



I. Introduction



A. Introduction to *Land Use in Pennsylvania: Practices and Tools*

LAND USE: A NEW AGENDA FOR THE COMMONWEALTH

Pennsylvania is a land of abundance. As citizens of the Commonwealth, our lives are enriched by an abundance of productive farmland, pristine streams and woodlands. We are equally fortunate to have a wealth of quaint historic villages, bustling urban areas and developable land served by safe, efficient roadways.

With this abundance, however, comes responsibility. Leaders from our state's past – Gifford Pinchot, Horace McFarland and Rachel Carson among others – recognized this connection and set the course for responsible stewardship. More recently, local and state leaders have begun to explore ways to more effectively manage land use.

Land Use in Pennsylvania: Practices and Tools is the product of an intense and sustained examination of the issue of land use in the Commonwealth – a focused stewardship effort that began with a larger analysis of the state's environmental quality.

When Governor Ridge established the 21st Century Environment Commission in June 1997, he asked its members to recommend methods and policies that would improve the environmental quality of the Commonwealth and measure results, allowing for enhanced economic and social progress.

Among the Commission's broad goals, detailed guidelines, and more than 240 specific recommendations, it gave top

priority "to the challenge of promoting responsible land use."

It is clear why the Commission cited "the need to change our patterns of land use." Existing trends – in which prosperous communities struggle to plan for and manage the rapid growth that is a result of their prosperity while distressed communities experience declining populations, vacant industrial commercial areas and decaying infrastructure – require us to reevaluate our approach to planning.

Without responsible land use planning, land is permanently committed to new uses – which may not enhance our environment or our economies.

THE CONSEQUENCES OF NOT PLANNING

Without responsible land use planning, land is permanently committed to new uses – which may not enhance our environment or our economies.

In *Land Use Trends in Pennsylvania*, a recently released report issued by the Governor's Center for Local Government Services, we are provided with an analysis of the changes in land use that are occurring in our state: we are converting cropland, forests, and other open space to development at the second-highest rate in the nation.

Between 1982 and 1997, total developed land in Pennsylvania grew

(The Consequences of Not Planning, Cont'd)

from 2.7 to 4.3 million acres. And the rate of development is increasing rapidly. In the five-year period from 1992 to 1997, 1.12 million acres were developed. This represents an unprecedented growth rate, approximately five times the rate of the previous 10 years.

In Pennsylvania, the rate of land development far exceeds the population growth rate. Between 1982 and 1997, while the developed land area increased by 56 percent, the population increased by only 1.4 percent.

These development statistics reflect a significant conversion of agricultural land to new uses. At the same time that farmland is being developed, many Pennsylvania rural communities find themselves making a great effort to promote their local economies.

All Pennsylvanians can mutually benefit from a sound or 'smart' approach to growth. Such an approach recognizes that there are different land use solutions for urban, suburban and rural areas.

A more effective approach to land use planning is needed to address both the rate of change in land use and the disparate benefits of change. This approach should consider the unique needs of areas in growth and areas that are working to attract growth. It should be built on anticipating and planning for economic development and growth in a timely, orderly and predictable manner.

All Pennsylvanians can mutually benefit from a sound or 'smart' approach to

growth. Such an approach recognizes that there are different land use solutions for urban, suburban and rural areas.

A DIALOGUE OF CONCERNS

Responsible land use has become a public issue. Across the state, there is increasing concern about how our communities are changing and how these changes affect our quality of life. Many citizens are talking about undesirable growth patterns and their effects on communities throughout the Commonwealth. Some are asking: how can my rural community share in the positive aspects of this growth? All are concerned whether these patterns of growth and development are making our communities better or worse places to live, and what can be done to change the situation if we don't like what we see.

During the summer of 1999, communities began to share their visions. Over a three-month period, the Governor's Center for Local Government Services held 53 Land Use Forums across the state to provide Pennsylvanians with a venue for speaking on the subject of sound land use.

The return on time and effort invested in this dialogue has been invaluable. Almost 4,000 people attended. Without exception, each forum resulted in a civil discourse around a very emotional issue. The Center also received hundreds of faxes and e-mails from citizens who could not attend the forums, but wanted to make sure their voices were heard.

