

SOME POLICY COMPONENTS OF LAND USE DECISIONS

I appreciate this chance to keynote your Land Use Seminar and to provide an overview of the kinds of concerns inherent in making wise land use decisions.

As a Maryland resident--a taxpayer--a voter--a property owner--for over 12 years now, I join your concern in knowing more about: What is being done?...Who is doing it?...Why the urgency? I've also been an enthusiastic user of this State's great recreation area--the Bay--and a consistent customer of your highways and of Friendship Airport.

Therefore, when the present national bills on land use propose sanctions of recreation, highway, and airport funds as Federal actions in the absence of State eligibility this dialogue is indeed timely.

One of the major issues any community must face is how its land and related resources should be used. Some rural communities may well say, "we can wait a while on land-use policy decisions."

Material used by Norman A. Berg, Associate Administrator, Soil Conservation Service, U. S. Department of Agriculture, at the University of Maryland Land Use Seminar, April 24, 1973, Center of Adult Education, University of Maryland, College Park, Maryland

But as you travel to rural communities in almost any State, using major interstate highways, you do see many evidences of rapid urban development along the highway corridors. Too many communities were not prepared to fully guide that growth and it is not all good or all desirable.

We have tended to take the land for granted, perhaps because of our long frontier tradition. We need now to renew our sense of stewardship for the land. Indeed, in no area of our life as a people is there a greater opportunity for personal and community responsibility that exists than with respect to land use.

The first concern of the United States government in regard to land was the attempt to develop procedures which would assure the most equitable distribution of the lands commensurate with the well-being of the country as a whole. As the frontier grew smaller and fewer parcels of land were available for private ownership, the next step became the preservation of the resources of the remaining public lands. From the beginning of this movement, two different philosophies in regard to how this should be accomplished came into being: (1) the removal of certain tracts from productive use; and (2) the placing of large areas under conservation management while leaving them in productive use.

So long as there is a balance between the retirement of tracts solely for enjoyment and recreation, and the continued use of lands, these two philosophies can remain ~~sustainably wise~~ and compatible. Now, however, there is a growing clash between them.

One wonders if the best interests of the country will be served if this trend continues.

It has been said that the United States has never had National land use policy. Not true--our early National policy was reflected in the incentives to westward migration: land grants to promote railroads and telegraph lines, education, roads, and canals. The Homestead Act encouraged settlers to push westward and subjugate the land. Preservationist land policies were elaborated in the 1891 "Forest Reserve" Act and in the laws creating national parks and game refuges. The nation's soil and water conservation ethic is reflected in Public Law 46, which created the Soil Conservation Service.

All levels of government have been in the land-use planning business for some time. Government bodies have guided the use of land through the power of land ownership, eminent domain, public financing of improvements, tax assessments, and most recently through the power of regulation.

These "police powers" may be used increasingly because of the competing claims on U. S. resources. This goes against our long tradition of allocating private land uses in a free market system where the highest price or use gets the land.

How decisions will be made and at what level are among the major issue to be discussed at this seminar.

The BIG issue in many states is community growth

itself. Some states are beginning to say, "we welcome you as visitors but would just as soon you decided not to stay." In many communities there is conflict over whether to "chase smokestacks" -- to invite that one more industry...extend that water and sewer hookup...improve that Main Street. But in coming years a new perspective may be needed. America will still have millions more people by the year 2000 with or without THE PILL. Those people and the ones already here will want more conveniences, facilities, food and fiber, housing and jobs. .

So states and communities will be asked:

--If you don't want more people, who's going to have to take them?

--If you don't want more industries, who will have them?

--If you don't care to save your prime agricultural lands, where will they be preserved?

The current interest in land use policy grows out of a concern that the Nation may run out of land resources for critical uses, including assurance of a quality environment.

Improved use of non-Federal lands is perhaps the number one environmental priority facing the Nation today. The problems of air and water pollution have tended to seize public attention because of their obvious and immediate impacts on human health and well-being. Our Nation has responded to this concern. We have moved to bring these problems under control. Certainly, we still have a long way to go before we can be satisfied with air and water quality levels. Yet we have turned the corner in dealing with pollution. We are beginning to see positive evidence of improvement in specific areas. We have also seen the remarkable recovery capacity demonstrated by the natural environment.

Thus, as we reduce or stop the introduction of pollutants into the air or a waterway, the natural biotic systems recover and air and water quality can be restored. In the case of land use, however, man-induced changes are more apt to be irreversible. The drained wetland, the flooded valley, the prime farmland that is subdivided or paved can never be restored in any practical sense. Land use decisions tend to be permanent and thereby limit future options.

