

Planning Small Town America

*Observations, Sketches and
a Reform Proposal*

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CHAPTER

1

Contemporary Townscapes: A Confluence of Land Use Decisions

American towns commemorate decisions made about how to use land: they have been shaped by commercial enthusiasms, contractors' calculations of profit, and by domestic aspiration and accomplishment. Consider your town. You may not be aware that many pleasing attributes of where you live issued from land use decisions. Perhaps trucks from the local sawmill can enter an expressway without going through town, or people who live in a retirement home can walk out their front door to catch a city bus, or children can get to a playground without being driven. Most people take for granted these ordinary satisfactions of community life, but in fact each example resulted from individual parcels of land being developed with a thought about how their ultimate use would interact with other developed lands. The playground was not located where there are no houses; the retirement home was sited with a thought to how its residents might get around in the city, and so forth.

You are probably more aware of the disappointing features of land use decisions. On the outskirts of your town, you're likely to see treeless housing tracts haphazardly situated amidst working farms; downtown, shops might be boarded up while new regional shopping centers thrive; going to and from work, you probably endure lengthy traffic tieups at unavoidable junctions. You might also realize that these familiar vexations arose in obvious ways from approvals given to develop parcels of land. Your elected leaders had to give their sanction before farmland

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could be subdivided and shopping centers could be built. They even had to approve the construction of each shop along a commercial strip where streets were already congested.

Even if development in your town has brought none of these modern annoyances, natural features of where you live have probably been tainted. New subdivisions might have opened, inadvertently contaminating or depleting aquifers in the region. Small streams may have filled with silt as bulldozers readied land for construction; air pollution may have increased as commuters drive longer distances to housing developments. And if none of these apply, an afternoon spent reading your local newspaper will undoubtedly disclose more particularized examples of environmental ugliness—wells polluted, rare vegetation destroyed, or natural nesting areas for migratory birds depleted.

Land use decisions can also create negative economic effects, often in the form of unnecessarily high local taxes. For example, a special levy might be imposed because a new subdivision requires the construction of an additional fire station despite excess firefighting capacity downtown. Local taxes might include levies to pay for water lines extended to serve a private developer's proposed industrial park. The pipes may not even be used—though they must be paid for—if the developer's plans evaporate with an unfortunate turn in the business cycle. Line-item scrutiny of a local government's budget will show these economic effects of land use decisions. Tax increases at the very least annoy most citizens, but they can have more serious consequences as well. They undermine the public's confidence in elected leaders' ability to manage the budget, they can cause towns to shoulder unnecessarily burdensome public debts, and they can even impoverish a person of limited means.

Land use decisions can also discriminate unfairly against poorer residents. Local leaders can exercise considerable discretion over what sort of housing can be built in a town, where it can be sited, and the specific construction conditions that must be fulfilled. In many towns, leaders have used such powers to separate relatively inexpensive types of housing from more costly homes. For example, mobile home parks are likely to be found in districts not only without real parks, but without trees, lawns, or shrubbery. Typically, they are sited on vacant land adjacent to highways, where residents will suffer noise, dust, and motor vehicle exhaust; they are even in low-lying areas that flood periodically. All such places are a jumble with hazards to domestic life, particularly to children who may have neither suitable places to play nor safe walkways

to school. A prominent attorney satirized the attitude of towns where economic segregation has resulted from land use decisions:

Low-income people have a constitutional right to live at high densities on the most worthless land having the worst possible environmental conditions as long as the land is "properly buffered" from any place they might possibly want to go.¹

That is, poorer citizens in these towns are kept apart, reminded by their surroundings of their civic powerlessness.

However, the point of this discussion is not to catalog complaints, but to reveal their shared attribute: each example resulted from a municipal approval given to a private person to develop a tract of land. Perhaps most disappointing is the simple fact that better development decisions could have avoided most of the offensive results. Townscapes are compilations of land use decisions, and many good decisions have indeed been made in American towns. Wherever traffic moves easily through commercial districts, where children have safe places to walk and play, where a variety of development and some balance between nature and building are present, and where local tax levies do not have to support unnecessary extension of public services—there land use choices were made well. Effecting more of these decisions is the subject of this book.

Observations About What Americans Have Built

... All over the county, townhouses and condominiums were devouring orchards and vineyards just as they'd devoured the potato farms on Long Island, and whenever I saw a sign for a new subdivision, Eternal Now Villas, Cypress Estates where no

cypresses had ever grown, or read about the Corps of Engineers' plan to dam the river, or saw bulldozers or sewer pipes or even surveyors, I flew into a rage. The assault was relentless, without purpose, another aspect of disease.²

Bill Barich

Missoula, Montana, portrays many ordinary land use decisions, good and bad, that can be found in small, relatively slow growing towns in the

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country. Missoula spreads from the Hellgate Canyon into a broad valley at the junction of the Blackfoot, Clark Fork, and Bitterroot rivers. The city has acquired land along the Clark Fork River's course through town and has landscaped and lighted a walkway along its banks. Old train stations downtown have found productive commercial uses, and two old hotels have been adroitly rehabilitated to house low-income tenants. Mountains surround the town so closely, in fact, that the entrance to the Rattlesnake National Wilderness Area is one mile from a stop on the city bus line. This beauty owns a practical side, for tourism is a major support of Missoula's economy. People come here to enjoy the recreational life the surroundings provide, and they stay here for the same reason.

Missoula is a town that has made irreversible decisions. Typical of much of the West, the lower hillsides and flat ranchlands have been haphazardly developed into residential tracts or 5-acre "ranchettes." Roads to hillside houses scar the land, and in this semi-arid country years will pass before vegetation can soften the raw look of newly laid streets. Strip commercial establishments sprawl among weedlots beside the highways, so that to see the mountains you have to peer between loud billboards and the neon trademarks of national fast-food franchises. But that's only when you *can* see the mountains: in the winter they often disappear into a brown haze of air pollution. In short, the people seem bent on ruining the very qualities that attracted them in the first place.

As I've said already, this description sounds a lot like countless towns and cities across the country. The inquiry that resulted in this book could have started in any of these communities: why do the same decisions get made so often and in so many places when their results are so predictably bad? To answer this question, it is useful first to distinguish between two different areas in contemporary towns.

WHERE LAND USE DECISIONS ARE MADE

Bad land use decisions appear in highest relief in the urban fringe—the area you pass through when you drive into almost any town. Scattered across the landscape in no discernible order might be a subdivision, a fallow field, a gas station, an expanse of weeds where "For Sale" signs blister in the sun, a convenience store, a working farm, even a small

industrial plant. The fringe area has been and probably will always be the principal locus of growth in America. In part, this is the result of simple economics: the land available here comes in large parcels and at prices below those asked for more central locations. Prices in town are higher because public utilities already extend to urban tracts and access to roadways is established. Furthermore, the profitability of a centrally located venture seems more assured: market patterns can be more or less accurately gauged, and demand for some particular product or service can be estimated. Buying land in the urban fringe is riskier and preparing it for development is more expensive than buying acreage downtown, and the price of land reflects these facts.

Developers prefer the fringe because experience has taught them that projects proposed there will be approved more readily than proposals made on land in the well-settled sections of local jurisdictions, where the discretion officials exercise is limited by several factors: buildings exist, streets have been laid, relationships among the uses are ingrained, and there is even some consensus among individuals as to how they would see their neighborhood change. In such places there exists a shared sense—however inchoate—of a “character.” The more completely citizens in a neighborhood can agree on that character and on the uses detrimental to it—apartment buildings or mobile homes—the more likely they can argue their point of view articulately and effectively. Accompanying these citizens’ appearance at public hearings is a united political will that no elected leader can ignore. In essence, neighbors ask leaders to protect their neighborhood, and, as a matter of practical politics, leaders do.

Developers have learned to avoid proposing projects where residents seem to have agreed about what threatens the nature of their neighborhood. As a result, most choices regarding land in established and cohesive neighborhoods are simply adjustments to existing uses, made to accommodate new demographic trends or to prevent nuisances from recurring. If a town’s population ages, its leaders might be asked to amend zoning regulations so as to allow “mother-in-law” apartments in a district formerly restricted to single-family houses. If citizens complain that they can not find parking spaces near their homes because of increased commercial traffic in the neighborhood, the town might start requiring offstreet parking for stores in residential areas. These are small decisions, likely to be acceptable within individual neighborhoods.

Sketches of Planning Practice

Shrinking from Neighborhood Opposition

The perennial problem of finding a location for low-income housing that will not generate neighborhood opposition has recurred with particular virulence over shelters for homeless persons, and prompted some tactless solutions. For example, the Human Resources	Administration in New York City proposed using ships as floating shelters to avoid neighborhood opposition to permanent locations; Mayor Larry Agran of Irvine, California, offered quarters in a renovated dog pound. ³
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The Urban Protectorate

Neighborhoods where citizens agree on qualities worth preserving might well be called the *urban protectorate*. In these areas, residents expect government either to maintain the status quo, or to allow only changes that enhance whatever quality of the district they particularly value. By being unwilling to force an unpopular use on a united neighborhood, elected leaders protect the wishes of that section of town. Ultimately, the effect of this protection is that developers look for sites elsewhere, and vacant land in the protectorate goes undeveloped.

However, as any student of municipal finance or urban planning knows, many of the vacant lots in already urbanized areas should be developed. Rationally speaking, more compact development—without sacrifice of adequate open space—would reduce energy costs by requiring fewer auto trips, reduce the necessity of extending public services, reduce the pressure to develop environmentally sensitive or agricultural land, and make it easier to provide public transportation. When development reaches out into new territory, these opportunities to offer services more efficiently and to protect valuable undeveloped land are lost.

There is also an insidious side to the urban protectorate. While its residents may be well organized and articulate, able to defend their neighborhood against what they see as an incursion of undesirable uses, residents elsewhere either may not be as articulate or may not be aware of their latent political power. For any of a variety of reasons—apathy, poverty, and lack of political astuteness—people in these neighborhoods do not protect themselves from changes they might find undesirable. Such neighborhoods become, in effect, dumping grounds for the

noxious uses that more politically potent areas can prevent. As a few hours perusing planning journals would tell, offending uses are pretty much the same across the country. They include any residential structure other than a detached house, commercial establishments in settled neighborhoods, mobile homes, and group homes. And the arguments against them are essentially invariant—they will attract undesirable people, disrupt an area's harmony, or harm nearby property values. Planners are not insensitive to these concerns: rather, they try to argue that undesirable uses should be spread about town rather than grouped to create zones of urban ugliness.

Discerning what, exactly, residents of even the most cohesive neighborhood want defended can be difficult. Different residents can have surprisingly various ideas about their neighborhood's essential character, and very dissimilar notions about how a vacant tract should be developed. Parents might prefer no development at all, so that their children can continue playing in the open lot. Those willing to see the land developed typically have in mind only the uses they personally desire. Parents with young children may prefer a daycare center; young professionals may prefer a Chinese takeout restaurant; older people may want a community center—and each person or group may vehemently dislike and intend to forestall what the others prefer. Rather than first trying to ascertain all the private desires in a neighborhood and then imagining a project that could respond, developers look for land elsewhere.

The value of planning is easily demonstrated by pointing out examples of where it has been ignored. Unfortunately for this type of argument, bad land use decisions in the urban protectorate take on a lower profile than in the urban fringe. If you see a cluster of duplexes marooned among trucking docks, or children with nowhere to play but broken-down warehouses, chances are you are seeing refugees of decisions made to keep less expensive houses out of the urban protectorate. Or if you see a group home for the elderly being built on the outskirts of a town that affords ample vacant land nearer the city center, you might be seeing the results of elected leaders protecting a neighborhood's sense of itself as a district of single-family houses. However, in these examples the connection between protective decisions in one place and development in another is not immediately discernible.