In person and through correspondence, Pennsylvanians shared their vision of the



(A Dialogue of Concerns, Cont'd)

future and provided creative solutions to land use issues facing the Commonwealth. They voiced their concerns and opinions with regard to land use -- past, present, and future -- and made clear their call for change.

Citizens who participated in the forums identified *intergovernmental cooperation* as the most desirable land use practice. *Farmland preservation* was one of the most frequently expressed concerns, followed by *open space preservation*. Rounding out the top ten issues raised at the forums were: *infrastructure concerns, urban revitalization, water concerns, planning, education of local officials, concerns for farming and the family farmer, property taxes and sprawl*.

These concerns have been heard. Representatives of the many state agencies that monitored the forum proceedings listened and became more knowledgeable about the broad and diverse land use issues facing municipalities. The Center has prepared a companion report summarizing the forums which is available through the Governor's Center for Local Government Services. To obtain a copy of *Pennsylvanians Speak: The Sound Land Use Forums Report*, you may contact the Center at 1-888-2CENTER (223-6837) or online at www.dced.state.pa.us.

TAKING ACTION ON LAND USE ISSUES

The sound land use forums represent one of many actions the Commonwealth has taken to address land use issues since the 21st Century Environment

Commission issued its report in September 1998.

In January 1999, Governor Ridge issued Executive Order 1999-1, acknowledging the importance of responsible land use planning and setting forth the state's land use policy objectives. Sound land use is, as the Executive Order states, "in the best long term interest of the Commonwealth and should be encouraged at all levels of government."

The Executive Order directed the Center to report annually to the Governor on land use trends in Pennsylvania and make recommendations, if appropriate, regarding changes in law or policy to support the land use policy goals of the Commonwealth.

In February 1999, Governor Ridge proposed the 'Growing Greener' budget initiative designed to retarget state environmental spending in ways recommended by the 21st Century Environment Commission to promote sound land use, enhance Pennsylvania's natural resources, address age old problems such as abandoned mines, and implement a watershed approach to protecting the environment. Both legislative and administrative steps were proposed.

In May, the General Assembly took the first step in adopting the Growing Greener initiative by creating the Environmental Stewardship Fund.

And on December 15, 1999, Governor Ridge signed his Growing Greener

(Taking Action on Land Use Issues, Cont'd)

initiative into law, providing for \$645.9 million over five years providing for environmental stewardship, including farmland preservation and the preservation of open space. With funding of \$105.9 million in the first year and \$135 million a year for the next four, this law represents the largest environmental investment in modern Pennsylvania history.

THE ROLE OF THE GOVERNOR'S CENTER FOR LOCAL GOVERNMENT SERVICES

The Governor's Executive Order designated the Governor's Center for Local Government Services as the principal state entity responsible for land use assistance and monitoring. It is to advise local governments of the existing tools available to manage growth within their communities. Toward this end, the Center was charged with establishing an Advisory Committee to help develop and disseminate an inventory of sound land use practices and to make this inventory available to interested local governments and developers. The Center is also required to report annually to the Governor.

Sound land use is not synonymous with no growth. To be a proponent of sound land use practices does not make you an opponent of growth. Rather, sound land use practices promote growth in a smart and efficient way.

Five fundamental principles guide the Center's work. They are:

1) Sound land use is not synonymous with no growth. To be a proponent of

sound land use practices does not make you an opponent of growth. Rather, sound land use practices promote growth in a smart and efficient way;

2) A one-size-fits-all sound land use strategy is not realistic in this diverse Commonwealth and will not work;

Implementing sound land use practices addresses both our community and economic development needs, and allows the Commonwealth to improve, not diminish, the quality of life for the residents of our cities, boroughs, townships, and small villages.

3) Implementing sound land use practices addresses both our community and economic development needs, and allows the Commonwealth to improve, not diminish, the quality of life for the residents of our cities, boroughs, townships, and small villages;

4) Successful sound land use strategies are best developed and initiated at the local level; and finally,

5) Regional cooperation is a necessary and effective tool for communities to achieve development objectives while conserving open space and natural resources.