I read only recently that in the State of Maryland it is estimated that 30,000 acres of agricultural land are being lost each year to real estate development and speculation alone.

With a still growing population and, even more importantly, with a population that continues to concentrate in ever greater densities, it is imperative that we increasingly make some land use choices with more than a local overview. Effective land use policy should not be looked upon as a matter of stopping decisions or of restricting freedom of choice but rather of (1) assuring that land use choices are made wisely, (2) that a full range of alternatives is considered, and (3) that decisions which impact broadly on society are made in a process that provides reasonable opportunity for the interests of society as a whole to be taken into account.

Perhaps the most urgent demand on our land resource base today, and one which will remain important for some time to come, is that imbalance in living space. 1500 of the 3000 counties lost population for two decades. Other major issues concerning the Nation's land resources arise from time to time, including prime land used for agriculture and the ways in which returns from its use are distributed among those who work on the land. National and State land use policy can provide a means for examining important land use issues as a basis for designating policy and program objectives. Once the objectives have been agreed upon, there are many ways to implement plans and programs. And there is much experience with land use planning--mostly by local governments. Many of the techniques for land use planning can be used in implementing a State or National policy, but new State legislation and change in attitude also will be required before the States can become truly effective in carrying out land use planning and control or regulatory processes.

> Coastal Zone Mgt. Act - PL-92-583

Let me remind you of what the land use legislation (S. 924, H. R. 4862) sent to Congress is all about. First, they are talking about land use control at the State level--not just "Planning, " or "Coordination, " or "Information Gathering. " The purpose is to put teeth in the State land use planning process--not just call for more plans, but better planning and decision making.

Second, the emphasis is on certain significant land use issues that have regional impact, such as the protection of critical environmental areas, the control of some growth inducing key facilities, the control of large scale development, and assuring development of regional benefit.

And, third, the legislation deals with the role of the States. The approach is not to shift authority over land use to the Federal Government, or even to remove small units of local government from the majority of public decisions over land use. It is rather to encourage the States to establish a process for identifying and controlling those major land use decisions that require a broader review than that provided solely by the current, fragmented approval process at the local level. As long as the necessary processes are established, the Federal Government will not attempt to second-guess the land use decisions that result.

But before developing some key components of land use decisions we need a broader long range picture of what is now taking place.

I'd like to discuss a few of the current land-use policy issues and actions, and some of the settings in which they are raised, with the help of slides.

LIGHTS OUT SLIDE RUN BEGINS

1. Of all the nations on earth, the United States is among the richest in terms of its land and water resources, its beautiful countryside, its tremendously favorable and varied climate.
2. The future of the land resource is in the hands of millions of people who daily make decisions--good or bad--on how it is used.
3. What is the ownership of our land? Fifty-eight percent of it is in private hands--owned by individual farmers, ranchers, businessmen, and industry.
4. From this land comes most of the food, fiber, and timber we consume and export. (Bel Air, Hartford County)
5. One third of this land is in forest.
6. One third is in pasture and range.
7. And a little less than a third is in cropland. (Bel Air, Hartford County)
8. Despite an almost 200-percent increase in ^{U.S.} population since 1900, these proportions in land use have changed very little.

9. The reasons for this are research, extension, conservation and other agriculture-related technology, and primarily private enterprise. America's crop production per acre continues to exceed the demands of an increasing population and fast-growing foreign exports.
(Bel Air, Hartford County)
10. The second largest segment of land is under Federal management. This includes 34 percent of our total land area--759 million acres--half of it in Alaska and most of the remainder still west of the Mississippi. Some 187 million acres are managed by the USDA Forest Service. But the largest segment is public domain, under control of the Bureau of Land Management. Military land, national parks, and wildlife refuges add up too.
11. Some of those vast acres have been set aside as wilderness and primitive areas where timber is not harvested and most other uses are banned.
12. Much of the Federally owned land, however, is under multiple-use management, and one of the multiplying uses is for recreation.
(Calvert County)
13. With more spendable income, increased leisure time, and greater mobility, the demand for outdoor recreation has grown at a fantastic rate. In 1970, 128 million Americans participated in some form of outdoor recreation.
14. Land involved in recreation in some way affects 447 million acres under Federal management, 40 million acres under State control, and 3 million acres in county hands.