In fact, some consequences of land use decisions in the urban protectorate are virtually invisible. On the outskirts of town you might

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notice an apartment building going up where there are no public services. What you might not notice is the vacant tract in the middle of town where the apartments were originally proposed. And even if you did notice the vacant parcel, you could not see the sewer and water lines, the electricity lines, and the natural gas pipes buried along its perimeter—all underused and installed at public expense. Neither might you notice that the land lies on a city bus route. The fact that the apartment building is not going up on this land might be the result of a land use decision made in the protectorate, but that conclusion cannot be reached simply by looking at development patterns. What this discussion means is that countering the opposition of established neighborhoods to development can not often be based on a readily demonstrable logic.

For reasons of rationality in the delivery of public services, for reasons of reducing pressure to develop scenic or agricultural land, as well as for reasons of spreading less desirable uses proportionately about town, planners should be able to use their professional expertise to argue for new construction in the urban protectorate. That they cannot, or have not, is evident from reading the proceedings of public hearings in which otherwise suitable building proposals were denied in the most obviously developable parts of town.

The Urban Frontier

Developers prefer to imagine projects on the fringe of existing urbanization, an area that might aptly be called the *urban frontier*. Settled sporadically, this area rarely constitutes a cohesive neighborhood. Rather than speaking about common wishes, private landowners argue their property rights with hyperbolized rhetoric and remain skeptical about governmental guidance of growth. There is little common sentiment about how the remaining vacant land might best be used, and in fact, disagreements over land often become vicious battles. Consequently, on the territories surrounding American towns lie most of the sad results worked by greed, lack of foresight, and uncoordinated decisions regarding the use of land. All are qualities reminiscent of the American frontier in the nineteenth century.

However, unlike that disappeared and now idealized frontier, the urban frontier will continue to exist, and its disappointing elements are not the stuff of idealization. The contemporary frontier can be found in the partially developed environs of each and every American town, no matter how small the town nor how apparently tranquil the land. When growth comes to these towns, the existing frontiers will gradually fill up

with new development and become more fully urbanized. As this happens, some growth will spread to the land beyond—the land as yet undeveloped—and that area will become the new frontier.

The range of options for how to use land that lies beyond towns is virtually unlimited. Consequently, elected officials see a wide variety of proposals, but have little of the guidance customarily afforded by preexisting developments and long-standing relationships among users of land. Furthermore, the interests people have in how individual tracts might be used are largely unknown, and often quite disharmonious. Take, as an example, a flat, well-drained pasture on prime agricultural soil. Its owner may see the plain as a capital investment that will be sold someday to afford a handsome retirement. An entrepreneur may envision a man-made lake lined with expensive homes. Commuters who pass by, however, might prefer that the pasture remain undeveloped because deer graze there or wildflowers bloom—or simply because it affords a visual respite from man-made features. Environmentalists might argue for keeping the pasture in its natural state, not for its beauty but because it recharges the local aquifer. We know that choosing what to do with this tract, should the owner decide to sell, will implicate all affected interests. Moreover, choosing what to do with the land also will affect the interests of townspeople who've never noticed the pasture: their property taxes, to name the most obvious concern, might increase if public services must be extended once development occurs.

All that is known, then, about making good land use decisions should come to bear at the urban frontier before development occurs, and should inform both private parties and public authorities. For at that early point, the results of alternative development schemes can be projected, and choices can be made that respond to the widest assortment of public and private concerns. And even if local officials were not to rely on such an analytical approach, they should be open to guiding growth on the urban frontier so as to avoid repeating mistakes made elsewhere so often.

Informed citizens and their elected leaders have known for a long time the harmful results of land use decisions badly made. It seems reasonable to expect that local leaders would be able to prevent environmental degradation, provide agreeable circumstances for all social classes, and foresee the economic consequences of development. However, as predictable and obviously harmful as the results of bad land use decisions may seem, they get made over and over again because they originate in

American traditions of governance which give sanctity to local discretion and control.

Observations About What Americans Have Built

About half way between West Egg and New York the motor road hastily joins the railroad and runs beside it for a quarter of a mile, so as to shrink away from a certain desolate area of land. This is a valley of ashes—a fantastic farm where ashes

grow like wheat into ridges and hills and grotesque gardens; where ashes take the forms of houses and chimneys and rising smoke and, finally, with a transcendent effort, of men who move dimly and already crumbling through the powdery air.⁴

F. Scott Fitzgerald

HOW THINGS ARE SUPPOSED TO WORK

To understand how bad decisions are made, you need first understand how decisions are supposed to be made. The remainder of this chapter will offer some preliminary information on this subject. First will be a discussion of the decisionmaking structure for land use decisions; second, there will be a description of the professional tools that planners use when they try to advise elected leaders about managing the use of land; and lastly there will be an explanation of the logic that guides municipalities' ultimate decisions about how land can be used. The following sections are synopses of very complicated matters. The interested reader can consult standard planning texts for a fuller discussion of the important concepts that this chapter will briefly raise.

Decisionmaking Structure for Land Use Decisions

States, which designate the duties of towns, cities, counties, and villages, customarily give authority over land use matters to these local governments because development of land seems a very parochial matter. Local governments, the state believes, know more about development issues and can be most responsive to them. The provisos under which local jurisdictions plan for and then permit the use of land exist in state-enabling legislation, the legal means by which states confer powers to local governments.

Enabling acts throughout the country read virtually as they did in

1928, the year the U.S. Department of Commerce published the Standard City Planning Enabling Act for states to use in setting up the mechanism by which growth and land use change could be managed. The law put forward principles of local planning, based on progressive reform efforts to correct obvious deficiencies in local government. Enlightened by revelations of corruption in big city machine politics, and inspired by the vision of urban beauty and order they had seen at the White City at the world's Columbian Exposition, reformers in this era placed their faith in new technical solutions to society's problems. Skilled civic-minded professionals, they believed, could design beautiful cities that would supplant the slums that had come with industrialization in the nation's urban centers. The reformers also believed that planners had to be removed from the corrupting influence of politicians.⁵

In the first 25 years of the twentieth century, good government enthusiasts experimented with various tools, laws, and principles to bring the fledgling profession of planning to maturity. Their work was the subject of journal articles, professional meetings, and innumerable court cases, all of which eventuated in the Standard Act of 1928. Subsequently, the proposals for reform contained in the act were voted up by electorates across the nation. Cities hired planners who had trained as landscape architects and engineers, and following the standard enabling act's stipulations, put them to work for independent planning commissions rather than for elected officials.

An important function of these commissions, also known as planning boards, was to protect the planning function from political pressure. Even the most convinced proponents of planning didn't believe the planning staff would be popular. Planners work from a comprehensive plan which, by designating appropriate uses of undeveloped land, expresses a community's desires for its future development. This means that plans characteristically restrict specific activities to locations the town as a whole considers suitable. Naturally, individuals who own property at these locations have ideas for how they can use their land for pleasure or profit or both, and their ideas frequently conflict with those of the community. As a consequence, proponents of planning could foresee that constituents would on occasion pressure local politicians to change the plan or to interpret the plan's stipulations in favor of a single individual, or even get rid of the planners altogether. These proponents also knew that politicians would in all likelihood not protect the planning staff. Planners' advice, after all, always assumes the longer

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view, while political leaders typically seize issues delimited by election dates, such as increasing the tax base and providing jobs for voters. Indeed, in controversies over appropriate development, many politicians find planners to be a further complication to an already difficult problem. For all these reasons, the notion of an independent planning commission was advocated as the ideal organization for local government planning because it could shield planners from political vulnerability.⁶

The second important purpose of independent commissions was to inspire support for the activity of planning among members of the general community, particularly among owners of property. Then, as now, planners' expertise was understood as likely to restrict individual exercise of property rights. Proponents of planning believed that a reduction in individual rights could serve not only the public interest, but, in fact, could improve the value of each individual's land by making a town more attractive as a place to do business and to live. Consequently, commissioners were chosen because they were prominent businessmen who could convince their peers that a well-planned community would enjoy increased property values.

As planning gradually became accepted as a part of local government and as land use controls survived early judicial scrutiny, independent planning commissions found another reason for existence. With the increased powers enjoyed by planners, commissions have become bodies that temper the professional planning staff's views about appropriate development and land use. Chosen to represent the various interests existing in any given town, commissioners moderate the staff's advice for how the community should change, what is a sound land use decision, what is fair, and what is politically practicable. A developer might propose a convenience shop in a residential neighborhood. Because his design complies with all pertinent zoning requirements, the planning staff recommends approval. However, when the commission holds a public hearing on the matter, neighbors say that headlights from cars coming to the shop late at night will disturb their sleep. Sympathetic to this testimony, the planning commission might impose conditions to its approval of the project. The developer might be asked to limit the store's hours of operation, or to provide additional landscaping to buffer the shop from neighboring houses, or even to design a different entrance for cars. This example portrays the best realization of an independent commission: it represents the whole community, and it keeps the

comprehensive plan and planners' advice in harmony with legitimate individual concerns.⁷

Planning commissions enjoy an independent position in local government, whether or not they actually serve the purposes described above. State law defines their formal duties as advising the local elected leaders who choose them, and overseeing the planning department. To perform the latter function, the commission characteristically hires a planning director, who supervises the staff as it performs such daily planning activities as issuing building permits, explaining zoning ordinances, listening to complaints about land uses and controls, or interpreting the comprehensive plan. On planning matters which require votes by local governing bodies—zoning changes, subdivision approvals, adoption of comprehensive plans—the commission hears staff reports and public testimony on the matter at hand, then makes nonbinding recommendations for action to elected officials. For their part, these officials read the staff reports and the testimony from the hearing conducted by the planning commission, consider the commission's recommendations, and then hold their own public hearing before reaching a final conclusion. This process is called the two-hearing process for reaching land use decisions and it is typical of how such decisions are made throughout the country.

This, briefly, is the administrative structure within which planning advice is given to elected officials who ultimately must decide land use matters. Once the elected officials have made a decision to adopt a plan, to enact land use controls, or to allow a proposed development to be built, they delegate to the planning staff the authority for seeing a final decision carried out. The next portion of the chapter will describe the tools planners rely on for making their recommendations on land use matters, and the final section will discuss the municipal logic that affects how such matters are decided.

Planning Tools: Guiding the Use of Land

From their respective states, local jurisdictions have been given authority to plan the use of land and to ensure plans will be followed. These powers follow logically from the three-step paradigm that most states believe local jurisdictions follow when making land use decisions. First, a town adopts a plan showing how land *should* be used; second, local leaders carry out this plan by legislating how land *can* be used; and third, as development occurs, land *is* used according to the plan's designations.

Under this paradigmatic process, the town-as-planned becomes the town-as-built. Each step will be described below.

Paradigmatic Step 1: The Comprehensive Plan. A community's comprehensive plan—also called its master plan—is the foundation for guiding how land should be used. The plan joins facts and opinions about a community with projections and aspirations for its future. The pertinent facts describe inhabitants of a town and their environment, and form an inventory of current conditions. Included are demographic and economic specifics of townspeople—their numbers in different age groups, the types of households they live in, where they work, and how much money they make—all facts determinant of the basic human needs a town seeks to satisfy. In addition, facts are compiled regarding where people live and under what conditions, where their children go to school, where families spend their leisure time, and the transportation individuals use to get around to their daily activities. This inventory of current conditions depicts how life is lived in a town.