Since January 1999, the Center has made substantial progress in addressing the issue of land use. A state inter-agency team has been formed and meets regularly to assist the Center in carrying out its sound land use responsibilities. Personnel from the



(The Role of the Governor's Center, Cont'd)

Departments of Environmental Protection, Transportation, Conservation and Natural Resources, Community and Economic Development, and Agriculture serve on this team. The Governor's Policy Office, Legislative Office, Press Office, Office of General Counsel, PennVest, the Pennsylvania Housing Finance Agency, the Pennsylvania Rural Development Council, the Green Government Council, and the Pennsylvania Historical and Museum Commission are also represented.

The Center has revised, republished and sent its Planning Series (see page 7 of this document) to each local government in the Commonwealth. This series of ten documents on land use planning under current Pennsylvania law covers topics such as comprehensive planning, subdivision and land development, and zoning, as well as background information on newer programs such as Land Recycling.

This inventory of land use practices and tools is a new resource which is intended to complement those documents.

Each community's residents will have to decide for themselves what types of growth are consistent with their vision of a good, livable community.

HOW THIS INVENTORY CAME ABOUT

Experts on growth and development issues can suggest technical and policy solutions to the challenges that growth -- or lack of it -- brings, but they can't answer the most important questions.

Each community's residents will have to decide for themselves what types of growth are consistent with their vision of a good, livable community, and then be willing to build a framework that supports and implements that vision under the state's Municipalities Planning Code (MPC).

Many of Pennsylvania's public officials and community leaders have asked for additional assistance to effectively guide development while they retain the unique character of their communities. This inventory of land use practices and tools was produced by the Governor's Center for Local Government Services and its Sound Land Use Advisory Committee as an additional resource for these communities.

The Sound Land Use Advisory Committee is a group of 44 practitioners of diverse professions -- all with a stake in enhancing Pennsylvania's communities and in preserving Pennsylvania's precious, finite resource: its land.

With their assistance, review and coordination, the Center has produced this document, which contains a wealth of useful ideas for municipal officials engaged in, or contemplating, sound land use planning and implementation. The land use practices described in this report can help to encourage the most effective use of land and protect our communities from undesirable growth patterns.

The Sound Land Use Advisory Committee is working with the Center as part of a sustained discourse that fosters

(How This Inventory Came About, Cont'd)

the transition toward a new understanding of how our environment, economy and community all function together. These issues are critical, complex and interrelated, and it is the continued hope of the Sound Land Use Advisory Committee that the practices in this inventory provide the early design for an improved future.

IDENTIFYING AND IMPLEMENTING SOUND LAND USE PRACTICES

In considering sound land use practices, it is important to recognize that managing growth does not mean stopping growth. Sound land use is about planning for and guiding development while enhancing and protecting our cultural and natural resources.

This report includes practices and tools that Pennsylvania communities have used to meet the demand for growth in 'smarter ways' – both by managing new development and revitalizing existing development. These responses to the need for smart growth include planning for and building to higher densities, preserving open space, and protecting environmentally-sensitive areas.

At the same time, the practices in this inventory have been used to revitalize cities and inner suburbs, direct new development to targeted areas, and encourage growth where appropriate in rural areas.

In considering sound land use practices, it is important to recognize that managing growth does not mean stopping growth.

The practices and tools described in this report are more than theoretical

approaches to shaping our future. In small townships, in major cities and in the open spaces in between, they have found practical applications. Many -- such as comprehensive planning -- are standard tools that have been used by planning professionals and municipal officials for decades. Others, such as special district zoning, represent more recent, innovative approaches to managing land use. The Sound Land Use Advisory Committee members identified these practices and have recognized their real-life applications in the examples included with each practice.

Additionally, the sound land use forums provided many examples of creative solutions being implemented at the local level to deal with the many challenges communities face with expanding growth or working to attract new growth.