15. Private land also is used increasingly for recreational purposes -- especially for second homes and for hunting and fishing. Most of America's upland game find its home on the privately owned farm and ranch lands. By far the majority of hunters do most or all of their hunting on private land.
16. Another 5 percent of land in the U.S. is in State and local ownership.
17. And 2 percent is Indian land.
18. For the most part, America's land is sparsely populated. In the last 10 years, 1500 counties lost population.
19. To find the people, we still must look to the cities.
20. And primarily to the metropolitan areas.
21. Here, on 3 percent or less of our land, more than 70 percent of the population lives, works, and dies. (Washington, D. C.)
22. This includes land for cemeteries and for transportation--super highways, railroads, and airports. Although highly visible, land for transportation takes up only 1.4 percent of the total land area. But it took up some of America's prime agricultural land, irretrievably.
23. This briefly, is how we use our land...(recap the percentages).
24. The way in which we use land in America has been, for the most part, to our credit. Businessmen, homeowners, public land management agencies, and especially farmers and ranchers have had a big hand in using land properly. (Washingtonian - Route 70-S - Montgomery County)

25. But we have used land and still use land in ways that are not to our credit. Thoughtless, unplanned, uncontrolled land use practices are costly to America, in terms of both economics and esthetics. (Glenarden industrial site, Prince Georges County) These practices can no longer be ignored, and perhaps by the end of the 1970's no longer tolerated!
26. We still attempt to cultivate some land that is too steep and erosive--at least 50 million acres.
27. We still attempt to grow row crops on some land where the risk of crop failure and land damage is high because of frequent wet or droughty conditions.
28. We needlessly burn some forest land each year.
29. We add to flooding problems through unwise land use practices, both upstream and in the flood plains.
30. Fifty percent of the annual flood damages still are suffered in small upstream watersheds.
31. America has already created unsightly scars on more than 2 million acres of land through stripmining, polluting streams and scenery for miles around.
32. Solid waste is one of the increasing by-products of our affluent society; we discard 250 million tons of it each year, mostly in open dumps in rural areas where the stuff pollutes air, water, and land. (Prince Georges County)

33. Animal waste can have a serious negative impact on the local environment. Concentrations of livestock produce tons of manure a day. - Sign - Warning.
34. Given a chance, they contribute ~~very~~ organic pollution to streams, and also can create serious sediment pollution problems.
35. Sediment still is America's heaviest-by volume water pollutant. about half comes from soil erosion on crop and pasture land.
36. The other half comes from urbanizing areas, highways, streambanks; forests, and geologic erosion on public lands.
37. Urbanizing areas are especially severe sediment polluters because of the large acreages laid bare for long periods of time. And poor water control also can damage the construction site itself. (Levitt development, Columbia, Howard County)
38. Unplanned, checkerboard development also squeezes the farmer, often making him an offer he can't refuse.
39. Here's a comparison between an area on Rock Creek in 1937...
40. And the same area in 1957.
41. Does it have to be that way? Can proper land-use planning help protect and develop natural resources in both rural and suburban areas?

42. The local people with whom SCS works can testify that/^{planned} conservation
practices/^{properly installed} greatly reduce erosion and flooding on agricultural land.
43. Strip mine spoils can be reclaimed and revegetated.
44. Solid waste can be disposed of safely in properly located and
managed sanitary landfills. (Brown Station, Prince Georges County)
45. Suburban sediment can be drastically reduced by adopting proven
practices--such as this temporary silt trap like those that farmers
and ranchers have used in protecting their farmlands over the past
30 years. (Greenbelt, Prince Georges County)
46. And land suitability for nearly everything can be evaluated long
before construction is started.
47. More and more Americans are determined to have a high quality
environment, whether it's a vista one might see only on vacation...
48. Or right in town...
49. Or right at home. (Bethesda, Montgomery County)
50. They/^{do} want high-quality food, dependable in quantity and reasonably
priced at the market place...
51. And that means that land-use planning must first and adequately
consider the needs of a high-quality sustained agriculture.
52. They want space and facilities for a variety of recreation
experiences. (Lake Needwood, Upper Rock Creek watershed project,
Montgomery County)