Opinions about that life naturally form the basis of a town's plan for its future, and to this end, citizens and public officials are invited to speak their mind about civic life. In a collected form, these opinions catalogue the satisfactions a town provides its citizens, as well as the environmental, social, or economic disappointments people suffer because of the way land has been used in their community. Once carefully gathered and analyzed, these facts and opinions offer a reliable sense of how things are, locally, and what issues are of the greatest importance there.

To this depiction of how things are, the plan attaches relevant projections about what the future might bring and how land uses will be affected. The plan forecasts changes a town might expect in its economic activity: what industries are likely to come to town, or leave; how existing commerce will improve or worsen; and how employment opportunities will be affected. Such economic activities themselves make demands on land, and they also cause changes in a town's population that might affect land.

A simple example will show the connection. If new industries come to town, they might need new buildings, and perhaps roads will have to be widened to carry increased traffic. Additionally, the jobs offered in these operations are likely to attract new workers. If these workers are of child-bearing age, their arrival might require the town to plan not only for a variety of housing, but perhaps even consider enlarging schools

and playgrounds. New subdivisions might have to be built, new shopping centers allowed, and more public parks provided. Conversely, if projections show a loss of industrial plants, the town might expect its younger workers to leave in search of suitable jobs elsewhere, leaving the town a place populated by more elderly individuals with needs for small apartments, ample public transportation, and perhaps a greater number of nursing homes. The point is, the effects of economic activity on a town's population determine the parameters of how land must be used.

There are other determinants of land use as well. State governments, and the federal government too, make many decisions that affect land within municipal boundaries. The state might route a new highway through a town, the Federal Aviation Administration may enlarge a nearby airport, or the U.S. Defense Department might close an adjacent army base. Any such decision would change a town's economic life and the way land might get used there. A town's plan, therefore, tries to measure the intentions of all external bodies that can affect the town's circumstances.

And finally, a plan expresses and details townspeople's wishes for the future. These wishes might be small matters, such as streets that have more shade trees planted along them. Or, they might be complex, such as attracting a wider assortment of manufacturing firms so as to make citizens' fortunes less dependent on the economic health of a single industry. The premise of governmental control over land use is that these goals can best be realized if they are the basis for evaluating individual proposals to develop land.

Together, these facts, opinions, projections, and communal hopes for the future fashion a comprehensive plan. Although years of professional activity have been devoted to innovations in the essential form of the comprehensive plan, its most familiar representation remains the original one: a map which depicts a community's intentions for the future by designating how undeveloped land should be used. This map will indicate, for example, where new residential, commercial, and industrial uses will be allowed; where new public facilities will be sited; and where roads will be built or widened. In effect, the plan states how land within the town's boundaries will accommodate changes in housing needs, employment opportunities, educational requirements, and transportation over a period of about 20 years.

The plan includes a clear definition of how growth should be guided so as to avoid the mistakes citizens feel were caused by past land use

decisions. Not surprisingly, given the complex mix of human wishes and opinions that exist in any town, and the various personal circumstances and economic realities there, drawing up a plan is a complicated matter. The hopes and wishes of one group in the town might contradict others; certain types of economic growth may seem desirable to one faction and inconceivable to others. For these reasons, the preparation of a comprehensive plan is aided, typically, by professional planners whose expertise can help find a consensus of community opinion and translate a municipality's goals for its future into documents for guiding growth efficiently. Planners are trained to consider the full range of effects that particular land use choices will occasion—the traffic that will be generated, the schools that will be needed, the necessity for parks, and so on. Because of this analysis, they can evaluate alternative ideas for development and give sound guidance as a town tries to imagine a better future.

The planning staff submits a draft of the plan to the planning commission, which then holds a public hearing. Based on testimony there, the commission may or may not amend the plan, may or may not direct the staff to draft additional editions of the document, may or may not hold supplementary public hearings, but eventually will agree on a single best version of the comprehensive plan and forward it to elected leaders with a recommendation for adoption. The local governing body will read the plan and transcripts of the planning commission's hearing, hold its own hearing, and ultimately adopt a comprehensive plan for the jurisdiction.

No matter the process used or the difficulty of gathering necessary facts and opinions and finding a consensus on appropriate civic goals, the harmonious result the state intends is an adopted comprehensive plan. Once adopted, the comprehensive plan becomes the source of legitimacy for planners' recommendations about how development should occur. Arguments planners might make for orderly development, for where new capital facilities should be sited, for what the town expects from future development, even for recommendations on mundane matters of construction, all flow from this comprehensive statement of a town's goals for itself.

Paradigmatic Step 2: Land Use Regulations. Once the plan is adopted, local elected leaders implement it by formulating ordinances and policies. Again, these officials rely on the planning staff to draft these

policies and on the planning board to hold a public hearing before making formal recommendations of adoption. Finally, the local governing body will adopt and codify the land use regulations as ordinances or formally adopted policies, and turn their administration over to the planning staff.

Planners have been trained to work with several tools for seeing that the plan becomes reality. They know principles of planning for capital facilities: how land uses are likely to change because of a new roadway or sewer line. They have learned such community development skills as how to rehabilitate failing neighborhoods and bring new life to derelict commercial areas. They can coordinate and review policies undertaken by other agencies of local government. For example, planners ensure that decisions made by the city street department complement the comprehensive plan.

Yet, of all the skills and authorities planners use to see a plan realized, land use regulations are the most powerful. The most commonly used are zoning ordinances, subdivision regulations, and review of construction plans.

[Zoning Ordinances] At their simplest, zoning ordinances delineate the precise areas, or zones, where houses can be built, as distinguished from where commercial and industrial enterprises can exist. The earliest use of zoning was simply to prevent one type of activity from becoming a nuisance to another. The smell of an abattoir, for example, was kept from offending homeowners by stipulating that slaughterhouses would not be allowed near residential districts. When zoning is first undertaken in a town, boundaries for districts are usually drawn around existing areas known by their predominant uses, and the ordinance specifies that new construction within each district be limited to buildings similar to those already there.

Gradually, individual zoning ordinances become more complicated as elected officials make new stipulations either to prevent mistakes or to encourage pleasing construction. For example, residents in areas zoned for apartment buildings might complain that they have inadequate parking spaces. In response, the governing body may amend the zoning requirements to require a standard number of offstreet parking spaces for each housing unit. Or, residents may think tourists will find the town more attractive if commercial enterprises were landscaped, and as a consequence ask their elected officials to make this a requirement of business zones.

At their most complex, zoning ordinances codify all the particulars of appropriate development as specified in the comprehensive plan. They divide municipal territory into zones or districts and designate conditions of construction within each. Each district typically has an authorized limit on the size of a building parcel; on size, height, and placement of structures on a lot; and on the number of parking spaces required. And each zone specifies the uses to which buildings and land in the district can be put. Zoning ordinances can also specify smaller details of lot development that the comprehensive plan envisions. Citizens might agree that a certain desirable grace results from houses being placed back from the street at a uniform distance. Such an aesthetic can be articulated in their comprehensive plan and realized by specifying a mandatory front-yard depth that builders of new houses must provide.

Since developers must obtain official certification from a town that their proposals comply with all legislated restrictions on their parcels, zoning ordinances are powerful mechanisms for implementing a comprehensive plan. Somewhat tempering this power are the provisions for making amendments to zoning ordinances, and for flexible or individualized treatment of particular parcels within a district. Zoning districts can be changed, as noted above, by using a process probably now familiar to the reader: proposals to change the zoning ordinance by redrawing its boundaries or altering its requirements are evaluated by the planning staff, and presented with a recommendation for action to the planning board. The board conducts a public hearing and makes a recommendation to the governing body, which holds another public hearing and ultimately decides whether or not the ordinance needs amendment. If enacted, such a change would affect all new construction that occurs on any parcel within the zone.

A change in the zoning requirements for individual parcels can also be made, through a somewhat different process. Cities and counties have citizen boards of adjustment which are authorized to grant a variance from the terms of a zoning ordinance where literal enforcement would result in unnecessary hardship to a landowner. For example, a certain residential zone might require at least a 10-foot separation between a house and any property line that defines the lot on which it would be built. Due to irregular topography, however, there might exist a legally recorded lot only 30 feet wide which perhaps lies between a city street and a meandering creek. Strict enforcement of the zoning ordinance

would mean that a house could only be 10 feet wide, or that nothing at all could be built there; but, in either case, a clear economic hardship would be worked on the lot's owner. The board of adjustment will read the facts of such a situation, listen to the advice of the local planning staff, and conduct a public hearing on the matter before deciding whether a variance is warranted. In this hypothetical case, the board of adjustment would undoubtedly—and appropriately—grant a variance from the side-yard requirements for the single lot. Their decision is final, unless an aggrieved party appeals to the appropriate court of law. That is, a decision to grant a variance is informed by the planning staff, but is not heard by elected officials.

Zoning ordinances are predicated on the important assumption that an owner of land has the power to use or develop his land as he wishes except as specifically restricted in state and local legislation. These restrictions must be based on some definition of a public interest broader than the landowner's, and such an interest could be that stated in the comprehensive plan. In fact, since zoning first became a common method of controlling land use, most state zoning acts have contained the requirement that zoning be "in accordance with a comprehensive plan." Although planners read this phrase as requiring zoning ordinances to conform to a comprehensive plan prepared in advance of zoning ordinances, courts have only recently agreed. Earlier, most courts asked to review zoning ordinances generally found that comprehensive policies expressed in the ordinances themselves satisfied the statutory requirement; other courts required only that the data used to support land use decisions be rational and well thought out. And still other courts simply held that the traditional uses of zoning within a local jurisdiction comprised a comprehensive plan. Years of practice have made it clear that the police power of zoning is used more as a means to prohibit undesirable development than as a method to define and encourage desirable development which complies with the comprehensive plan.

The planning staff plays a central role in formulating and recommending new zoning ordinances, just as it does in drafting a comprehensive plan. Once the ordinances are adopted, the planning staff becomes their steward—explaining their requirements and rationales to the public, requiring compliance, and even monitoring their effectiveness and suggesting amendments.

Observations About What Americans Have Built

With little difficulty she located the brick gateposts that had once marked the service entrance of an estate she knew, and that now opened on the tract called Greenwood Acres. Of Barbara's house, which she had been to only twice, she remembered that it was on a street named for some shrub . . . In her numb mind lay images of a short driveway, a carport, a walk of round cement pads, an overturned tricycle, an entrance under a flat overhang, a vine climbing a wall . . . A street

named for a shrub? They were all named for shrubs . . . The broken images upon which she had relied for recognition were worthless, for the driveway of each of these identical houses led to an invariable carport, and on every drive or sidewalk there seemed to be an overturned and forgotten tricycle . . . There was not a gas station, not a drugstore, from which to call—zoned out, she supposed, to keep holy the bedroom suburb.⁸

Wallace Stegner

[Subdivision Regulations] Subdivision review is a time-honored means of regulating land development. The early purpose of subdivision regulations was to provide an efficient method of selling land. Owners drew maps showing their land divided into sequentially numbered blocks and lots. These drawings, known as *plats*, were recorded in an office of local government. Subsequent sales of land could then be made by reference to a recorded plat, rather than by a more cumbersome, and hence often erroneous, description in metes and bounds. Platting reduced costs and prevented conflicting deeds and also led to uniformity in survey methods. After World War II, quick residential growth came to most American towns, causing them to enact regulations which imposed conditions on subdividing land. To comply with the regulations, land developers shared in the costs of such residential necessities as public open space, parks, and adequate streets. Most recently, because municipal leaders have learned that the way land is divided and settled dictates future transportation networks, drainage patterns, and demand for public facilities, subdivision regulations take into account the relationship of a new subdivision to its external environment and to the community's comprehensive plan.

