and no implementing agency or oversight commission to carry out the state objectives. Implementation will be through a quasi-judicial procedure, where advocates for different interests will challenge nonconforming plans. Georgia's approach is bottom-up,

with all planning starting locally and mediation required for interjurisdictional differences. New Jersey's strategy is collaborative and consensus building. It uses the counties as mediators between a state planning commission and the municipalities in a "cross-acceptance" process.

LESSONS FROM OTHER STATES

Top-down, bureaucratic regulatory systems are insufficient to implement growth management.

Florida's law gave ample power to their Department of Community Affairs (DCA) to compel local cooperation and spelled out dozens of specific policies, for which DCA created detailed rules. When some rules proved unworkable in different parts of the state, DCA substituted face-to-face negotiation with local governments. The latter approach allowed solutions more adapted to individual localities and proved to be a more efficient way of resolving differences than more standard bureaucratic procedures. DCA's efforts to apply rules to assure that local plans prevented sprawl ended in adjudication and a loss of credibility for the project. Sprawl is too ambiguous an idea, too linked to other policy issues (e.g., transportation), and too contingent on context (urban, suburban, or rural) to be managed with inflexible rules in a top-down regulatory system. Accordingly, in 1988 Governor Martinez appointed a Task Force on Urban Growth to define sprawl, its implications, and the policies to prevent it.

Carefully designed sanctions and incentives are necessary to assure cooperation of agencies and jurisdictions.

Sanctions, such as the withholding of state funds, are persuasive threats in the short run to encourage local government participation, but severe or long-term sanctions are politically difficult to apply. New funding as an incentive may work, and is more likely to encourage voluntary cooperation, but the most persuasive incentive is simply to give cooperating jurisdictions a place at the negotiating table with state agencies. The best methods of getting state agency cooperation are not yet clear, however, as the programs have just entered the phase in which agency actions will be important.

Regional bodies have had successful roles as technical support for local gov-

ernments and as conveners and mediators among the regional players.

State growth management programs are most effective when they provide an institutional framework that enables regional coordination and planning. They have not been successful in their efforts to give regional bodies roles as decision makers on the acceptability of local plans. In Vermont, where regional commissions were vested with authority to "approve" local plans, statewide citizen protests led to the weakening of the state's growth management act, and nearly to its repeal. In general, regional commissions have refused to take stands against their constituent local governments. They have, however, showed leadership in working with local officials to develop projects of regionwide benefit as well as in identifying and mediating conflicts. There is substantial evidence that a formal authority role is incompatible with either the technical assistance or mediator roles.

Consensus-building groups are essential to the creation of both growth management policy and implementation strategy.

Consensus building has played a key role in most states in the design of the original legislation and throughout implementation. Such processes were invented even when the original legislation did not mandate them. The Task Force on Urban Growth in Florida is one example, and Florida's state-local compliance negotiations is another. The near repeal of Vermont's legislation can in part be attributed to the fact that there was no process to maintain consensus during early implementation. In New Jersey, where the entire plan has depended on consensus building, many issues have been resolved that remain problematic in other states. For example, the controversial question of how density regulation should differ for urban, suburban, and rural environments has been thoroughly discussed and substantially decided in New Jersey, while it remains a major issue in Florida.

WHAT SHOULD HAPPEN IN CALIFORNIA

Growth management is an idea whose time has come in California. Recent statistics show that massive population growth will continue and polls indicate that Californians are increasingly dissa-

tified with their environment. The public believes that their communities have become too crowded, that traffic congestion is the state's most serious problem, and about half believe that California is no longer one of the best states in which to live. Citizen support for regional planning is now widespread, at least in the Bay Area. Furthermore, in the current economic downturn, growth management is increasingly important as a tool for cost-effective public investment.

Although we have many tools for saying "no" to undesirable development, we have few techniques to *encourage* desirable types and patterns of development. Nowhere in our current system can the welfare of a region *as a whole* be used as the principal criterion for decision making. Land use planning and regulation are done by cities or counties, which react to economic forces, state investment decisions, and the development patterns of other communities. Most state agencies are narrow in purpose, and none has the power to *solve* the problems to which they respond. Caltrans can widen highways, for example, but not influence the land use plans that have escalated demand for auto use. The Air Quality Management Boards can raise the cost of using a car, but only the transit agencies can provide the alternatives to driving.

