

JAMES A. GRAASKAMP COLLECTION OF TEACHING MATERIALS

V. INDUSTRY SEMINARS AND SPEECHES - SHORT TERM

I. Other Presentations In Which Either The Date And /
Or Sponsoring Organization Is Missing

3. Development Topics

1. "Land Development Process", 1973

Land Development Process - 1973

- I. It is useful to describe the land development process in terms of context, form and fit because definition of the context defines a problem and judging the fit measures the degree of success of the solution.
 - A. Basic definitions are:
 1. Context describes those items which are fixed, which must be accommodated, or goals to be accomplished and therefore represent the environment to which the solution must adapt.
 2. Form is the solution created by combining selected variable attributes which advance the purposes and accommodate the constraints of the context.
 3. Fit is concerned with the degree of compatibility between form and context, indeed the irritations of the user with the solution.
 4. Any individual or specific item in the context we call a constraint. The constraints imposed on the ~~3~~ elements in the development process must be subclassified for the space user, the space supplier and the public resource. *three*
 - B. Constraints on land use for the space supplier
 1. Strategic objectives and tactics
 2. Market trends and opportunity areas
 3. Merchandising targets with monopoly characteristics
 4. Legal-political constraints
 5. Ethical-esthetic constraints
 6. Physical-technical constraints
 7. Financial constraints
 - C. Constraints on land use for public sector
 1. Master plan (goal setting) for land use
 2. Tax revenues
 - a. Direct real estate tax
 - b. Indirect R.E. tax spinoff
 - c. Derivative tax revenue
 3. Operating cost of on-site public services
 4. Capital cost of off-site public services
 5. Explicit intra-community politics
 6. Implicit social-public attitudes
 7. Inter-community competition
 8. Conservation of a basic public resource
 - D. Constraints on individual consumer choice
 1. Financial means to command a capital resource
 2. Basic need for shelter, safety, and convenience
 3. Goals for privacy, status, and social assimilation
- II. Analysis^s of a problem in terms of constraints can begin anywhere in the sequence depending on how the problem is first perceived or the viewpoint of the analyst. The subject of this lecture is concerned with the political context of the space supplier and the constraints on land use for the public resource sector. In short - public regulation of private land development.

- A. Subdividing is changing the legal description of one parcel to describe a number of smaller ones. Subdivision control began in the 20's by making the privilege of public recording conditional on certain planning qualifications. Concerns of such ordinances have been progressing from questions of:
 - 1. Which developments or subdivisions are regulated
 - 2. Where uses may be spatially located
 - 3. What improvements must, may, or may not be built for when improvements may take place.

- B. Land regulation has been a local responsibility based on powers created by state legislation. Until recently details of control were subject to local option and were not applicable unless:
 - 1. Five or more parcels of $\geq 1/2$ acres or less are subdivided from a larger parcel in less than 5 years.
 - 2. Subdivider wants to sell by reference to a plat map rather than a metes and bounds survey.
 - 3. Since 1966 parcels within 1,000 feet of navigatable must be controlled locally or state D & R will do so.

- C. SEWRPC handout indicates traditional review pattern by specific elements of urban infrastructure. In other states this process is evolving into an integrated approach called impact zoning.

- D. In Wisconsin land use control is resented as an infringement by the state or county on individual or local government autonomy. By qualifying which development is regulated, developers and townships avoid regulation by exploiting technical exclusions by using metes and bounds or by having the township clerk ignore qualifications for recording.

- E. Legal rights in real estate can be subclassified as:
 - 1. Access rights - decision making prerogatives to occupy or control use.
 - 2. Claims rights - to income or benefits arising out of ownership
 - 3. Land control is returning access rights to the public by expansion of police powers

- III. Impact zoning permits community and developer to negotiate a development program for a parcel by simulation of the fiscal, social, and ecology consequences of development and the cash flows and profitability of the developer. (~~assignments for 10/17~~)
 - A. Ideally the development solution is a trade-off process - developer is spending his money and political administrator is spending good will with his constituency in arriving at an approved project.

1. Negotiated pre-annexation agreements
 2. Planned unit development provisions
 3. Development permit ordinances
- B. Impact zoning requires extra time, extra capital, and larger scale projects. Community will internalize costs which might otherwise be taxed to all the citizens. Passing these costs to the consumer increases economic segregation as well as market appeal of final development.
- C. Big developers attract resistance while small developers avoid regulation by repeating past mistakes and avoiding a high silhouette.
- IV. Land use controls are being introduced at the regional level by county or by sub-eco systems such as a river basin, mountain range, or coast line, or in a few instances by the entire state.
- A. Dane County land brochure can be read that Chapter 2 objectives are value judgments while term policy refer to objectives. In Chapter 3 criteria represent definition of standards.
- B. The plan explores the features and consequences of 5 alternative programs:
1. Existing trends
 2. Modified trends
 3. New directions
 4. Limited population growth
 5. Limited land area
- C. Regional plan can mean serious investment consequences for land speculators or farm owners and dissipating sales for retirement.
- D. California coast lands control to ration land uses and set up cost benefits standards.
- E. Regional planning dilutes power of any one community to pursue its vested interest at the expense of all other government entities.
- F. Hawaiian land use law in 1961 designated uses for entire state land area as conservation, agricultural, rural or urban.
1. In 1970 Vermont began a three stage statewide land use plan under an Environmental Control Law
 2. Statewide land use law related to local tax and revenue base and incidents of real estate tax
- G. Until recently the 'when' of development, the sequencing and temple of growth was controlled indirectly by community capital budget programs for urban infrastructure of sewer, water, roads, schools, parks, etc.

H. Land control law made by the courts:

1. 1965- Pennsylvania struck down four acre lots as beyond scope of police powers.
 2. 1970 - Pennsylvania in Girsch case stated police power could not be used to keep out apartment dwellers for social or fiscal convenience.
 3. In 1970 the Shannon case the federal court told HUD it must disperse public housing.
 4. In Kennedy Park homes in 1970 the federal court told the City of Lackawanna they could not zone out income groups.
 5. Administrative delay to create "no growth" or slow growth policy
- I. The Ramapo case confirmed in May 1972 the right of a community to require a development permit for the construction of improvement on land already zoned to control rate of development in line with a community growth plan.
1. Subdivision may have been approved but improvement cannot start until land qualifies on a point system.
 2. Points are assigned a parcel on a formula for proximity to five facilities:
 - a. public sanitary sewers or approved substitutes
 - b. drainage facilities
 - c. improved public parks or recreational facilities
 - d. state, county, or town roads
 - e. firehouses
 3. A general capital plan is established for 18 years plus detailed plan is provided for first 6 years.
 4. Developer can buy points by supplying missing capital ingredient or buying vested point from other land owners or by being patient as points follow schedule of plan even if improvements aren't completed!

V. Federal government moving into land development regulations:

- A. Office of Interstate Land Sales Registration (OLILSR)
- B. Securities Exchange Commission Registration of condominiums with investment features
- C. Congressional action to form a national land use policy and subsidize state efforts to create land use control machinery.

VI. Questions of which, where, what, and when ultimately are reduced to three political questions:

- A. Who benefits by how much?
- B. Who pays how much?
- C. Do we want equity for posterity or fairness for those here now?