To be approved, proposed subdivisions must comply with locally adopted standards for common facilities such as roads. In addition, members of the community must be given an opportunity to comment on the proposal before it is approved. The purpose of the review process and the standards for development include promoting public health, safety, and general welfare; providing adequate light, air, and water; and harmonizing the needs of citizens with the natural environment. As with all planning ordinances, subdivision regulations are formulated by the planning staff, sometimes amended by the planning board after a public hearing, and formally adopted by the governing body. Subsequently, their administration lodges with the planning office.

[Review of Construction Plans] Before a developer can begin construction, he must obtain a permit to proceed, which certifies that the project conforms with all regulations having to do with development. The planning office usually takes responsibility for this last review, and it is in this capacity that planners can coordinate the relevant policies of various city or county departments. For example, the public works department has standards for street width and grade for all new roadways, and the planning department will not issue a permit without certification from the city engineer that proposed projects meet these standards. In turning over administration of its enacted ordinances to the planning office, a city or county acts on the reliance that when a building permit is issued, all applicable policies and ordinances have been satisfied.

Over time, land use ordinances accumulate, and regulations in effect are not necessarily those enacted by current elected officials. They are, however, an evolving record of a municipality's learning from experience and subsequently defining in legislative standards the kind of development that will be approved. The planning staff is responsible for keeping track of all ordinances that bear on developing land in any part of the local jurisdiction.

Paradigmatic Step 3: Development. It is when individual landowners decide to develop their property that a comprehensive plan can be realized. The precise timing of this development cannot be predicted, since only by using its power of eminent domain can government force the conversion of land. This power, which allows a government to buy privately owned land for public purposes, is limited by municipal finances and by American beliefs about the primacy of private owner-

ship of land. Most governments, particularly local governments, simply do not have the cash to buy very much land, nor do they have popular support for using public funds for that purpose. These facts mean that only in rare instances do governments cause development; more usually their only active role is responding to a landowner's request for permission to build. Consequently, the comprehensive plan and land use regulations can take effect only as private decisions are made, at which time government can specify how such development is to occur.

Because private landowners only unpredictably decide to sell, much more land is designated for each type of use than would fulfill projections of need for that use. To designate less risks a shortage of necessary land and could inflate its price. Planning textbooks typically recommend a 25 percent overage be allowed,⁹ but it's more common for towns to designate three or even four times as much land for, say, residential purposes, than would be required in the foreseeable future. This necessarily means that some scattering of growth will occur, and that urban uses will spread somewhat haphazardly around the areas designated for future development. Eventually, though, if a town follows the state's paradigm for a rational sequence of planning, regulating, and developing land, local plans would be realized through an accumulation of private development decisions.

This brief discussion is meant to give the reader a sense of the state's idea of how land use decisions should be made and to show the broad outlines of the paradigm within which local government planners practice. However, development and land use decisions do not occur in isolation, but are simply one aspect of a town's or a county's day-to-day business.

Observations About What Americans Have Built

In stopping to take breath, I
happened to glance up at the canyon
wall. I wish I could tell you what I
saw there, just *as* I saw it, on that
first morning, through a veil of
lightly falling snow. Far up above
me, a thousand feet or so, set in a
great cavern in the face of the cliff, I

saw a little city of stone, asleep. It
was as still as sculpture—and
something like that. It all hung
together, seemed to have a kind of
composition: pale little houses of
stone nestling close to one another,
perched on top of each other, with
flat roofs, narrow windows,

straight walls, and in the middle of the group, a round tower.

It was beautifully proportioned, that tower, swelling out to a larger girth a little above the base, then growing slender again. There was

something symmetrical and powerful about the swell of the masonry. The tower was the fine thing that held all the jumble of houses together and made them mean something.¹⁰

Willa Cather

Municipal Logic: Context of Land Use Decisions

States have set up local governments to finance and provide services with local consequence, such as police and fire protection, public schools, recreational activities, sewerage systems, local road maintenance, as well as land use planning. The more revenue elected leaders can collect, the greater versatility they will have to provide for their constituents' desires. And providing for those desires keeps local leaders in office. Depending on their state's enabling legislation, local jurisdictions can collect money from such sources as income or sales taxes; however, their revenues principally come from a system of real property taxation which imposes levies on land and improvements—what has been built on the land—in direct proportion to market value. Consequently, the relationship between municipal revenues and the value of land is the pre-eminent fact of local government.

The precise value of land is no simple matter to determine, although there are some axioms well known to local officials. Value is obviously based in part on the actual market price of land and improvements. However, since how much is paid for land and how much is spent to erect a building on it are matters principally of private choice, public decisionmakers can exert little influence on these determinants of value. But value is also based on attributes of a property's location, and these are matters over which local leaders can exert considerable discretion. Consider some familiar locational preferences. Industrial enterprises need access to outside markets, and therefore prefer to locate their operations near freeway interchanges or along railroad spurs. For the sake of convenience and diversion, families prefer to live close to public parks, schools, or shops carrying necessities of daily life; they also prefer to be distant from the noise and congestion of industry. Since local leaders choose where to build schools, where to provide parks, where industry can locate, and where houses can be built, they affect many of

the consequential attributes that determine market value, and in this way affect property tax receipts.

Because local decisions affect the value of property, because local revenues come from taxes directly related to that value, and because the electorate judges the quality of its leaders by how reliably they can provide services without increasing levies, how land is used lies at the heart of municipal rationality. What this means is that as much as possible, local leaders make decisions about how land can be used within a logic containing two internally consistent propositions.

The first proposition is that a municipal budget must balance public service expenditures with revenues. This means that proposed developments are evaluated according to how much money they will bring into town, and how much they will cost. Taxable value of a development determines revenues, and the public services required there determine costs. Corporate headquarters, for example, carry a high valuation and make few demands for public services. They will be judged especially desirable, and even offered incentives such as temporary tax reductions to locate in a particular town. Conversely, towns don't want such developments as low-income housing because they cost more than they pay in taxes. In fact, municipalities will try to get the developer of such housing to pay for common facilities ordinarily financed by the local government. In short, a sophisticated municipality's interest in new development never strays far from the town's bottom line.

Municipal logic takes as its second proposition that property values should be maintained or enhanced. The town's interest here—a predictably high level of assessed valuation for property taxation—dovetails cleanly with the investment aspirations of landowners. Property owners who argue that a proposed mobile home park will cause a decline in the value of their property find elected leaders a sympathetic audience. The result is that towns find room for lower-valued projects at a remove from "better" uses, relying on physical separation to prevent property valuation from falling.

These two propositions go a long way in explaining how land use decisions are made: approvals are given to projects that serve the interests of municipal finance. Ideally, these interests would not conflict with the aims of land use planning. Logic would say that states must have intended harmony between towns' budgets and planning aims,

since the power over each is specifically conferred by a state to its local jurisdictions.

A Beneficent Future

Local planning is authorized by enabling legislation which sees the municipal future as a pleasant extension of the present. In this view, people with the same background and similar expectations will influence patterns of development, and growth will eventually bring about a town's long-term goals. The pleasant paradigm is congruent with what people want to believe. Most civic leaders think that bad effects of growth—if they occur at all—can be remedied later with little loss to the common well-being. In the meantime, constituents can work the construction jobs that development brings, new businesses can open, and municipal tax receipts can fatten.

The state's beneficent paradigm for how land use decisions *should* be made does not accurately describe how these decisions *are* made. The reasons for this dichotomy are the subject of the next chapter.

NOTES

1. Fred Bosselman, "Reporter's Comment," *Land Use Law and Zoning Digest* 31 (January 1970): 22.
2. Bill Barich, *Laughing in the Hills* (New York: Penguin, 1981) p. 5.
3. *Planning Magazine* 53 (December 1987): 32.
4. F. Scott Fitzgerald, *The Great Gatsby* (New York: Charles Scribner's Sons, 1953), p. 23.
5. John L. Hancock, "Planners in the Changing American City, 1900-1940," *Journal of the American Institute of Planners*, 33 (September 1967): 293.
6. R. G. Tugwell, "Implementing the General Interest," *Public Administration Review*, (1940): 37.
7. James A. Spencer, "Planning Agency Management," in *The Practice of Local Government Planning* (Washington, D.C.: International City Management Association, 1979), pp. 68-73.
8. Wallace Stegner, *A Shooting Star*, (New York: Viking Press, 1961), pp. 88-90.
9. F. Stuart Chapin, Jr., and Edward J. Kaiser, *Urban Land Use Planning*, 3rd ed. (Champaign: University of Illinois Press, 1979), p. 408.
10. Willa Cather, *The Professor's House*, (New York: Alfred A. Knopf, 1964), p. 201.

Planners Marooned Where Public and Private Interests Meet

If towns grew and changed in the manner intended by state enabling legislation, a town-as-built would be the town that was planned. However, in most small American towns, comprehensive plans represent wishes not reflected in the planning department's definition of its mission, not represented in zoning ordinances and subdivision regulations, and not found in the physical environment. Sometimes this has happened for good reasons. No plan can precisely predict economic or demographic trends, nor can a plan foresee fundamental changes in popular preferences or leisure time activities. Certainly few plans forecast technological breakthroughs that make previous planning assumptions obsolete. Any of these changes to a town's situation should and can be accommodated either by amending the comprehensive plan and any relevant land use regulations, or by interpreting legislated provisions in light of new events. Indeed, if such changes could not be accommodated, plans would enforce a rigid adherence to an outdated understanding of municipal characteristics and expectations. By remaining static, plans would impede beneficial development.

However, many towns allow changes to their comprehensive plans and approve construction of particular projects not for reasons of public interest, but to promote an individual's private interests or to oblige a single neighborhood's wishes. This chapter will discuss how these bad land use decisions and inappropriate developments occur despite the ideal paradigm for guiding growth. It will also show how such decisions

ignore local government planners' advice about how a community should grow. The point of the discussion will not be to lament a commonplace situation, but to find points of intervention where planners could rejoin the planning process and make stronger arguments for good land use decisions. The chapter will end by introducing *committed lands analysis*, a method which offers planners a new option for expressing their point of view. The method is useful because it is based on the way planners must understand their role in the actual process of land use decisionmaking.

Observations About What Americans Have Built

. . . He wanted to know why the dam was being built, and I said I didn't know, but of course I did. The dam would impound water to form an artificial lake, and the land around the lake would appreciate in value, and the realtors and developers would build the usual tacky resort facilities, and the people who made their fortunes by destroying things would be a little richer but not any safer from death. . . .

