

Overview of Regional Planning

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Introduction

The techniques and effectiveness of regional planning vary from state to state because of the structure of municipal and county governments. In Pennsylvania there are many municipalities that are encouraged, but not mandated, to work with county and regional authorities to create comprehensive plans. Although there are incentives available for cooperation in regional planning, and those incentives are increasing, working together sometimes requires balance or sacrifice for the good of the region.

Pennsylvania's Current Situation

Incentives are *the* encouragement for planning in Pennsylvania. Development impact fees (which can range from grants for equipment to grants for improving aesthetics in downtown areas) can be granted to local governments that prepare and adopt plans. Recognizing the need for more development and planning across the state, the administration, through the Department of Community and Economic Development approved more funding (\$760,000) for community affairs and development projects. Grants from these funds, and other previously allocated funds are used to entice municipalities to cooperate in regions to plan for the future.

The recently updated Municipal Planning Code¹ (MPC) brought regional planning into municipal zoning. The amendments included promotion for the protection of rural resources. The laws require all municipalities to plan and zone for natural and historic resources, and agricultural lands. Within a multi-municipal plan, it is easier to protect larger areas of lands from intense development by designating growth areas in or around existing

¹ Act 247 of 1968, P.L. 805, 53 P.S. 10101.

developed places and rural resource areas for more limited development. The Legislature attempted, through its updates to Acts 67 and 68 in 2000 and 2001, to promote development in older boroughs and suburbs, to provide better funding incentives, to require state agencies to incorporate local plans into their regulatory decision making, and to address regional issues (such as water, agriculture preservation, transportation, and emergency response). With all the promotion of sharing of costs, tax base, and usage the MPC remains dedicated to upholding local control over implementation and participation in multi-municipal programs. Municipalities that fear that they will be assigned an unfair amount of negative uses or be responsible for more than their share of the costs for roads or utilities can opt out. There is no state-wide plan in Pennsylvania and the municipalities are under no obligation to establish a comprehensive plan.

Other efforts to better land use planning in Pennsylvania include open space preservation through “Growing Greener” (open space preservation), and the creation of Keystone Opportunity Zones (decreased tax zones to foster growth). Pennsylvania has used a combination of conservation easement programs and tax incentives to preserve agricultural areas and open space and to encourage redevelopment of its urban areas. The theory behind this move toward increased preservation and better planning is to protect the general welfare of the citizens by preparing and planning for the future of their community.

Problem Solving: A look at other states

Power changes

As interests in addressing environmental concerns grew in the 1970's, states began to make modifications to their systems of land use control, giving more power to regional and state governments. Vermont, Florida, Oregon, and Hawaii were among the first to transfer these powers. In the 1980's New Jersey, Maine, Rhode Island, and Georgia made similar reforms.² Reforms in these states go beyond permissive and encouraged planning to include required regional planning with sanctions that do not allow exercise of powers unless comprehensive plans are adopted that satisfy statutory requirements. Laws such as these would require that plans do not overlap or conflict in a region.

² Salkin, Patricia E., *From Euclid to Growing Smart: The Transformation of the American Local Land Use Ethic Into Local Land Use and Environmental Controls*. 20 Pace Env'tl. L. Rev 116

Historically Pennsylvania values the local control and municipal structure that keeps the government closer to its citizens. However, a balance must be struck when creating an effective system by which planning for the future use of land in the state is guided. It can be beneficial to observe other states and the methods used to promote regional planning to compare what Pennsylvania might adapt or avoid.

“Smart Growth”

There are many definitions for the buzz words "Smart Growth," but it is utilized when planning is comprehensive enough to include development that serves the economy, the community, and the environment. Smart Growth provides for development rather than limiting it. Smart Growth attempts to accommodate for the future of the area and the character of the region by focusing on how or where that development occurs. Questions move away from the past analysis of should the development be permitted or should it be banned to questions such as: "What kind of community do we want?"

Often for this Smart Growth to occur, municipalities must work together or the result is that each municipality eventually tries to protect itself without considering the region as a whole.

Other approaches:³

Colorado – Local governments have broad control over planning but must follow state programs and rules. The Colorado Land Use Act mandates that local governments identify areas that are of state interest. Those areas are then considered for conservation easement purchases and leases programs. They can then also be flagged for eligibility for critical planning funds through the “State Planning Aid Fund”.⁴ The Department of Local Affairs is the statewide agency under which falls the Office of Smart Growth.⁵

Florida – The State Comprehensive Plan sets policy for the state which is divided into 26 areas covering social, economic, and physical growth. This plan has arisen and evolved out of necessity since Florida is one of the fastest growing and developing states.

