Review of Growth Management Strategies
Used in Other States

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FOREWORD

Deborah A. Howe, Ph.D., AICP, at the Center for Urban Studies, Portland State University, prepared this report under contract to the Oregon Department of Land Conservation and Development. This contract is one of a series comprising the Department's Urban Growth Management Study. Other study reports examine growth management in four fast-growing urban areas of the state, annexation and urban growth management, local government infrastructure funding, and farm and forest property tax deferrals inside urban growth boundaries. Copies of the study reports are available by contacting the Department.

The views contained in this report are those of the contractor and not necessarily the views of the Department. Readers reviewing this report are invited to send comments to the Department at the address on the title page. The Department plans to issue a report summarizing the results of all urban growth management study contracts and stating the Department's recommendations.

John C. Kelly
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PREFACE

The Oregon planning program is an extraordinary system. We seek to balance conservation and development concerns. We have a process for fact based, defensible decision making by local governments. We have a public that understands and supports planning and a cadre of professional planners that are competent and committed. These strengths are perhaps most clearly recognized by those from outside the state who understand all too well the challenges and difficulties of working in environments where planning is not taken seriously.

I have a sense, however, that Oregonians have not yet laid claim to their accomplishments. Oregon planners and policy makers, in particular, tend to be overly self-critical. Mired in administrative details, on the receiving end of those who oppose the statewide planning program, and frustrated by what has not yet been accomplished, many lose the long term perspective of how far Oregon has come and what could yet be achieved in the future. The interest group debates have tended to focus on what is wrong with the system as opposed to what is right. Even our attempts to address complex problems and improve on past approaches seem to generate criticism which is often stated in a divisive manner.

Oregon does, however, have a framework within which the system can be improved. This study, in examining other state land use planning programs, is part of a broader effort to refine Oregon's urban growth management capabilities. A comparable initiative is focusing on the statewide planning program's protection of farm and forest lands. Thus, the promise of the Oregon system lies not only in what has been realized to date but in the potential for more innovations. And, while it is important and productive to be self-critical, we must identify, acknowledge and value our accomplishments if we are to avoid the situation in which our weaknesses take center stage.

In conducting this study, I drew upon the expertise of a number of planning practitioners and scholars from throughout the United States. These people are listed on pages 2 and 3. Every one impressed me with their accessibility, their willingness to give detailed information about particular growth management strategies, and their ability to be honest and open about the strengths and weaknesses of these strategies. I hope that I have done justice to these interviews by accurately describing the strategies and correctly conveying the essence of the shared insights and comments. If there are any errors, I take full responsibility.
REVIEW OF GROWTH MANAGEMENT STRATEGIES
USED IN OTHER STATES

Executive Summary

A number of states have developed statewide planning programs. Although they have looked to Oregon for inspiration, they have also taken ideas from other sources in response to their own needs and circumstances. In so doing, they have developed innovative approaches that are pushing the boundaries of land use practice.

As our own program matures and we find ourselves facing new challenges, it is important that we continue to seek out new ways of thinking. This is essential if we are to maintain the vitality and relevance of Oregon's planning system.

The challenges we face include the need to coordinate growth management in multi-jurisdictional urban regions, to make certain that exurban development does not undermine the accomplishment of objectives within urban growth boundaries, and to ensure the availability of infrastructure to meet existing and future development needs. Using these issues as the basis, this study takes a look at features of other state planning systems that might prove useful in our own planning efforts.

Cross-Acceptance

The Tri-State Regional Planning Commission (covering the New York Metropolitan Area) and the state of New Jersey have used versions of cross-acceptance. This is a process that involves the comparison of plans for different levels of government, an identification of areas of agreement and disagreement, and the resolution of differences.

Cross-acceptance should be adapted and refined for use in Oregon. At a minimum it can be used as a means of encouraging communication among contiguous cities and counties. It can also be used by counties to better integrate city and county planning efforts. Cross-acceptance can be helpful in the development of regional urban growth management plans. In this case, it would be necessary to expand on the conflict resolution aspects of this process to deal with site specific growth management issues.
Exurban Development

The guidance of exurban development is a challenge that is unique to Oregon where urban growth boundaries make clear distinctions between urban and rural areas. Planning for and controlling both exurban and rural development in Oregon calls for innovation in the policies and standards used as a basis of decision-making. New Jersey is developing a regional design system which considers a community's role within a region of communities as a context for public policy. It builds on the notion of a hierarchy of places. This system also has the potential of controlling land use on the basis of its relationship to a geographic point (e.g. the center of a community). In point-based planning, centralized development is encouraged with a set of policies that control the nature, intensity, contiguity, and timing of development. Most land use guidance systems, including Oregon's, use area-based planning in which areas defined by boundaries are guided by a common set of policies.