53. They want space and habitat for wildlife. (Remington Farms near Chestertown, Kent County)
54. They want the red-carpet treatment for fish.
55. All these needs should be considered in setting national, state, and local land-use policies and in making (state) land use plans. The individual and his community have much to gain if land use is properly planned and land is used according to plan. They have a great deal to lose if it isn't.
56. The signs are slightly encouraging that America's local governments and their state and federal counterparts are beginning to move on land-use planning. It's costly, it's complex, and it's too slow.
57. One effort to get all the ducks in a row has been Federal legislation to give States financial aid ^{to help} ~~in~~ developing methods to control the use of land within their boundaries.
58. Senate Bill 924, for example, would provide grants, administered by the Department of the Interior, to States for developing land use planning procedures within three years and implementing them within 5 years.
59. Areas of critical environmental concern are just one item in a list of 18 that the bill would require States to consider in their planning process.
60. States would also need to cover recreation needs, population densities and trends, economic factors, and related data; and

61. The kinds of help available to State and local agencies in setting up and implementing land use programs would be defined.
62. The bill would call for controlling development in flood plains or other areas subject to natural hazards...
63. The bill would ask States to give consideration to areas of historical importance. (Rossborough Inn, University of Maryland, s stopover on the old post road to Philadelphia)
64. The bill would call for controlling the location of new communities and the use of land around them.
65. It would call for public hearings and other communication efforts relating to the State plans.
66. Exchange of information and data among agencies and the public would be important, too, as a way of trading experience and techniques.
67. The bill would require that Federal projects and activities that affect land use, such as water and sewer system aid, be consistent with State land use programs.
68. The bill also would provide for some sanctions against States that did not get going on a land-use plan fast enough. These would be primarily withdrawal of grants made for planning, as funds well as for/some airport, highway and recreation developments.

69. A National Advisory Board on Land Use Policy would be established, drawing its members from several Federal departments.
70. There are other bills, and other provisions, being discussed in Washington, at Annapolis, at the University of Maryland, and elsewhere. An important point to make about all of the bills is that...
71. They're not going to see how far they can split the land use decision making. They would leave most land-use decision making powers right where they are now--with local governments. In most cases, that's where they belong.
72. That means you have a responsibility and an opportunity to help make sure your communities take hold of their land use challenges, to meet both local aims and those of the region or the Nation.
(Montgomery County)
73. It does mean that some land-use decisions that have been private decisions in a free-market system with limited local overview...
(Calvert County)...
74. May increasingly be subject to regulation, control, and perhaps litigation.
75. It does mean that the private landowner has duties as well as rights in the matter of using and caring for the ^{land and water} resources he manages. (Hartford County)

76. Wherever the decisions are made about land-use patterns and changes, natural resource facts should be on hand as a helpful guide. SCS and other agencies will work to provide these facts to the people who need them, and help interpret the information and make use of it.
77. Land-use planning begins at home.
78. It begins and ends with people. It is for people. (Upper Rock Creek Park, Montgomery County)
79. As you exercise capable leadership here in Maryland, you can help make daily life better for people. That's the assignment we all have. (Kittamaquindi Lake, Columbia, Howard County)
80. Let's start right here, right now. (Chapel, University of Maryland)

LIGHTS ON, END SLIDE RUN

Issues Underlying National Land Use Policy

The important objectives of land use planning and control are (a) to preserve and enhance environmental quality, especially clean water, clear air, open space, attractive landscapes, and nonpolluted soils; (b) to maintain the quantity and quality of the resources basic to our national strength; (c) to preserve and enhance the land's productive capacity and so the Nation's economic well being; (d) to preserve important ecological, cultural, historic, natural, and esthetic values. A comprehensive land use policy should deal with all of these objectives, but questions of priority can only be established by decisions about the relative urgency of each objective.

Several questions of nationwide importance require answers before we have an effective land use policy:--One of the basic decisions concerns national growth: what should our goal be:--to maintain the present level of economic productivity or to strive for a certain level of annual growth? The implications of growth policy to the demand for natural resources, including land and water, to the size of the waste disposal problem, to energy, communications, and transportation facilities are obvious.

--The roles of Federal, State, and local governments, and of the private citizen in land use planning and regulation are being debated. Although the Bill of Rights reserves to the States the authority to regulate private land, the Federal Government certainly has a great influence in land use decisions. It has the power of eminent domain, by which it can acquire land for specific public purposes. Federal agencies themselves

manage about one-third of the Nation's land and the decisions they make have an effect on adjacent State and private land use. Much of the individual State's authorities to control private land have been delegated to counties or other instruments of State government. Currently there is disagreement as to whether States or counties or substate regions will be the most effective levels for planning and regulating land use. Some fear that local influences, backed by local dollars, will make short-term decisions for the quick profit of the developer and to the detriment of the community's resources and environment and these people favor strong State controls. Others fear that State agencies will be too weak and too remote from local problems to deal effectively with planning and regulation.