The State Role

State legislation must establish objectives for growth management and both opportunities and incentives for the players in the growth process to communicate and collaborate. This is best done by coordinating relationships among agencies and between levels of government. The state should provide the institutional and procedural missing links so effective regional growth management can be established. A state growth management commission is needed as a stakeholder group to oversee development of the policies and regulatory concepts, work with regional bodies, learn from experience, and be an arbiter of conflicts. This commission requires its own staff. The state must also mandate that its own agencies as well as special districts collaborate in the process. Methods must be found to assure agencies' accountability and cooperation, such as requiring them to prepare plans with public review and making agency funding contingent on evidence of cooperation with other players.

Regional Role

Specific growth management strategies and plans should be negotiated at the regional level. Regions range widely in their economies, natural environments and patterns of growth, and no uniform

set of solutions would be appropriate statewide. These regional bodies should, in parallel with the state commission, be made up of stakeholders. These bodies should provide the forum for discussion of regional issues and the arena for the negotiation of conflicts, and they should offer technical and analytical support to localities.

Local Role

Basic power over the planning and regulation of land use should remain at the local level. Communities are the most knowledgeable about their own environments and most directly affected by decisions. Incentives should be established, however, to assure their cooperation in regionwide negotiations among localities and state agencies over growth patterns and facilities siting. State agencies have some regulatory and funding powers that can be directed to reward such cooperation, although those powers will need modification. Localities with regionally acceptable plans need to be able to reconcile state agency plans that are in conflict with their own.

Fiscal Reform

The current reliance on property and sales tax encourages communities to do "fiscal zoning," typically favoring offices and upper-income housing, in order to

Consensus-Building Groups

Consensus-building groups play an important role in the growth management arena. My own research shows that thus far, these groups have proved either essential or highly useful for a number of purposes:

- **Oversight, revision, and implementation of legislation.** New Jersey's State Planning Commission has played this role, moving beyond the broad concepts of the legislation through a process of trial and error to a usable plan and a workable cross-acceptance process. In Florida, where no such commission was established, a joint legislative committee was set up to review implementation and propose revisions to the law. Most states have some type of commission or board at state level to monitor, revise, and implement the legislation.
- **Providing arenas for negotiation among the affected players in growth.** Some is-

ssues require face-to-face discussion because of their complexity and because such discussion may be the only way to get beyond the rigid starting positions often taken by the players.

- **The development of specific policies, criteria, and standards for planning and regulation.** When the law must be framed into a set of practical tasks, internal contradictions and problems of application in the various regions and communities become clear for the first time. Consensus-building groups share their knowledge of tasks and places and create workable and shared meanings for policies, implementation strategies, and regulatory standards. In New Jersey for example, group discussion resolved debates over when an area should be considered "built out" or "prime agricultural land," and produced definitions and regu-

latory approaches that were adaptable to various local conditions.

- **Working out of complex new tasks, particularly those involving intergovernmental relationships.** State agencies in Vermont were required to prepare plans on their land use related responsibilities, but many had no staff with experience in plan making, much less with knowledge of land use. While staff were preparing these plans, they participated in an interagency working group that developed principles and practices for their content and format. The approach contrasts with Florida's, where plans prepared by agencies independently were widely regarded as useless and were returned to be redone. Vermont also relied on stakeholder working groups to design their intergovernmental geographic information system, and in the process resolved issues still causing conflict in other states.

provide the greatest net of revenue over service costs. Sharing of local tax bases is needed if mutually beneficial regional combinations of land use are to be created. Incentives, including state funding, will be necessary if communities are to accept land uses that impose fiscal burdens, as does low-income housing, and if we want to site regionally needed, but locally unwanted, land uses like waste disposal facilities.

Settlement Patterns

The state commission should, in collaboration with the regions, establish principles for settlement patterns the aim

of which is to build livable and affordable communities—communities that are compact, at a human scale, have a central core, and are distinct from their environs. Such principles encourage sustainability in the use of resources, enable development to be coordinated with infrastructure, lead to greater use of public transportation, and foster the sense of community that is fundamental to the quality of life.

Consensus Building

Continuous consensus building will be essential both to develop and to implement any legislation. The statewide pro-

gram should be designed as a consensus-building process, incorporating the important actors in growth. State agencies as well as local governments, and business and development as well as environmental interests, will have to agree that the growth management strategy will benefit them if it is to be carried out. Inner city interests as well as the urban fringe communities must also agree because the welfare of each part of the region is linked to the other parts. The process will not be completed overnight, but success will hinge on effective consensus building.

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Legislation

Single, free copies of bills are available from the Legislative Bill Room, State Capitol, Sacramento, CA 95814.