Degrees of care is a concept being developed by Robert Einsweiler that builds upon the relationships between and among land uses and in so doing helps to avoid some of the conflicts that create many land use problems. This approach would enable some compatible development within Oregon's resource areas.

The notions of point-based planning and degrees of care should be more fully examined for their usefulness in guiding Oregon's exurban and rural development. The regional design system idea should be considered further for its relevance in setting the context for rural regional planning. It is not known to what extent exurban development undermines development objectives within urban growth boundaries beyond potential problems with expanding a UBG. No state planning programs have addressed this issue. This relationship needs to be better defined before appropriate policy can be developed.

State Agency Coordination

The coordination of the programs and policies of state agencies with local, regional, and state planning goals is a common theme in state land use planning programs. Coordination takes various forms depending on the state. All planning programs reviewed require that state agencies coordinate their activities and policies with approved local plans and/or state goals. Georgia and Vermont are the only states that have a formal mechanism for facilitating coordination among agencies.

While opinions differ on the actual scope of the present Oregon state agency coordination requirement and what the scope
should be, it does not appear that the present mechanism is unsatisfactory.

The state should make an assessment of the extent to which there are problems of coordination among state agencies to determine if it is necessary to address this issue. Coordination among state agencies could be facilitated by a growth management council.

State Funding for Infrastructure

Tieing state financial assistance to growth management planning and program requirements can serve as an important incentive that encourages local and regional participation in planning. This approach can also result in the more efficient and effective use of state resources.

LCDC should explore this linkage further. Because all municipal plans are already acknowledged, this financing strategy would need to have a more explicit set of criteria than the approaches being used in other states. LCDC would have to develop a clear concept of the types of growth management practices that should be in place in order for a municipality to be eligible for financial assistance.

Regional Review

Four states have incorporated regional review within their planning programs, a process in which local plans are reviewed at the regional level. Each approach is substantially different. The programs vary in regional review powers, in requirements for the development of regional plans and policies, and in the extent of responsibilities for project and resource reviews and assistance in mediation.

The state should explore alternatives for incorporating a regional perspective in the state planning program. In regions that include more than one urban area, consideration should be given to the creation of regional planning commissions with responsibilities for cross-acceptance of city and county plans, mediation, and review of developments of regional impact. The regional design system concept (see discussion of exurban development) could serve as the rationale for coordination in rural regions.

Concurrency

Concurrency is a concept that has been developed as a key component of the Florida state planning system. It involves the
establishment of urban service levels, preservation of which must be demonstrated as a prerequisite of development approval. As practiced in Florida, concurrency involves a rigorous, defensible planning and management process that clearly establishes who is responsible for infrastructure improvements and when they will be achieved. Concurrency has potential for success in the extent to which it is used to redirect rather than prohibit development.

Concurrency should be examined in more depth for use in Oregon. It could be used to achieve greater concentration of development in urban areas by setting high service levels in areas where development is not desired. Concurrency can also be used as a means of addressing problems caused by insufficient or substandard urban services.
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INTRODUCTION

The Oregon planning system is widely respected by planners and policymakers from throughout the United States. Nearly twenty years ago, Oregonians were challenged with developing a comprehensive land use guidance program without the benefit of other examples to follow. In this respect, Oregon was a true pioneer and this accomplishment has stood the test of time.

Meanwhile, many other states have decided to tackle the challenges of revitalization and the problems that accompany unchecked growth through the development of their own state planning programs. They look to Oregon for ideas and inspiration. They borrow elements from other programs. And they devise their own innovations that respond to their unique needs and circumstances. What is evolving is a "second generation" of land use systems that in and of themselves push the boundaries of planning practice.

It is now possible for Oregon to draw on the experiences in other states in improving and refining our own efforts. As our program has matured, new land use guidance and management issues have emerged and social and economic needs have changed. We are in need of new ways of thinking if we are to maintain the vitality and relevance of Oregon's planning system. Among the challenges we face:

1. Establishment of clear lead responsibility for growth management in urban regions with authority to effect the necessary agreements and coordination among cities, counties, and special districts. There is a need to develop integrated comprehensive plans for these regions.

2. The control of exurban development so that it does not undermine the accomplishment of objectives within urban growth boundaries as well as within resource areas.

3. Effective coordination of state agencies so that their activities support and reinforce local growth management objectives.