--Much State and county tax revenue derives from the private land resource. The use to which land is dedicated determines, at least in part, the rate at which the land is taxed. Land use controls, such as zoning, thus affect both the tax revenue accruing to government and the costs to landowners. Some legislators believe that it would be futile to engage in land use planning without dealing simultaneously with the problems of tax structure.

--Increasingly, private citizens and associations of private citizens are demanding a voice in the planning and decision-making processes in governmental programs. The role of an informed and concerned citizenry can be beneficial in evaluating policy alternatives. The support of the public is essential to achieve impartial enforcement of land use controls.

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--Finally, there are the questions relating to the manner and level of implementing the National policy. Should the Federal government rely only on inducements, such as money grants, or should incentives be combined with penalties for noncompliance? It is interesting to note that many witnesses appearing before the Jackson Committee favored a combination of incentives and sanctions.

Funding proposals to date are rather modest. Many proponents of National land use policy recommend a more generous funding level, on the order of \$100,000,000 a year for program grants, plus some extras for Federal administration.

Recent Action

The Jackson Committee Print No. 2, dated April 11, 1973, shows considerable modification of S. 268, the original bill, or S. 924, the Administration measure. To begin with, it recognizes that the primary objective is to authorize the Secretary of Interior to make grants to the States. It includes provision for making grants to Indian tribes to assist them in developing and carrying out land use programs on reservations. It provides for studying "the feasibility and possible substance of National land use policies which might be enacted by Congress." Also, it gives emphasis to the mechanism of interstate coordination of planning policies and programs concerning land use.

During the first three years following enactment of the Act: the State must be "adequately and expeditiously" proceeding to meet the bill's requirements that the State is proceeding to develop an adequate Statewide land use planning process; i. e., 16 actions covering data collection, monitoring, projections of needs for land, technical assistance, education, public hearings, public education, consultation with relevant States on interstate land use issues, etc. Also, the State is required to have established an eligible land use planning agency with certain specified authorities and responsibilities.

During the next two years: As a condition of continued State eligibility for grants after the three fiscal years following enactment of the Act, the State must have developed an adequate statewide land use planning process, must continue the operation of that process, and must be "expeditiously proceeding" to meet the requirements of several sections. These sections refer to "an adequate State land use program," implementation of the State land use program; protection of Federal land resources from damage resulting from improper State programs; joint State-Federal committees to deal with coordination of land use plans.

After the first five years following enactment of the Act: As a condition of continued eligibility, it shall be determined that the State has met and continues to meet all the requirements of several sections.

Each State receiving grants during the five-year period following the enactment of the Act shall submit, not later than one year after the date of award of each grant, report to the Secretary of Interior on work completed and scheduled toward the development of a State land use program for determination of State eligibility or ineligibility for further grants.

Implications to State and Local Governments

One obvious impact of the proposed legislation, if implemented, would be to provide federal money for the development and carrying out of land use planning and control at State and local levels. If the Act maintains the sanctions called for by Administration and Jackson's Bills, the States stand to lose other program grants (airport and highway money and some land and water conservation funds) for failure to comply with the Act. The time requirements are rigorous and States that do not already have implementing legislation may be hard put to get it in time to avoid sanctions.

States and counties alike will need to have planning entities and these entities in turn will need a significant amount of staff support. The proposed legislation stipulates that the State develop a "statewide land use planning process." The sixteen components of this process include no less than eight requirements of inventorying, monitoring, projecting, and

evaluating land and related resources, along with needs and priorities concerning use of Federal lands. Also included are provisions for technical assistance and education for State and local agency personnel and citizen groups, and a process for public education. The staff assistance needed to meet these demands will be substantial, perhaps beyond the resources of many individual counties and towns. Substate planning regions, composed of several counties each, may well provide the financial and staff resources required for data collection, storage, and retrieval, cartographic functions, and extension and publication activities.

Land use policy in the United States has had a powerful effect on the Nation's growth and development. It has also been responsible for some of the bitterest conflicts.

The pay-off will be how land-use planning and the plans are implemented. Obviously, land-use planning is not the whole ball game--it needs to interrelate with functional planning for transportation, water resources, power generation and transmission, recreation, and a host of other problem-oriented needs. But land-use planning can be and is a common denominator for getting people and agencies with many varied interests together.