

# **Smart Growth: The State of the States Tales of Leadership and Vision**

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## **Introduction**

As we embark upon a new century, roughly half of the states are still using dated planning and zoning enabling legislation. These enabling acts, based in large part upon the model planning and zoning enabling acts published by the U.S. Department of Commerce in the 1920s, no longer serve the challenges that have resulted from both the traditional Euclidean zoning and the haphazard sprawl development that continues to devour the American countryside in state after state and region after region. The good news is, however, that since the early 1990s there has been a record number of legislative reform proposals at the state level. These reforms, which can be neatly categorized as: 1) a recodification and tightening of existing laws; 2) authorization for innovative and flexible controls; and 3) major overhauls to state land use and land use related funding programs, have been nothing short of a modernization revolution in land use controls.

These land use reform efforts have, for the most part, been a result of the sweeping reforms proposed and enacted as part of the smart growth movement. Smart growth, however, has been somewhat difficult to clearly define. It has been referred to as: growth management; growing smart; statewide and regional planning; growth attraction; sprawl control; land use

planning/law reform; systematic redesign for resource allocation; and integration of state and local concerns. In addition, smart growth has been defined by the anti-sprawl movement, another buzz phrase that has served as a lightning rod for advocates with differing opinions as to definition. In general, sprawl has been described as, among other things: low-density development; auto-dependent development; segregated land uses; large distances and poor access between housing, jobs and schools; disproportionate land consumption rates to population growth; and loss of agricultural and/or environmentally sensitive lands.

### **Making the Case for Smart Growth**

Smart growth is in large part a realization that Euclidean zoning is not the solution, but the problem. A recent report by the U.S. General Accounting Office documented again that municipalities rely on the land-use plan and the statutory zoning authority to deal with growth. There is a growing realization that somehow, in the circle of community, there needs to be a sense of connectivity. Connectivity between and among infrastructure policies, fiscal decisions, economic development and housing programs, conservation and agricultural programs, historic preservation and environmental protection and preservation. This demand for connectivity requires more than a coordination of programs at the federal and/or state levels; it also requires a coordination between and among all levels of government in a manner that has not yet been experienced.

As with many major public policy reforms, focused attention to a particular subject area is often in response to a situation of crisis proportions. The issues of the day that have contributed to the elevation of the land use crisis include: population increases, particularly in the Western United States; traffic congestion in major metropolitan markets; lack of affordable housing near major

employment centers; aging public infrastructure; pressures for sustainable economic development; loss of open space and permanent loss of prime agricultural lands; and general decline in the quality of life in neighborhoods and communities across the country. Two newer factors, the ease with which technology allows for non-traditional work arrangements and the aging population, have contributed new dimensions to the sprawl challenges confronting state and local governments. Technology makes it easier now for individuals to move farther out into the countryside as they no longer have to commute long distances on a daily basis to be physically present at a desk in a commercial building or office park to adequately perform their jobs. And a recent study released at the Milken Institute's Global 2000 conference predicts that graying baby boomers will settle in small- to medium-sized cities, particularly in the South and West. The most popular individual states for this increasing elderly populations are: Nevada, Alaska, Arizona, Utah, Colorado and New Mexico.

According to the General Accounting Office's Local Growth Issues Report released in 2000, between 1970 and 1990, the amount of developed land in metropolitan areas grew by 74%, while the population grew by only 31%. Between 1960 and 1995, the US population grew by 45%, yet the amount of driving Americans increased by 237%. Furthermore, between 1970 and 1990, the population in central cities grew by 22%, yet the population of metropolitan areas outside of central cities (suburbs) grew by 52%. From 1990 to 1998, the population in central cities grew by just 3.9%, yet the population in the suburbs grew by 12.5%. The study also reports that Congress estimates a loss of 7,000 acres of farmland every day. These findings should be weighed with the following municipal priorities identified in the study: attract business; increase the tax base to support better schools and roads; revitalize downtown centers; enhance transportation systems; and attract new development to areas with infrastructure.

One of the questions underlying every public policy reform initiative is AWho is the constituency@ for the reform. In the area of smart growth, the answer is clearly every citizen in every legislative district. Similar to the earlier identified issues, neighborhood residents want an improved quality of life which often means: affordability, transit/pedestrian-friendly jobs near housing, recreation, education and aesthetics. The public has been speaking out. The Pew Center for Civic Journalism Poll reported in 2000 that sprawl and growth are edging out crime as the most important issues. A poll conducted in September 2000 by Smart Growth America found that 78% of Americans support policies to curb sprawl, and that more than 80% of respondents think government should give priority to maintaining services and infrastructure in established communities. In addition to the opinion polls, public voices may be heard the loudest at the ballot box. The number of citizen initiatives is on the rise. In 2000, there were 35 statewide ballot measures in 23 states on growth and related issues, as well as hundreds of local referenda.