The next day I got some news from home. Out at the dam site "progress" was being made. The Corps of Engineers' bulldozers were working round the clock, plugging up nature with anal fervor, and we'd even had our first suicide, some poor

young woman who'd jumped off the bridge that had been built over the basin to be dammed. Her freefall into dust and wild flowers struck me as a wholly appropriate symbol of a more general demise, of the specific sliding into the mass. The town's planning commission, chaired by a realtor, was busily amending the general plan, changing agricultural zoning to residential or commercial to accommodate the developers and carpetbaggers who were lining up along the avenues; on the plaza we now had a T-shirt store and a jewelry store and a store that sold candles, macrame, patchouli oil, incense, roach clips, and sensitive photographs of the very land parcels that were being rezoned. . . .¹

Bill Barich

HOW LAND USE DECISIONS ACTUALLY GET MADE

States envision landowners' developing their property according to a town's plan and its land use regulations. However, if landowners or developers want to undertake something different, they can petition their local government to change applicable regulations or to waive

specific requirements. These petitions are usually successful, particularly in the urban frontier and in other areas where there is not a well-organized neighborhood group. A comparison of actual development patterns and comprehensive plans in most cities would show that decisions ignored a broad community interest. As stable and steadfast as local land use plans and regulations might seem, they are either negotiable or impotent weapons against narrow sentiment. In fact, when making a decision about how to, or whether to, develop a particular property, developers do not consider regulations to be as important as bank interest rates, market surveys, or even building codes. The next few sections of this chapter will discuss why this is true, considering in turn the tools that have been given to towns and counties to guide the use of land, and the administrative structure authorized for local jurisdictions to make land use decisions.

Planning Tools: Guiding the Use of Land

States expect local jurisdictions to adopt a comprehensive plan, write land use ordinances for its implementation, and oversee the plan's becoming a reality as individuals develop their land. Under this paradigm, the plan represents a useful guide for future growth and contains an articulate and reliable description of what a town wants from the future. In practice, because citizens cannot easily agree on long-term goals—no matter how small and apparently homogeneous their town—local officials frequently adopt ambiguously phrased plans. Consider this as an ordinary example: "Land use policies should encourage beneficial development." Although such a goal appears in many plans, it can hardly provide guidance, since the word "beneficial" could seem to encourage residences, landfills, rendering plants, or airports, depending on one's private point of view. Developers designing a conforming project, and subsequently the planning board and elected officials charged to determine whether that proposed project complies with the comprehensive plan, must often resort to an ad hoc interpretation of "beneficial development." Their interpretations can easily be at variance not only with each other, but with what the larger community might believe.

The consequences are different in the urban frontier and in the urban protectorate. Few citizens will appear at public hearings regarding development decisions on the frontier because they usually can't see how their private lives would be affected. A wide range of views are not then available to guide decisionmakers, and the landowner or develop-

er's desire to build a project is likely to prevail. In the urban protectorate, however, citizens *do* defend their neighborhood from any use they would rather not see, and their narrow, strongly held views are likely to persuade the decisionmakers to deny permission for controversial projects.

The public interest is thwarted in either case. On the frontier, a decision can get made that relies more on the persuasive powers of developers than on any reading of the community's wishes. And moreover, in the protectorate, a decision can get made that strengthens the status quo of politically adept neighborhoods and causes controversial projects either to go into less politically skilled areas of town or into the urban frontier.

Sketches of Planning Practice

A Reporter Satirizes the Urban Protectorate

Here are some questions and answers about the house of worship the Missoula Stake of the Church of Jesus Christ of Latter-day Saints (the Mormons) wanted to build in the West Rattlesnake but decided not to because of the opposition of some area residents (who appeared at several public hearings on the matter):

Q: Are West Rattlesnake residents who opposed the church building religious bigots?

A: Probably not, they just appear to be.

Q: Do Mormons erect attractive church buildings, enhance the landscape around them, maintain them, pay for them, and conduct admirable and wholesome activities inside them?

A: Yes, but so what? If you don't

want Mormons in your neighborhood, you don't want Mormons in your neighborhood.

Q: Would Rattlesnake residents who opposed the church building also oppose a group home for developmentally disabled people?

A: Naturally. Developmentally disabled people, like Mormons, tend to create monumental traffic problems.

Q: Are the opponents liberal, open-minded and progressive?

A: Every last one of them—except when it comes to Mormons building a church in their neighborhood.

Q: Is there a chance opponents will regret that they didn't take advantage of an opportunity to acquire some friendly, stable neighbors?

A: Is the pope Catholic?²

The regulatory decisions that should carry out the comprehensive plan often override the community's wishes. If the comprehensive plan itself

is vague, clear regulations for its implementation are more difficult to formulate. But even when plans are clearly written and unambiguous, towns adopt vaguely phrased land use ordinances. For example, when trying to describe land uses permitted within a district, zoning ordinances commonly use a phrase such as "compatible with adjacent uses." Unfortunately, while the word "compatible" is central to understanding the intention of the ordinance, it is vague and can reliably guide neither a developer trying to imagine a conforming project nor a public official trying to determine whether that project should be permitted in the zone. Land use regulations written in nebulous yet well-meaning prose create considerable interpretative discretion and promote development decisions that are capricious and arbitrary.

Even when planning goals and land use regulations are clearly written and unambiguous, there is often no apparent connection between the plan and its implementing policies. Many towns ignore the three-step paradigm of planning, regulation, and development described in Chapter 1. Instead, they adopt comprehensive plans but fail to enact policies for carrying them out. Other jurisdictions adopt zoning resolutions that merely codify existing land uses and contain only an accidental relationship with the comprehensive plan. But these misconnections between planning and implementation have not been understood as evidence of a town's ignoring its state's enabling legislation. Rather, courts have usually held that zoning measures need not be linked to a comprehensive plan. Towns have acted on these rulings and allowed plans to become no more than interesting anthropological finds showing how citizens once thought they would like their town to develop.

It is principally through interpretation of vague language in planning goals or land use ordinances that decisions are made contrary to a comprehensive plan's design. Incrementally, the plan becomes irrelevant to the way the town is actually being built. Because these contrary decisions are made so often, there should be some mechanism by which a plan can be modified to reflect changes—even bad changes—that come to a town. Consider a typical example. Swayed by a developer's argument that a proposed subdivision will serve valid public needs, a town zones for houses some land designated by the plan as open space. Such a decision should simultaneously consider the predictable needs of residential developments: children have to attend school and play, employed persons must commute to their jobs, and households need to buy groceries. Unfortunately, few towns look beyond the particular tract

being rezoned. Their narrow vision undermines a comprehensive plan in this way: allowing the subdivision in designated open space may contradict one of the town's adopted goals, but failing to reconsider the appropriate use of contiguous tracts will contradict the plan's other goals. If local shopping areas are not nearby, people will have to make unnecessarily long automobile trips for their daily needs, thereby perhaps worsening air pollution problems that the plan intended to solve by reducing the necessity for numerous individual trips. The point to this example is that the planning process needs to respond to the ramifications of each decision, no matter how poor.

The sad fact is that as long as there has been local land use planning in America, there has been criticism that plans offer little useful direction for officials who must approve, deny, or modify requests for development approval. Plans don't even offer much assistance to developers trying to build in accordance with the town's desires. Most typically, plans are written in well-meaning prose, but become increasingly out-of-date with each subdivision built, each zoning district changed, and each variance granted. Citizens find the local planning staff unable to keep the plan flexible, unable to stop unsightly development in the urban frontier, and unable to argue for suitable projects in the urban protectorate. In fact, planners seem ill-equipped to perform the very jobs they were hired to do.

Sketches of Planning Practice

Two Developers' Regard for Land Use Regulations

Saturday, April 21, 1984. In a move that took city planning officials by surprise, ground was broken Friday in Missoula for what two men claim will be a half-mile, professional auto race track attracting drivers from throughout the United States and Canada. The developers say the facility will open June 10 with weekly professional stock-car racing throughout the summer. Located on 63 acres, the facility will seat 24,600 spectators.

But before construction can begin,

the developers will need a city building permit, and the Missoula City-County Health Department will have to approve a sewage-disposal system. Missoula Planning Office Director Kristina Ford, whose office approves building projects, says she knew nothing of the racetrack until she was contacted by a Missoulian reporter at home Thursday night. The developers say they wanted to keep the wraps on the project until final details could be pulled together and they could announce the

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beginning of construction.

Tuesday, May 8, 1984. Developers of a proposed half-mile, professional stock-car race track on the outskirts of Missoula seem to be on a collision course with zoning and building regulations. Despite no exemption for paving the proposed parking lot and no building permits, the developers vowed Monday to forge ahead with the project. "We're going to build until a stop-work order is issued. . . . Further delays caused by the Missoula Planning Office will kill the project for this year."

A variance is necessary to avoid

paving the parking lot. But a variance would have to come from the Missoula County Board of Adjustment and now can't be considered until its June 27th meeting. The developers say the first races must be held in June. The County planning staff counters that they gave enough notice to allow them to take the case to the board's May meeting, but the developers declined to apply.

"There's been no cooperation at all from local government. They don't want us to build it."³

Decisionmaking Structure for Land Use Decisions

While there are clear weaknesses in the tools of land use planning, a close look at the decisionmaking structure used in land use choices will reveal other reasons that a community's broad interests are ignored. Most states have given local governments a three-part administrative structure for managing growth and change. Elected leaders make decisions about the use of land by considering the advice of an independent planning board comprised of unelected laymen. The professional planning staff works for the board, bringing to its attention the matters which ultimately will inform the vote of the governing body. The staff performs all day-to-day duties relating to development. They explain the comprehensive plan, listen to complaints and answer questions about the requirements of various land use statutes. The planning staff ensures that projects satisfy the requirements for development that other municipal agencies impose, and issues building permits for approved projects.

Independent Planning Boards. As a fledgling profession, planning needed boosters and protectors in order to reach maturity, and planning boards surely did that. By now, however, state law provides planners the support once given by independent boards. Many states require their local jurisdictions to engage in planning; some going so far as to specify elements such as local housing needs or environmental concerns that must be addressed in the plan.⁴ In addition, state courts have started to

overturn municipal decisions made either in the absence of planning or without reference to a locally adopted plan.⁵

Boards now interpret comprehensive plans and land use regulations in light of broad community concerns. Board members are civically inspired, thoughtful citizens who bring to land use decisions an awareness of community attitudes and an appreciation of how individual decisions might interact. These personal attributes should allow them to interpret the comprehensive plan and land use regulations as municipal aspirations and conditions change. In addition, by holding public hearings the board can provoke a more thorough discussion of planning matters than the full agenda of locally elected officials would normally allow.⁶ Land use decisions are typically made following two public hearings. The first is conducted by an independent planning board, and the second by local elected officials, who ultimately make a decision. Presumably, such a lengthy process ensures that all points of view regarding important land use matters will be heard and considered.

The usefulness of planning boards depends on two fundamental assumptions. First, that planning boards will act objectively when they choose among competing positions on a particular land use decision, when amending the comprehensive plan, or when suggesting new land use regulations to implement the plan. Second, that planning boards are well prepared to evaluate the arguments they will hear on land use matters, and will exercise good judgment in formulating a recommendation for action by the governing body. Throughout the country, practice belies these assumptions.

Planning boards do not act objectively. In fact, it is often economic self-interest rather than the public interest that draws people to serve on these boards, as their voting records bear out.⁷ Alone, this fact wouldn't be so damning if all the economic interests in a town were represented on the board, but they are not. Real estate and development interests usually dominate the independent boards, and the recommendations made to elected leaders consequently represent their occupational bias regarding land use matters,⁸ a bias which most often is in favor of development.

Observations About What Americans Have Built

A myth is a story told or an oft-told story referred to by label or allusion

which *explains* a problem. . . . Very often, the problem being "solved" by

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a myth is a contradiction or a paradox, something which is beyond the power of reason or rational logic to resolve. . . .