In identifying Pennsylvania's land use practices and tools, the Sound Land Use Advisory Committee did not take a narrow view of what is needed. Some of the practices described in this report, such as crime prevention programs, cannot be strictly defined as land use techniques. However, since such practices do support principles of sound land use, and the Committee felt it was worthwhile to focus on a comprehensive approach to meeting citizen-supported land use objectives, those practices were included in this inventory.

CHOOSING THE RIGHT PRACTICES AND TOOLS

The Sound Land Use Advisory Committee believes that these practices, when used during the planning and

(Choosing the Right Practices and Tools, Cont'd)

implementation processes, can help create communities that enhance the quality of life of for all Pennsylvanians.

However, it is clear that the issues related to sound land use are as broad and diverse as the Commonwealth. No single strategy will work for all communities. There are urban, suburban, and rural perspectives to this issue. What may be an effective and efficient land use tool in the southeastern part of the state may prove useless in the rural northeast.

The issues related to sound land use are as broad and diverse as the Commonwealth. A one-size-fits-all strategy will not work.

When undertaking any of the practices outlined in this inventory and workbook, it is best to follow these basic guidelines:

- identify where in the planning process the tool fits;
- identify what method of implementation is required, such as an ordinance, map or plan; and
- determine whether a prerequisite, such as zoning, must be met before the practice can be implemented.

Basic land use planning techniques must be in place to have the legal backing to implement – and enforce – the practices. Therefore, before accepting a practice as a probable solution or innovative tool, be sure your municipality has the legal provisions in place to carry it through.

The Governor's Center for Local Government Services is committed to helping communities identify and implement the practices that are right for them. The Center has produced a body of printed resources to assist local planners, and will continue to provide assistance in choosing and applying sound land use practices through additional publications, educational outreach and its Web site.

Other planning resources offered by the Center include:

- The Governor's Center for Local Government Services Planning Series, consisting of the following titles:
 - #1 *Local Land Use Controls in Pennsylvania*
 - #2 *The Planning Commission in Pennsylvania*
 - #3 *The Comprehensive Plan in Pennsylvania*
 - #4 *Zoning*
 - #5 *(Reserved for Future Use)*
 - #6 *The Zoning Hearing Board*
 - #7 *Special Exceptions, Conditional Uses and Variances*
 - #8 *Subdivision and Land Development in Pennsylvania*
 - #9 *The Zoning Officer*
 - #10 *Reducing Land Use Barriers to Affordable Housing*
 - #11 *Technical Information on Floodplain Management*
- *Pennsylvanians Speak: The Sound Land Use Forums Report*
- *The Land Use Trends Report*

(Choosing the Right Practices and Tools, Cont'd)

In addition to these publications, a list of additional resources is found in the back of this inventory and workbook. ■



B. About Land Use Planning

THE BASIC PLANNING PROCESS

While land use planning can involve a complexity of technical, procedural, economic and legal issues, it may be useful to approach planning in its most basic form. Generally, planning needs to deal with the WHERE, WHAT and HOW of land use.



The next part of the WHERE in planning can be assisted with an understanding of the man-made infrastructure created to provide the necessities of our modern lifestyle: roads, transit, utilities for power, water and sewer treatment. With a complete inventory and understanding of the green and the man-made infrastructure of our landscape, we are well-equipped to make decisions about the WHERE component of planning. This knowledge of the land is typically completed and presented up front in the comprehensive planning effort.

With a complete inventory and understanding of the green and the man-made infrastructure of our landscape, we are well-equipped to make decisions about the WHERE component of planning.

WHERE WE DEVELOP

The WHERE component should address the capability and sensitivity of the land. This report has identified many tools and methods to accomplish the inventory and mapping of the “green infrastructure” – the essential natural environment. With the completion of a landscape features map and an understanding of how the landscape functions, the WHERE component of planning has begun.

This report has identified many tools and methods to accomplish the inventory and mapping of the “green infrastructure”.

WHAT WE DEVELOP

The WHAT component of development and land use is a greater challenge for planners, public officials and citizens of our Commonwealth. These decisions are a more difficult part of planning and land use in our constitutional form of government, which carefully protects the rights of landowners. The rights of landowners must be balanced against the needs of society to use our natural resources and man-made infrastructure equitably and wisely. Will we plan for open space, low-density development or high-density development?