³ Bolen, E., Brown, K., Keirnan, D. Korschink, K.8 Hastings W.-N.W. J. Env. L. & Pol'y 145 (2002)

⁴ Colo. Rev. Stat. 24-66-101 et seq. (2000).

⁵ Colo. Rev. Stat. 29-20-102 et seq. (2000).

Florida's system is very state based and local governments are to be consistent with the state plan. The state takes an active role in regulatory review.⁶

Maine – Land use and planning power is also retained by the state in this system. All unincorporated areas are zoned and planned by the state.⁷ If a local government chooses to prepare a local growth management program, it must designate a planning committee that develops and maintains a comprehensive plan that identifies and designates growth areas, agricultural areas, forest, open space and scenic lands.⁸

Maryland and New Jersey – These states have planning on a state level but require by law that the plans be prepared with the input from local government and other relevant state units. Maryland's Department of Planning bears the responsibility but coordinate studies, consult with local governments, and review all local plans that are submitted.⁹

Michigan – Adapting to the needs and conditions of its urban areas, and reacting to the increased number of abandoned communities Michigan did not adopt any direct “smart growth” plan. The focus was instead on Brownfields redevelopment initiatives that created financial incentives and government support to initiate revitalization of abandoned communities and toxic areas.¹⁰ The Brownfields Program is designed to encourage states, communities, and other stakeholders in economic redevelopment to work together to prevent, assess, safely clean up, and sustainability reuse Brownfields. A Brownfield is a “property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”¹¹ Farmland Preservation was also an initiative that was passed in 2000 in Michigan capping taxes on agricultural property that remained in agricultural use.¹² Michigan has chosen to approach its development and planning needs through statewide initiatives issue by issue.

New York – There is no state agency centralized for planning but there are state agencies that plan specifically in certain areas. Cities, villages and towns are authorized to plan and zone and create their own planning board, which may then adopt the comprehensive plan. The legislative body of a city can alter the official map. New York is a

⁶ Growth Management Programs: A Comparison of Selected States (Fla. Dept. of Community Affairs, July 31, 2000) [hereinafter Growth Management Programs] at 7-19.

⁷ Me. Rev. Stat. Ann. tit. 12, 683 (West 2000).

⁸ Me. Rev. Stat. Ann. tit. 30-A, 4312 et seq. (West 2000).

⁹ Md. Code Ann., State Fin. & Proc., 5-201 (2000).

¹⁰ Mich. Comp. Laws 324.95101 et seq.

¹¹ EPA “Basic Information about Brownfields” <http://www.epa.gov/brownfields/about.htm> (2004)

¹² Mich. S.B. 709 (2000).

state where there is extensive home rule; therefore there is great local resistance to state mandated planning and coordinating.¹³

Texas – There is no state or mandated local zoning or planning in Texas. However cities, such as Austin are beginning (much later than other cities across the country) to adopt planning to repair infrastructure and to improve quality of life, to determine specifically how their city grows. Previously, there had only been planning statewide through the Department of Transportation.¹⁴ There are laws that enable planning and zoning along with the enactment of regulation and creation of conservation easements.¹⁵

Vermont – The system used in Vermont is very unique because it requires permits from the state for development and the State Environmental Review Board issues the permits and possesses most of the planning power.¹⁶ The Environmental Review Board has a hearing process and all issued permits must fit within the state plan. There is also great emphasis on regionalism. The state is divided into twelve regional planning districts and the agencies are given the responsibility to monitor municipal plans every five years to understand regional impacts.¹⁷

Conclusion

There are no set rules or methods to encourage regional planning. Each state has the ability to tailor its programs to the values of its structure of government. It is important, however, to reassess past methods in order to readjust to better achieve positive regulation of land use. Pennsylvania has not been sitting idly by as smart growth and land preservation needs arise. Regional planning while retaining individual municipal power is a difficult task that has been made more positive with incentive funding. Perhaps the state should look into other methods of gaining municipality support for regional planning beyond these incentives to increase the coordination of planning in various regions across the state. The Legislature has already granted the ability for willing municipalities to share revenue and to cross-zone. Now we must look for the best way to nudge those municipalities in the right direction.

¹³ Elizabeth Benjamin, "Smart Growth" Sets Limits, Times Union Albany, March 11, 2001, available at 2001 WL 6295581.

¹⁴ Tex. Transp. Code Ann. 201.103 (Vernon 2000).

¹⁵ Smart Growth: State By State (Jan. 2001), available at Smart Growth Network website, <http://www.smartgrowth.org/news/bydate.asp?redate=1/1/01#NE> (last visited November 12, 2002).

¹⁶ Vt. Stat. Ann. tit. 10, ch. 151 (2000)

¹⁷ Vt. Stat. Ann. tit. 24, 4347 (2000)