The American has, does, will *adapt* civilization and wilderness to each other. In the mythic process of adaptation, the wilderness can be civilized, civilization can be

improved, and the wilderness can be preserved; thus neither civilization nor wilderness is destroyed. All that is required are Americans who "believe that there is nothing they cannot accomplish, that solutions wait somewhere for all problems, like brides."⁹

James Oliver Robertson

Neither are planning boards well prepared to consider reliably the matters that come before them. Most board members have full-time jobs and, therefore, have inadequate time to read and think about staff reports which discuss items on the agenda. Consequently, the board's decisions are rarely fully informed, and in fact their advice can be systematically biased if the board becomes dominated by one or two diligent members who argue persuasively. These persuasive members are often people with a vested interest in growth, but they can also be residents from the urban protectorate intent on keeping the neighborhood free from unwanted uses. In either case, the advice the governing body receives from the planning board will not be objective responses to land use proposals.

Alternatively, once aware of the failings and inadequacies of the independent planning boards, elected officials might pay little attention to the advice the board gives.¹⁰ But disregarding the board's advice is a costly way to manage the public's business, and it is costly to developers whose projects await the outcome of first the planning board's and then the elected officials' deliberations. For a developer to have proposed a project at all is probably to have invested capital in an engineering firm's drawings or in land options, and to wait is to incur opportunity costs on that capital; to wait for advice officials disregard is to incur opportunity costs for no reason. Ignoring the board's advice is costly to government itself: salaries are paid for the planning staff to prepare for two public hearings when, in fact, only one affects the ultimate decision. As well, public spirit turns to cynicism as citizens and planning board members watch professional efforts go for nothing. And finally, it is costly to the planning staff's standing in town. Through a common transference of blame, the planning staff comes to embody the faults of the needlessly lengthy two-hearing process of making land use decisions. The public views planners as the personification of bureaucratic red tape.

Some jurisdictions have tried to repair these deficiencies. To attract a more representative group of people to serve on the boards, as well as to encourage better preparation for meetings and better recommendations to elected officials, some towns pay salaries to their planning board members. Other municipalities have considered electing planning commissioners, hoping the prestige of holding an elected office will draw persons other than realtors and developers to serve on the board and simultaneously cultivate more thoughtful decisions.¹¹ Other towns believe that the underlying assumptions of the two-hearing process would be met if board members thought elected leaders would take their advice seriously. These cities have tried to strengthen the force of the board's recommendations by allowing them to be overruled only by a two-thirds vote of the governing body.¹² To reduce the amount of time developers spend in the two public hearings, some towns hold a single public hearing which both the planning board and the elected officials attend. Subsequently, the planning board makes a recommendation which the governing body considers in light of its own reactions to what was said at the joint hearing. The effect of these attempts to make planning boards act more objectively and responsibly has not been systematically studied, and neither has reform reached the great majority of towns.

Readers are certain to know exceptions to this summary. There are planning boards comprised of civic-minded individuals who strive to realize the broad community interest and make well-informed decisions. Such boards are unusual. In most towns, the discretion that planning boards exercise in interpreting land use documents, when combined with the narrow interests typically represented on the boards, have made the planning process irrelevant to development. This fact is not bothersome to most local governing bodies.

Local Governing Bodies. Once the planning board has voted its recommendation on a land use matter, the planning staff advertises a second public hearing to be held before elected officials (mayors, city council members, and county commissioners). At that hearing the staff will present its analysis of the decision to be made as well as the advice of the planning board. Then the public will be invited to speak to the matter. Finally, the local governing body will make a decision. This is the point at which the realities of local political life become clear—where short-term arguments persuade elected officials mindful of election dates.

Planners measure new development proposals by the extent to which public interests are satisfied: whether new housing will be appropriate for the community's needs; whether new businesses will create jobs suitable for residents; and whether new development will adversely affect traffic, air and water, erosion, or open space. However, these broad community concerns often seem remote, abstract, and even irrelevant to a politician trying to decide a development in dispute. Disputes arise over planning tools: over wording in the comprehensive plan, the meaning of requirements contained in land use ordinances, and the specific prerequisites to construction. For example, officials hear from a landowner who wants to develop a shopping center in an area the local plan designates as "low-density residential." The owner might remind leaders that he and the out-of-work construction crew he intends to employ are voting constituents; he might argue for his development in terms of increased tax revenue for the town and increased property values near his shopping center. And indeed he will be hard to deny. That the construction jobs are short lived and offer no lasting solution to unemployment problems; that another shopping center in a neighboring town might siphon off much of the hoped-for market strength, perhaps even causing the landowner to default on the taxes promised city officials; that the center will cause traffic problems on main routes leading to the site—all are typical of planners' concerns given little weight by elected officials in their land use decisionmaking.

Similarly, the governing body hears from a group opposed to an apartment building proposed in their neighborhood. The group might remind officials that they and their neighbors are voting constituents; they might argue that the apartment building will disrupt the peaceful harmony of their high-value part of town, perhaps even decreasing the total assessed valuation. They will probably propose that the developer build something other than apartments. A daycare center might be suggested, or an architect's office, or some other low-intensity enterprise that the neighborhood believes would be compatible with their private lives. And they, too, will be hard to deny. That there is little or no demand in town for the alternative uses they propose; that the apartment building is the only type of housing affordable by people currently living in substandard dwellings; that appropriate site design for the apartment building can in fact enhance the value of all contiguous sites; that not to develop the land wastes public assets provided to the tract at consider-

able public cost—all are arguments for development in the protectorate given little weight in local land use deliberations.

The antipathetic interplay between the logic of land use planning and the logic of municipalities occurs every day in countless city council chambers in every state, where the short-term, bottom-line view of local governing bodies overrides planners' professional and long-term view. The reality is that towns plan, regulate, and settle disputes over development according to their sense of the municipal budget and local property values.

Equally important to land use decisions is the desire of elected officials to be reelected. Office holders cannot simply ignore a neighborhood's wish to be protected from undesirable uses. Nor can they ignore constituents who claim personal hardships have been caused by regulation of property. A newspaper in North Carolina put this fact in memorable terms:

Anyone familiar with zoning procedures knows why it is difficult for local officials to protect broad public interests. A friend or customer comes before the local board, makes his request and explains that his livelihood depends on the approval of the request. If the board members do not comply, they have made an enemy for life—not one that lives in Raleigh, either, but one that lives close by.¹³

The simple fact is that when compliance with land use regulations is pitted against emotion, emotion will win.

This is the most benign understanding of the process by which land use plans and regulations are interpreted in ways sympathetic to individual landowners or single neighborhoods, but indifferent to a community's broader interests. Conflicts of interest in land use decisions and subornation of governmental officials are also commonplace—decisionmakers approve requests made by business associates, and payoffs go to officials for particular decisions. Each instance of this that comes to light is a fleeting scandal, and the ripple of public indignation too quickly disappears.

The reader may know of instances in which local governing bodies reach land use decisions by relying on the comprehensive plan and on the clear wording of local land use regulations. Certainly there are examples of towns that choose to spread typically objectionable land uses among all neighborhoods. But such instances are demonstrably

rare. More frequent, although not widespread by any means, are attempts to force local governments to make the proper decision. Some states have specified what plans must include and have directed that the language of goals be unambiguous; other states have required that plans and land use regulations be coordinated. Available to local leaders is a vast quantity of planning literature devoted to describing innovations in plan-making and regulatory tools; and there are volumes of creative inventions suited for the unique circumstances of individual towns. Laudable and workable as they are, however, these ameliorative attempts are largely ignored because the short-term logic of local government officials and the discretion they wield overpowers attempts at reform.

Sketches of Planning Practice

A Case of Public and Private Interests Failing to Connect

In Montana, two legal methods can be used to divide land, the first being subdivision review in order to file a plat. A subdivision that will contain more than five lots must be reviewed by 25 local, state, and federal agencies; smaller subdivisions are reviewed by only five. To be approved, proposed developments must comply with locally adopted standards for common facilities such as roads, and public comment must be solicited. The purpose of the review process and the standards for development in Montana, as elsewhere, include promoting public health, safety, and general welfare; providing adequate light, air, and water; and harmonizing man's needs with the natural environment.

The second method of dividing land is exempt from the subdivision review process because Montana's legislature believes the lots so created will have insignificant public

effects. No review is required for lots at least 20 acres in size. Also exempt are transfers of land within a family, as well as the sale once-a-year of a parcel of any size. Divisions of land created by these exemptions are filed by using what are known as Certificates of Survey (referred to as COS, hereafter).¹⁴

The community's interest would be satisfied if the developments created by COS were no different from those created under the subdivision review process.¹⁵ Unfortunately, this is not the case. In the absence of review by public agencies and of comment by citizens, tracts are so poorly designed that some have no legal access to public roads;¹⁶ residents in unreviewed subdivisions often live with insufficient water for daily needs; there is no fire protection for lots outside the area served by rural fire departments; prime agricultural

land converts to urban uses without public review; housing is created in areas perennially threatened by severe forest fire hazards; and roads are inaccessible to emergency vehicles on icy days. For all these reasons, unreviewed COS developments exemplify bad planning. In Missoula County, where there are 43,000 subdivided acres, 90 percent have been filed using the method of COS exemptions. An example shows how this can occur, using the case of a married man with two children, who owns 80 acres. Claiming the 20-acre exemption, he divides the tract into four parcels for himself and his family; each parcel is filed with a COS. Each family member can then sell a parcel of any size without review by using the occasional sale exemption. After selling a one-acre lot, the man's wife can choose to transfer part of her remaining 19 acres back to her husband, and another COS exemption can be filed; he can then use the occasional sale exemption to divide this parcel.

There is no time limit governing how long a person must hold a parcel before transferring title to part of it to a family member and filing a new COS. Clever use of the exemptions in Missoula has resulted in what are quite obviously subdivisions, but which have completely escaped subdivision review.

Of course, not all unreviewed subdivisions are built with intention to trick the local authorities. A few harsh winters may cause a rancher to sell an acre or two each year in order to pay his bills; nevertheless, after a few years, a development can exist which is essentially a subdivision, although it has been built slowly and has gone unreviewed. The public has an interest in this development just as it has an interest in platted subdivisions. In fact, the public subsidizes the profits the developers have made by avoiding review. As an example: 20 percent of Missoula County's road budget in 1980 was used to pave roads in four unreviewed developments.

The Local Planning Staff. Local townscapes and the record of votes on land use matters show that planners, although hired to encourage an agreeable accommodation of growth and change, are often ignored. The commonplace view of planning that holds sway in small towns is lamentably easy to summarize. Developers see the local planning staff as functionaries whose irrelevant advice slows progress toward economic gain. Differently, but relatedly, elected leaders see planners as the problem children of local government who anger members of the public for reasons not obviously defensible. And even the proponents of planning in a community see the staff as ineffective against bad development. Ultimately, planners in small towns can come to see their

role in local political life as quixotic. This is, however, a self-defeating attitude because it means planners do not expect their advice to be taken seriously. Planners become, then, less inventive in arguing for the public interest.

A consideration of the underlying reasons for these attitudes is essential to making local government planning a more dynamic part of growth and change in a town. Hostility to planning, misunderstanding of its goals, and ineffective support together explain why planners are in effect excluded from the actual process of making land use decisions.