Individual residents, however, are not the only constituency. The business community has demonstrated outstanding leadership and support for land use reform. For example, the Bank of America has supported cost of sprawl studies, conferences and special programs to develop strategies for promoting smart growth. It is not just the banks; the utility sector has also demonstrated leadership in states like Rhode Island where they are actively engaged in the Grow Smart Rhode Island program. Chambers of commerce, particularly in the South, have taken a keen interest in the smart growth movement. The National Association of Home Builders has promoted a smart codes initiative, and the state and national realtors associations have funded and operate an On Common Ground initiative. The non-profit sector and the faith community have been vocal supporters. Diversity in the types of advocates espousing reform assist in

keeping the issue at the forefront. Among the non-profit groups leading reform initiatives are: a range of environmental groups including the Sierra Club, national municipal leagues, League of Women Voters, agricultural organizations, affordable housing advocates, and umbrella groups such as 1000 Friends organizations.

Among the emerging themes in the smart growth or land use reform landscape is: this is not just for coastal states anymore; there is an unprecedented number of task forces and study commissions at the state level; states are starting to make long overdue financial commitments to support planning, training and technical assistance; there is sustained attention to the need for infill development including brownfields revitalization; although most states do not find growth boundaries interesting, locals are enacting them through initiative and referenda; and there is a gratifying alliance between private and non-profit sectors.

### **National Interest is Unprecedented**

The national interest in smart growth is at an all time high. This is true not just at the state and local level, but at the federal level as well. During the Clinton Administration, the Livability Agenda was a White House priority, with Vice President Gore traveling the country promoting the agenda. Smart growth issues managed to find their way into the 2000 Presidential election when the Planning Commissioners Journal posted responses to its smart growth query posed to both Gore and George Bush. The White House cannot, however, claim total credit for the federal agenda. The Congress hosts a Senate Smart Growth Task Force, a House Smart Growth Caucus and a House Livability Task Force. The Senate Task Force is credited with the initial request to the General Accounting Office prompting a series of smart growth and sprawl studies and reports. The bi-partisan efforts of that task force led to the introduction of S.2995, the

Community Character Act of 2000 in July of 2000. The proposed legislation, AA bill to assist States with land use planning in order to promote improved quality of life, regionalism, sustainable economic development, and environmental stewardship, and for other purposes, @ would provide up to \$500,000 per state over a period of four years for the purposes of modernizing state land use laws and for developing statewide planning programs.

### **What Municipalities Want**

According to the recent GAO study, *Local Growth Issues*, municipalities favor the following: require funding for roads and highways be linked with local plans; increase incentives for localities to pursue smart growth; target infrastructure funding to designated growth areas; incentives for seeking regional solutions; and more technical assistance. In addition, municipal officials support: tax incentives for developers to build in designated growth areas; more tax benefits for historic properties; more incentives for brownfield redevelopment; and leveraging participation through incentives.

### **Sustained Support at the State Level**

The gubernatorial interest and support demonstrated over the last decade for smart growth reform has been nothing short of amazing. Governors from all regions of the country and from various political parties have issued executive orders, created task forces and/or commissions; and have enacted legislative reforms as well as fiscal reforms. The following states have benefitted from this support: Arizona (R); Colorado (R); Florida (R); Georgia (D); Illinois (R); Kentucky (D); Maine (I); Maryland (D); Minnesota (I); New Jersey (R); New York (R); North Carolina (D); Pennsylvania (R); Rhode Island (R); Utah (R); Vermont (D) and Wisconsin (R).

In 2000 State of the State messages, smart growth initiatives were discussed by 28 governors -- 16 Republicans, 11 Democrats, and 1 Independent. The National Governors Association has had an active research and publication program in the area of smart growth.

In addition to the gubernatorial interest, state legislatures have been busy considering myriad reform proposals. Legislative task forces and sponsors of legislation again represent a bipartisan mix of interest. The following list represents those states with significant legislative activity addressing land use reform activities over the last few years: California; Colorado; Florida; Hawaii; Illinois; Iowa; Kentucky; Nevada; New Mexico; New York; Ohio; Oklahoma; and Pennsylvania. In the Western region, there has been significant initiatives proposed and enacted in Arizona, California, Colorado, New Mexico and Utah. The National Conference of State Legislatures has identified sprawl management as a major issue in 2001 according to their January magazine. Only eleven states (Alabama, Alaska, Idaho, Louisiana, Missouri, Nebraska, North Dakota, South Dakota, Texas and Wyoming) have failed to pursue any meaningful land use law reform initiatives.