The spatial orientation -- function and feeling of future land use -- can be

(What We Develop, Cont'd)

guided by a few principles of planning, but primarily by the values, references, and goals of each community. This vision of a community's future is or can be articulated in the goals and objectives statement of a comprehensive plan. If there is a thoughtful vision for the future of a community, and a productive, open discussion of the alternatives, informed decision-making will result and the WHAT component of land use can be planned.

HOW WE DEVELOP

The remaining component of planning future land use in our communities is HOW. The HOW component of planning is perhaps the most challenging. It requires an understanding of many variables, including financing, timing, and many procedural and legal considerations. These variables apply to the private business and development community, as well as all levels of government.

To achieve the preservation of open space, agriculture, and ecologically important land, planning and zoning may not be enough.

Determining how to achieve a community's land use goal or vision requires technical knowledge, creativity, and as importantly, a commitment to achieving the desired result.

The move from commitment to implementation often comes with an associated cost. To achieve the preservation of open space, agriculture, and ecologically important land, planning and zoning

may not be enough. Preservation may require public funds to purchase land or development rights. If sufficient public funds are not available, creative techniques, such as Transferable Development Rights (TDRs), may need to be employed to accomplish land use goals.

Public resources or financial incentives may be necessary to achieve the land use and development goals of rural areas.

Similarly, for a rural community to achieve a desired community goal for development of commercial, residential or industrial uses, planning and zoning alone will not be sufficient. Public resources or financial incentives may be necessary to achieve the land use and development goals of rural areas.

Many rural communities are encouraging growth to maintain their sense of community, their ability to support employment and their attractiveness for future generations.

A better understanding of the true costs and impacts of ever-expanding suburbs on urban centers could help support the value of our cities and need for urban and downtown revitalization.

The redevelopment and revitalization of our cities and urban centers may also require more than comprehensive planning and zoning. Economic policy and redevelopment programs combined

(How We Develop, Cont'd)

with strong community leadership will be required to make struggling communities vibrant places to live and work. A better understanding of the true costs and impacts of ever-expanding suburbs on urban centers could help support the value of our cities and need for urban and downtown revitalization.



Perhaps the remaining critical ingredient for consideration of the HOW component of planning is our interest in working together in an atmosphere of open communication, mutual understanding, trust, and respect.

As we continue the land use discourse in Pennsylvania and the future of our communities, we can learn much by listening to each other and considering the rich diversity of opinions in our community. If we are willing to consider the diversity of thought on what is sound land use and work toward a balance of new development, urban revitalization and open space preservation, we will leave our children and future generations a Commonwealth of planned open spaces, diverse communities and a quality of life to be cherished.

THE LAND USE PLANNING AND IMPLEMENTATION PROCESS IN PENNSYLVANIA

Through power granted by the Municipalities Planning Code (MPC), planning for land use and regulation of development is largely the responsibility of local governments in the Commonwealth. Although counties are required to develop and adopt comprehensive plans, municipalities in Pennsylvania are not required to plan or zone. However, if a municipality desires to plan and enact land use programs, the MPC gives the municipality substantial latitude in the development of these programs. Provisions found in the MPC provide direction for local governments in developing and implementing these plans.

IT BEGINS WITH THE COMPREHENSIVE PLAN

Land use planning begins with a municipality developing and adopting a *comprehensive plan*. The comprehensive planning process should result in a clear and comprehensive plan for residential, commercial, industrial and institutional uses and necessary infrastructure and public facilities to serve such development. The plan should also provide for agricultural and other rural uses, open space and natural resource areas, though this is not clearly required under present law. Ideally, the plan is based on a widely shared vision for the future of the community developed with broad public participation.

Article III of the MPC outlines the guidelines for preparation of a comprehensive

(It Begins with the Comprehensive Plan, Cont'd)

plan, which will be the basis for the zoning ordinance and subdivision and land development ordinance. It is important when planning and zoning to understand the legal responsibilities applicable to each municipality that chooses to plan and zone.