[Hostility to Planning] Among Americans there is only a grudging acknowledgment that planning is needed at all. A few visionary officials warn about the perils of uncontrolled change, but to most of their constituents these fears seem out of proportion to what exists: perhaps a few vacation houses appearing on a lakefront or a new gasoline station standing in an open field. Most civic leaders believe that the bad effects of growth—if they occur at all—can be remedied later with little loss to the common well-being. Following this logic, today's land use decisions in most small towns resemble the politics of the American frontier:

Given the cornucopia of the frontier, an unpolluted environment, and a rapidly developing technology, American politics could afford to be a more or less amicable squabble over the division of the spoils, with the government stepping in only when the free-for-all pursuit of wealth got out of hand. In the new era of scarcity, laissez-faire and the inalienable right of the individual to get as much as he can are prescriptions for disaster. It follows that the political system inherited from our forefathers is moribund.¹⁷

Few citizens believe the political system is moribund. Most citizens and the officials they elect find it hard to believe that growth—usually meaning the modest construction activities of fellow townspeople—could be consequential enough to require governmental guidance. A history of slow growth confirms this attitude. Many small towns have in a sense *accumulated* over the years: a small entrepreneur will construct a factory; if it becomes profitable, a local contractor will build a house for the factory owner, and after a year or so, apartments for workers; later still, perhaps a coffee shop will open. In towns like this, a laissez-faire growth management technique seems adequate, and planners can successfully be represented as unnecessary—or worse, as obstructors of prosperity.

Furthermore, while it makes good administrative sense to have

planners the stewards of the comprehensive plan and land use regulations, the effect of this stewardship is to make planners seem like scolds. They seem continually to be reminding elected officials of the rules of development, when, in fact, these rules were enacted by previous elected officials for reasons lost to the city's archives. Elected officials, too, can feel hostility to the planning staff, whom they see as hindrances to fresh methods of guiding a town's growth.

City council and county commission members also find that planning often argues its points in terms that are vague or complicated. Developers, on the other hand, make easily followed arguments: they claim proposed projects will mean new tax revenue and new jobs. Proper consideration would require calculation both of public revenues and of increased public service costs engendered by the project—the type of analysis planners are trained to make. But because many leaders neither understand nor take an interest in such analysis, they are reluctant to side with the planning department's expertise when it is contrary to the developer's assertion. Consequently, developers' promises of municipal benefit go unchallenged, and their projects are approved based on their own optimistic but poorly informed computation of public benefits and costs. However, once the developments have been built, towns have often had to impose new tax levies to correct developers' faulty computations of revenue and public service costs. Planners' early warnings of this result will enhance their reputation as municipal scolds, but probably not win allies.

Sketches of Planning Practice

Hostility to Planning—A Series of Letters

Cut the Punks
Why should we cut the sheriff's staff
in the face of an outsized crime rate?
There must be at least a dozen
useless punks on the planning and
zoning boards whose only function
is to soak up the budget and
socialize privately owned, taxable
property.

Really Very Simple
To the city-county officials: the
financial problems you are facing are

not as large as they seem to be. It is
really very simple!

. . . The planning board has a huge
excess of employees, which is
absolutely and unequivocally too
much drain on the over-burdened
taxpayer who is struggling to make
ends meet and place food on the
table.

Deputies Needed
I think it would be tragic to cut 15
from the sheriff's department. We

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need every deputy we have.
. . . Why not economize by cutting
nonessential services like the
planning department? . . . The
planning department is simply
causing controversy amongst the

residents. It encourages people with
pet peeves to draft regulations to
further strangle the economy. We
have too many rules and regulations
now.¹⁸

[*Misunderstanding of Planning's Goals*] By the very term *comprehensive planning*, the profession seems overcomplicated to most people. Many citizens, in fact, take the term to imply that the local planning staff is busily engaged in imposing its own vision of the future on the community. Reading the comprehensive plan is a formidable task to almost anyone. It is long, based on a great compendium of data and information, devised by complex technical methods, and too often written in professional jargon. For most citizens, it seems futile to attempt to understand what the plan contains and how the plan leads planners to make the suggestions they do. As a consequence, many people dismiss the plan, and consider planners as mysterious bureaucrats foisted on them. Some people are even skeptical of the planners' motives:

It is always sobering to encounter the intellectual idealists at work, for they seem to live in a realm of their own, making plans for the world in much the same way that any common tyrant does.¹⁹

Alternatively, citizens will seize on a particular planning precept out of context. Take as an example the familiar notion of "preserving neighborhood character." Planners know that this goal—laudable as it is—has to be balanced with other community considerations, such as achieving equal opportunity in housing options for all income classes. In fact, while the meaning of the phrase "preserving neighborhood character" seems intuitively obvious, it actually engages some of the most complicated professional considerations that planners learn. However, in the urban protectorate this notion has been summoned in defense of blatantly exclusionary land use decisions.

Planners are also blamed for what they believe is one of their virtues: coordinating and explaining all regulations related to land that must be satisfied before a building permit can be issued. Planners explain the fire department's requirements for road widths, the city engineer's standards

for paving roads, and the health department's rules about acceptable water supplies. Citizens often do not recognize that many of these requirements are not planning ordinances, and lodge complaints against planning that really should be directed against another department. For practical political reasons, however, elected officials probably will not correct an angry constituent's perception that it is the planning department holding up a building permit. Constituents come to their leaders for sympathy, not a lecture in civics. The coordinative function of planners creates the misunderstanding that they wield too much power over individual developers, an attitude that elected leaders sponsor by agreeing or by not correcting misapprehensions.

Sketches of Planning Practice

Hostility to Planning

"You might as well let him run the whole city. He's got more power now than the President of the United States," a city council member said, referring to the planning director of a small California community.²⁰

[Ineffective Support for the Planning Office] For two reasons, citizens ordinarily do not think of themselves as beneficiaries of the planning process and are not much moved to appear in public hearings as planners' allies. First, planning is characteristically invisible when it is most successful. Good planning avoids problems, anticipates and solves difficulties, and enables traffic to move smoothly through commercial districts. These are all virtues unnoticed by most citizens. Second, planners often argue on behalf of residents who do not yet exist. When the planning staff undertakes negotiations with developers about a community water system or sidewalks, or even playgrounds within the development, the beneficiaries of those negotiations are members of the "market" who ultimately buy lots. Most people who move into the subdivision take for granted whatever amenities exist, unaware that the planning staff was their partisan.

Observations About What Americans Have Built

I love my country's government for its attempt, in a precarious world, to sustain a peaceful order in which work can be done and happiness can

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be pursued not for the good of the state, but in a state that exists for our good. I love my government not least for the extent to which it leaves me alone.²¹

John Updike

Furthermore, a town's residents rarely want to be bothered with the day-to-day mechanics of city hall or the county courthouse. Most citizens want local government invisible and reliable, and ask only that it provide an untroubled atmosphere in which private life can flourish. Popular support of planning usually appears as short lived enthusiasms—for walkways along a park, for preservation of an old train station, or for preventing a car dealership from being sited beside a picturesque farm. In contrast, the development community's pursuit of approval for its projects takes the form of well-rehearsed arguments which, rather than addressing the concerns planners might have raised, commend its proposals as essential to a local government's ability to encourage economic opportunity, increase employment, or sweeten property tax receipts. Because of this, planners' advice often seems to stand alone, to be trivial compared to government's larger concerns, or to represent a position backed only by uninformed partisans.

The public's frail support for planning further erodes when approved developments are obviously at odds with the goals of their comprehensive plan. Citizens look around and see subdivisions where there was to have been open space, or they notice a shopping mall drawing business from the downtown shops the town had ostensibly agreed should be supported. A feeling grows, not of apathy, but of capitulation to the inevitability of bad land use decisions. To the citizenry, the planning office comes to seem ineffectual at best, unnecessary at worst. To come to their support at a public hearing seems embarrassing or a waste of time.

Sketches of Planning Practice

A Small Tale of Public Support for Planning

When a wildlife habitat becomes a rustic subdivision, often a real estate agent has greased the machinery of progress. But one Missoula, Montana, firm is working to preserve the land it sells.

Eco Realty was started in 1972 by

broker Paul Brunner after he was harassed by local industry members for advocating land use planning in a talk at the University of Montana. "I was selling a lot of houses but was fired, and my boss told me I wasn't going to work again in the

area," Brunner says. "I was blacklisted. The board of realtors filed charges of unethical conduct against me. It was funny in a macabre way."²²

[The Ultimate Effect on the Planning Office] Hostility to planning, misunderstanding of its aims, and the absence of effective support help explain the fact that bad land use decisions continue to be made. The persistence of these bad decisions—and worse, their long-lasting physical results—demoralizes planners so that they come to see all developers, landowners, realtors, and bankers as opponents. By incorrectly polarizing the positions of planners and the development community, this hostile attitude defeats the aims of the planning profession. It means that developers and planners—the people with the most training and practical experience with land—don't talk to each other in the early stages of a project, when each side could enlighten the other without much time or money being lost.

Instead, because of their mutual antagonism, planners and developers meet professionally only when a completely drafted proposal is submitted for review. Developers at this stage are predisposed to resist criticism, no matter how constructive, because of the high costs of making changes to their blueprints. For their part, planners have little time to offer suggestions for a better design, since most land use regulations restrict the period of time such a review can take. The money already spent on submitting the proposal and the deadlines imposed on planners' review effectively preclude creative suggestions from being proposed or taken seriously. This means that if planners find flaws in a developer's proposal, an already adversarial relationship worsens. Developers see planners as bureaucratic obstructionists ignorant of private enterprise's economic realities; planners see developers as high-handed opportunists unconcerned about their community's well-being.

Everyone loses here. Lost is the opportunity for conceiving development projects that respond both to public and private concerns. Lost is the chance to exchange professional ideas for innovative and efficient designs. And lost also is the disarming possibility that cooperation between private interests and planners could form a well-planned community and more—an effective constituency for good land use decisions.

The fact is that local government planning practice comes to be marooned. Developers choose not to consult with planners, preferring to

take their chances with elected officials, who ignore planners' unpopular advice. Many planners who realize that they are not important advisors to land use decisions unfortunately become uninventive. Of course, such an attitude is self-defeating because uninspired arguments are easily countered and dismissed. Experience at the local level concludes that planning has to regenerate itself each time it asks to be taken seriously. Planners must not only argue their pertinence, but do so in the face of antagonism from developers, elected leaders, and the public whom planners are meant to serve.

The reader is sure to know of exceptions, but they are infrequent or not long-lasting. The practice of local government planning discourages many planners. Some quit fighting for better results, while others quit the profession altogether.

The Final Result: Bad Land Use Decisions

When planning staffs are weak, bad land use decisions are the result. There are many definitions of bad land use decisions, and people working to improve planning practice must choose what they think are most important. The definition used in this book arises from these prior formulations: while established neighborhoods prevent development on available tracts, undesirable uses go to the politically weak sectors of town and new construction sprawls across an ever-enlarging urban frontier. The reforms that this book proposes mean to help prevent these bad land use decisions.

The preceding discussion of the decisionmaking structure for land use is not news. As long ago as 1963, a study group of the American Law Institute wrote:

The present legal framework for decisionmaking in the field of land use planning and regulation remains a product of the twenties, notwithstanding a mass of encrustations. . . . This framework not only fails to further the accomplishment of reasonable planning goals but its use is often incompatible with the functioning of the democratic process. This system . . . in many instances fails to recognize and protect valid local needs.²³

But it is not the authors' intention to belabor the lamentable logic by which certain areas of towns are protected, others become dumping grounds, and the urban frontier spreads. Planners and most interested citizens certainly know this logic firsthand—have, in fact, known it for years—although their knowledge has generally not translated into

changes to the decisionmaking process nor its internal logic. They continue to see what Henry James saw after a 20-year absence late in the nineteenth century: "... a land plundered but showing no sign of replacing ravage by civilization."²⁴

There have been many innovations in the tools planners use and in the administrative structure by which land use decisions get made. They are good ideas, refreshed with each new edition of professional planning journals. But still, land use decisions get made in public hearings at which planners and developers are adversaries. Developers at this point represent themselves as entrepreneurs who will bring new jobs and new tax revenues; they represent planners as a narrow-minded staff unable to see beyond the letter of the law. For reasons described earlier in this chapter, local officials are inclined to agree and to vote with the developers.