Recent state-level smart growth laws have been enacted in eleven states. In 2000, reforms were enacted in Colorado, Maine, New Hampshire, Pennsylvania and Rhode Island. In 1999, Arizona, Georgia, Wisconsin and Utah supported reforms. Tennessee's controversial reforms were enacted in 1998, and Maryland took action in 1997, following reforms in Delaware in 1996. One of the political observations in this wave of land use reform initiatives is that each state has selected a different name to define their initiative. Examples of proposed and enacted programs include: Economic Competitiveness Act (NY); Quality Communities (NY); Growing Smarter (AZ, FL); Responsible Growth Act (CO); Strategic Development (IA); 21st Century Communities Act (PA, NC); Liveable Communities Act (Feds); Community Character Act

(Feds); Comprehensive Infrastructure and Sustainable Development Act (SC); Sustainable Development Act (MA); Comprehensive Growth Policy (TN); Quality Growth Act (UT) Coordinated Planning Act (MI); and Smart Growth Compact Act (NY).

There are a number of emerging themes in these legislative initiatives. They are mostly incentive-based; a significant number provide authorization for flexible zoning/land use control tools (TDRs, PDRs, PUDs and ADR); there is emphasis on infill development and brownfields; money is offered as a carrot for planning, open space purchases, and technical assistance; there are incentives for private land conservation incentives; and mechanisms to continue state-level oversight, reviews and reports. In addition, intergovernmental and inter-jurisdictional issues are being addressed (consistency, regionalism and cooperation); building code reform continues to rank high on the reform agenda, and a recognition of the need for statewide GIS clearinghouses and for alternative dispute resolution mechanisms also top the agenda.

### **Government-University Partnerships are Essential**

Strategic partnerships have emerged between government and the education sector to promote and implement smart growth reforms. Universities have demonstrated support including the provision of research and technical assistance, and in facilitating public education initiatives. Furthermore, the academic sector helps to bring national recognition to state programs through faculty and staff publications and participation at conferences and other programs. This partnership also attracts non-governmental funding to support smart growth initiatives as the universities are adept at attracting private foundation support not otherwise available to the public sector. This partnership also helps with efforts to provide sustained attention to land use planning and zoning in the state. Examples of good partnerships can be



found in Maryland, Tennessee, Wisconsin, New York, Massachusetts and New Jersey.

### **Next Phase: Benchmarking**

The land use reform revolution is at an all time high. There is unprecedented government interest, a remarkable level of funding, and there has even been a briefing guide for funders published to educate the philanthropic sector about smart growth. The American Planning Association has embarked on a Growing Smart Initiative designed to assist state legislatures with enabling act modernization and to assist local governments with the implementation of smart growth strategies. The bottom line is that we are no longer looking at land use control and decisionmaking the same.

The next phase in the smart growth evolution is an analysis of whether these reforms are working. To answer this, stakeholders must agree on the definition of smart growth and the goals for each smart growth program. In addition, there must be agreement on appropriate benchmarking milestones. Facts that indicate general success include the fact that money is being invested in planning and growth. For the first time, in many instances, there are conversations between state and municipal governments about land use control issues, and there are an increasing number of initiatives that promote local-local conversations. Certainly there is no doubt that our innovation and creativity is being challenged in positive ways.

### **The Future**

Leadership continues to be an overarching theme in the success or failure of smart growth programs. Partnerships are critical to build consensus, and developing a true sense of trust among and between state and local government officials remains a critical challenge.

Lawmakers and policymakers must seriously educate themselves so that they may negotiate the nuances of legislative proposals. At the same time, they must check their egos when doing so. While it is smart to go slow and to build upon successes, state and local governments must begin to act now. Each jurisdiction must identify and define initiatives most comfortable for the region, being mindful to avoid hot buttons that could stall and ultimately crush reform efforts. Thoughtful advocacy should be encouraged, and input should be sought from a variety of sources. Advocates must be mindful of the spin doctors and must be prepared to address criticisms lodged against smart growth and anti-sprawl initiatives. Lastly, the media must be engaged as a significant partner in the public education and outreach phases of smart growth proposals and implementation strategies. Judging from the past, the prospect for sustained land use reform is bright.