Land use planning begins with a municipality developing and adopting a comprehensive plan.

Under Pennsylvania law, each municipality must zone the entire municipality and must zone for all categories of use. Landowners can challenge the validity of an ordinance through a curative amendment process if the ordinance fails to provide adequately for the use proposed by the landowner. If the landowner prevails in court, the court may order the municipality to approve the use on the landowner's site – for example, if it is shown that the municipality does not have its “fair share” of a particular housing type or a quarry or a particular commercial use.

The Pennsylvania rules often mean that a rural municipality that chooses to plan and zone because it anticipates growth, will have to plan for more development and uses than its existing rural character. Some municipalities therefore choose not to zone, but to rely on the county plan and subdivision ordinances. Another approach is to adopt joint planning and zoning with contiguous municipalities so that the required uses can be spread over a larger geographic area, and a part of the joint area maintained in rural use. The comprehensive plan is not an

ordinance, but rather a community's guide for future development.

As previously stated, municipalities are not required to have a comprehensive plan. However, there are three circumstances that require the adoption of a comprehensive plan: (1) when the governing body is a county; (2) when a transportation impact fee ordinance is enacted; and (3) when municipalities enact joint zoning.

Following adoption of a comprehensive plan, a municipality can develop and adopt zoning and subdivision and land development ordinances through the authority granted in the MPC.

ORDINANCES ARE USED TO IMPLEMENT THE PLAN

The comprehensive plan provides the basis for a municipality's zoning and subdivision land development ordinances. Approximately 57 percent of the municipalities and 90 percent of the counties in Pennsylvania have adopted a comprehensive plan. Over 93 percent of the municipalities in the Commonwealth either regulate the subdivision of land or are covered by county ordinances, and approximately 64 percent of the municipalities of the Commonwealth are covered by a zoning ordinance (either their own or the county's).

Following adoption of a comprehensive plan, a municipality can develop and adopt *zoning and subdivision and land development* ordinances through the

(Ordinances Are Used, Cont'd)

authority granted in the MPC. Such ordinances are used to implement the comprehensive plan.



The subdivision and land development ordinance is the most used land use ordinance in Pennsylvania. The term "subdivision" refers to changes in property lines or the creation of new lot lines. The term "land development" refers to improvements to land. Municipalities use subdivision and land development ordinances to try to ensure that growth in the community is effectively managed. Land development regulations are further used to avoid problems such as storm water runoff and inefficient traffic patterns. A municipality that has not enacted zoning, but has enacted land development regulations, may regulate land improvements involving two or more residential or nonresidential buildings.

Another method a municipality may employ to implement its comprehensive plan is to prepare and adopt a *zoning ordinance*. Zoning ranks second only to subdivision and land development as the most used land-use ordinance in the state. A municipality may use zoning to regulate the use of land and the location

and intensity of development. The existing and future needs of the municipality that are documented in the comprehensive plan should be integrated into the zoning ordinance. Generally, the zoning ordinance must provide for all land uses and set required standards. The MPC also provides for alternative zoning techniques such as clustering, lot averaging, flexible setbacks and performance zoning.

Approximately 60 percent of the municipalities and 19 percent of the counties in Pennsylvania have adopted zoning ordinances.

A municipality that has prepared and adopted a comprehensive plan, a zoning ordinance and a subdivision and land development ordinance has completed the three most important steps of land use planning and implementation in Pennsylvania.

A municipality that has prepared and adopted a comprehensive plan, a zoning ordinance and a subdivision and land development ordinance has completed the three most important steps of land use planning and implementation in Pennsylvania.

At this point, the municipality may, as change occurs, enhance the planning process through utilization of additional planning tools that are provided for in the MPC, or other laws. These additional tools include: Planned

(Ordinances Are Used, Cont'd)

Residential Development (PRD) provisions; an official map; Transferable Development Rights (TDRs); mobile home and mobile home park regulations; and municipal capital improvement (transportation impact fee) ordinances.

For additional information about the basics of planning, the legal framework for planning in Pennsylvania or sound land use issues, please refer to the Resources section of this report. ■