Only two changes will allow good decisions to be made in such a forum and will offset the emotion that always beats the planning staff's dry logic. First, new arguments, well made and easy to understand, will get serious attention from elected officials. Second, if planners and developers were to work together long before appearing at the public hearing, the development proposal as finally presented could benefit the whole community. Planners will serve their community best if they put their expertise to work in helping design projects that comply with the comprehensive plan, rather than making ineffective objections to a proposal at a time elected leaders are disposed to approve the development.

What appears in the remainder of this book is a new way to argue for good development. It offers a method to be used by developers at the time they first begin to conceive projects, so that planners and developers can work together to find the best future for their town or county. This book is intended for citizens interested in better land use decisions, citizens who have been frustrated by the inability of their own arguments, and those of their local planning staff, to persuade elected officials.

COMMITTED LANDS

Bringing Planners Back into Land Use Decisions

The following three chapters describe a project conceived by the authors in Montana in 1986. It was a year of fiscal distress—distress caused by revenues falling 13 percent short of expected receipts. Furthermore, the

state had estimated that its budget for the next two years would show a similar deficit. In response, budgets were pared, services reduced, and public attention focused almost exclusively on the revenue side of Montana's fiscal dilemma—a perspective that was understandable for at least two good reasons. First, the problem seemed to be with revenues, and so it seemed logical that solutions be sought there. Second, many expenditures simply could not be reduced in the short term, and given the current urgency it seemed fruitless to analyze them. These responses were typical of many states, and many local governments in the country that year and the years thereafter. While the particulars of the fiscal distress in Montana may differ from those in other states, the project described here will apply wherever fiscal difficulties beset towns and counties with few options for finding new revenues.

This project originated in the certainty that close attention to governmental budgets could be as useful for relieving fiscal problems as finding new revenues. Clearly, many seemingly nondiscretionary expenditures occur because leaders give approval to development proposals. As an illustration, consider the costs of building and maintaining local infrastructure—with infrastructure broadly defined here to mean both capital facilities such as roadways, and common public services such as street maintenance. Approving a subdivision project located beyond existing services predictably creates new infrastructure needs which, in time, can cost government more than the sum of additional tax revenues paid by that project's residents. New capital facilities may have to be built despite excess capacity elsewhere. Fire and police protection, school busing, snow clearing, and road maintenance—all these have to be provided, and each item carries costs related directly to the project's distance from town.

In Montana, where per capita mileage of locally financed roads ranks third in the nation and distances between settlements within single counties are often great, costs related to location can be substantial. Because Montana has allowed development to be scattered, infrastructure is expensive: per capita spending on public schools ranked fourth in the nation in 1984, and the state spent nearly twice the nation's per capita average on highways. Furthermore, local sewerage systems and drinking water facilities are generally in poor condition because they are overextended, both financially and spatially. In many localities, it's clear that even a small amount of additional development, if not properly guided, will have devastating effects on fragile public systems.

Montana can, of course, find ways to reduce some of its infrastructure costs: by consolidating school districts, for example, or by sharing the costs of equipment among jurisdictions. Yet, an expansive pattern of development commits local governments to an array of service demands whose expense cannot quickly be reduced. However, if future growth could be clustered within existing service districts, average public costs could eventually be reduced. In every county in the state, snowplows clear roads through undeveloped lands to reach distant settlements; school buses drive long miles to pick up only a few children. Clearly, encouraging or focusing development in carefully chosen portions of this in-between land—keeping in mind the particular community's needs and desires for open space—could increase the efficiency of any infrastructure wherein excess capacity exists. Inasmuch as the community has committed itself to providing services there, the phrase *committed lands* describes the vacant tracts that lie within governmental service districts. If growth could be directed to these lands, rather than be allowed to spread where new infrastructure would have to be extended at public cost, delivery systems could be made more efficient, capital facilities requirements could be lessened, and per capita costs reduced. Finding ways to achieve these goals would be sensible at any time, but it is especially crucial where a state's ability to help finance local governments has so considerably declined.

The method to be suggested was devised in Montana, but it can be used to argue for better land use decisions in towns of all sizes and in states everywhere. *Committed lands analysis* intends exactly this: to help make a good case for guiding growth into lands where public investments have been made. Often times such lands as these are in the urban protectorate—places where planners and rational observers of infrastructure and government finance know that future development should go. Committed lands analysis offers planners some control over the dynamics of growth in these areas. The analysis provides a new form of argument for changing plans and land use regulations in response to citizens' preferences and to the imperatives of local government finance. It can even offer a way to make the best of past bad land use decisions and to raise the esteem of planners in the minds of elected officials and the public.

The first principle of committed lands analysis is that development patterns are determined by an interplay among public and private parties—for example among county commissioners, directors of public

works, landowners, and private developers. For this reason, a system devised to guide growth can succeed best if it is interjected into the decisionmaking processes of all these people whose actions affect land development. The project's abiding aim has been to engage all parties to development decisions.

Throughout America, local governments have traditionally approved development proposals under the assumption that growth anywhere means increased tax revenues. This attitude has been particularly influential when development proposals occur following a period of economic pessimism and decline. But as a consequence of this enthusiasm, there has been little scrutiny of the costs which development incurs. Evidence of over-eager approval of development is apparent in nearly every small, relatively slowly growing town in America. Successful projects scatter at excessive public expense across the landscape, but unsuccessful developments have also proven costly. Bankrupt developers, for instance, have defaulted on the loans local governments made to help install necessary public improvements, and taxpayers bear the costs of repaying the defaulted loans and of providing services to those citizens who moved in before the project was abandoned. The point is that future decisions to allow development must be made so that the costs of local infrastructure can be reduced as growth occurs.

The analyses performed in this project are similar to the methods many American municipalities use in order to impose impact fees on developers. These fees are meant to pay for the infrastructure that new projects require—for sewers, roads, sidewalks, utilities, among others, and the cost of maintaining them. If a developer chooses a site already provided with these basic support systems—a *committed tract*, in the project's conception—a smaller, or possibly no impact fee, would be required. After reading this book, perhaps some local governments will choose to impose impact fees. But given the traditional attitudes toward growth in small towns, that choice seems highly unlikely and may not even be desirable. However, we seek the same effect that such fees cause, namely that the public costs associated with private development are considered before a particular project site is chosen. If this happens, and if developers are encouraged to choose sites in *committed lands*, growth can increase infrastructure efficiency.

At its heart, committed lands analysis has an eminently practical purpose. One lesson that can be learned from periods of economic downturn is that many traditional methods of making development

decisions need to be reexamined. The urgent fiscal problems of small towns across the country have created a public atmosphere receptive to ideas that could help states solve their financial problems and prevent their recurrence. The aim of this project is to show decisionmakers how to use growth to reduce public costs. Before, analysis such as suggested here might have been dismissed as unnecessary, or else accused of arising from aesthetic revulsion to sprawl, or even maligned as being antibusiness. It is none of these, and, in all probability, it will not seem so now.

Committed lands analysis is a fresh way to conceptualize an old problem, based on full consideration of the ways that bad land use decisions get made both in the urban frontier and protectorate. The methods can easily be adapted to the specific circumstances of particular jurisdictions. The ideas can be developed further, and the underlying analysis of why planning is weak in small towns can be used to strengthen the planner's point of view in other ways. Committed lands analysis is described here in a spirit of experimentation.

NOTES

1. Bill Barich, *Laughing in the Hills* (New York: Penguin, 1981), pp. 29 and 145.

2. Column by Steve Smith, "Missoulian," June 25, 1983, p. 6.

3. "Missoulian," April 21, 1984, and May 8, 1984, p. 6 and p. 8.

4. Daniel R. Mandelker and Edith Netter, "Comprehensive Plans and the Law," in *Land Use Law: Issues for the Eighties* (Chicago: American Planning Association, 1981), pp. 77-84.

5. Mandelker and Netter, "Comprehensive Plans," pp. 55-75.

6. *Matthews Municipal Ordinances* (2d ed.), 8A.01-8A.03.

7. Marion Clawson and Harvey S. Perloff, "Urban Land Policy: Alternatives for the Future," in *Management and Control of Growth*, vol. 3 Randall W. Scott, ed. (Washington, D.C.: The Urban Land Institute, 1975), pp. 10-11.

8. Even though elected leaders appoint planning board members, they must choose among a pool of volunteers; it is

in this pool that real estate and development interests are disproportionately represented.

9. James Oliver Robertson, *American Myth, American Reality* (New York: Hill and Wang Publishers, 1980), pp. 6 and 44.

10. These points have been made by various critics. Robert A. Walker wrote the first thorough criticism of independent planning boards and commissions in 1941, in *The Planning Function in Urban Government* (Chicago: University of Chicago Press); a second edition of this book was published in 1950. Other notable works include: John T. Howard, "In Defense of Planning Commissions," *Journal of the American Institute of Planners*, 17 (Spring 1951); Frederic N. Cleaveland, "Organization and Administration of Local Planning Agencies," in *Local Planning Administration*, Mary McLean, ed. (Chicago: International City Managers' Association, 1959); David W. Craig, "A Plea for the Eventual Abolition of Planning Boards," *Planning* 1963 (Chicago: American Society

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of Planning Officials, 1963); B. Douglas Harman, "City Planning Agencies: Organization, Staffing, and Function," *Municipal Yearbook 1972* (Washington, D.C.: International City Management Association, 1972).

11. "For the Record: Planning Commissioners Speak Out," *Planning Magazine* 50 (August 1984): 6.

12. "For the Record," p.6.

13. Robert G. Healy, *Land Use and the States*, (Baltimore: Johns Hopkins University Press, 1976), p. 9.

14. Title 76, Chapter 3, *Montana Codes Annotated*. The reasoning here is that people who are not land developers may transfer land to family members as a way of planning their estates, and that land-owners occasionally need money from a land sale. The effects of a few such transactions per year would not substantially affect the larger public.

15. Of course, the developers who submit proposals to subdivision review would be penalized by suffering opportunity costs during the time the review process takes.

16. Minutes of the meeting on March 16, 1983, of the Agriculture, Livestock, and Irrigation Committee of the Montana State Senate, Exhibit 4.

17. William Ophuls, "The Scarcity Society," *Harper's Magazine* (April 1974): 26-31.

18. The letters appeared in the "Missoulain" on June 12, 1983; June 21, 1983; and May 24, 1983.

19. E. B. White, as quoted in "The Shining Note," in John Updike, *Hugging the Shore* (New York: Vintage Books, 1984), p. 195.

20. *Lake County News*, Lake County, California. Authors have a xerox copy of this updated article.

21. John Updike, "On One's Own Oeuvre," in *Hugging the Shore* (New York: Vintage Books, 1984), p. 868.

22. "A Separate Realty," in *Rocky Mountain Magazine*, January-February 1981.

23. American Law Institute, *A Model Land Development Code*, complete text, adopted by the American Law Institute May 21, 1975, with Reporter's Commentary (Philadelphia: American Law Institute, 1976), pp. ix-x.

24. Henry James, *The American Scene* (New York: Washington Square Books, 1983), p. xxii.