4. Avoiding deterioration in livability caused by development that has insufficient or substandard services.

5. Ways for local government to meet the infrastructure needs of new development.

6. Making more efficient use of the infrastructure. Specific attention needs to be given to ensuring that development pressure is directed toward urbanizable land.
STUDY APPROACH

This portion of the Department of Land Conservation and Development's Urban Growth Management Study uses these challenges as the basis for examining elements of other state programs that may have relevance. These specific features include:

Cross-acceptance (New Jersey)

Control of exurban development (New Jersey)

State agency coordination (Florida, Georgia, Maine, Maryland, New Jersey, Rhode Island, and Vermont)

State funding for infrastructure (Georgia, Maine, Maryland, New Jersey, and Rhode Island)

Regional review (Florida, Georgia, Maine, Vermont)

Concurrenty (Florida)

All of these programs are relatively new. Florida's program was adopted in 1985, New Jersey's in 1986, Rhode Island, Maine and Vermont in 1988 and Georgia in 1989. Maryland's program is being considered by the state legislature for approval in 1991. Relatively little literature has been published about any of these programs although major research efforts are currently underway. Therefore, it was necessary to obtain information directly from practitioners and scholars. Phone interviews were conducted with the following people:

Candy Ashmun, New Jersey State Planning Commission
Richard Bernhardt, Director of Planning and Development, City of Orlando, Florida
John DeGrove, Director, Joint Center for Environmental and Urban Problems, Florida
Robert Einsweiler, Director of Research, Lincoln Institute of Land Policy
John Epling, Director, State of New Jersey Office of State Planning
Mike Gleaton, Assistant Director, Office of Coordinated Planning, Georgia State Department of Community Affairs
Bob Haas, Senior Planner, Washington County, Oregon Department of Land Use and Transportation
Art Hogan, Executive Director, Chittenden County Regional Planning Commission, Vermont
Steven Holmes, Commissioner, Vermont Department of Housing and Community Affairs
Kathy Johnson, Attorney, Maine Natural Resources Council
Jim Knight, State Agency Coordinator, Oregon Department of Land Conservation and Development

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Floyd Lapp, Director of Bronx Planning Department, New York City, formerly with Tri-State Regional Planning Commission
David Luberoft, Research Analyst, Taubman Center for State and Local Government at Kennedy School of Government, Harvard University
Gail Moran, Staff Coordinator to 2020 Commission on Growth in the Chesapeake Bay Region
Kay Rand, Director of Office of Comprehensive Planning, Maine Department of Economic and Community Development
John Sibley, Special Assistant to Georgia Governor Harris
L. Benjamin Starrett, Director of Strategic Planning and Policy Coordination, Florida Department of Community Affairs
Daniel W. Varin, Associate Director, Rhode Island Department of Administration, Division of Planning

A personal interview was also conducted with Henry Richmond, executive director of 1000 Friends of Oregon.

In many cases, these people sent information about their program. This was also used to clarify specific program features.

It should be noted that the relative newness of these state programs means that in many cases, the ideas and concepts being reviewed have not been fully developed let alone tested. Therefore, it is not feasible to discuss in any detail actual implementation experiences. It would be valuable to keep our eyes on these other states as these approaches are tested over time.
CROSS-ACCEPTANCE

Summary

The Tri-State Regional Planning Commission (covering the New York Metropolitan Area) and the state of New Jersey have used different versions of what is known as cross-acceptance. This is a process that involves the comparison of plans for different levels of government, an identification of areas of agreement and disagreement, and the resolution of differences. This process has great potential for use in Oregon.

Findings

1. Tri-State used cross-acceptance as a means of achieving formal acceptance of the regional plan by county planning boards and acceptance of county plans by the regional planning commission.

2. In New Jersey cross-acceptance involves the counties in comparing municipal and county plans with a draft of a state plan. The objective is to ensure that the state plan reflects local concerns. It is hoped that local plans will ultimately be consistent with the state plan, but this is not a requirement of this version of cross-acceptance.

3. New Jersey has detailed procedures for resolving disagreements between local and state plans.

4. Both applications of cross-acceptance encouraged a broadened perspective by requiring a close examination of two or more plans. County planners and policy makers developed an understanding of regional issues and regional/state planners became more sensitive to local concerns.

4. In neither case does cross-acceptance explicitly deal with horizontal integration, i.e. the integration of plans for comparable units of government such as contiguous cities or counties.

Recommendations

Cross-acceptance should be adapted and refined for use in Oregon. At a minimum it can be used as a means of encouraging communication among contiguous cities and counties. Counties can use this approach to better integrate city and county planning efforts. Cross-acceptance can also be used in the development of regional
urban growth management plans. In this case, it would be useful to expand on the conflict resolution aspects of this process to deal with site specific growth management issues.

Background

Cross-acceptance has its origins in a process developed by Tri-State Regional Planning Commission (covering the New York Metropolitan Area) in which efforts were made to integrate housing and land use plans at the county and regional level. County planners compared the goals, objectives, and policies of the county plan with the regional plan; regional planners did likewise. For example, cross-acceptance of the housing element involved a comparison of population projections and housing needs, goals and strategies with a particular focus on low and moderate income housing. This comparison yielded a determination of 1. consistency; 2. consistency achievable; 3. inconsistency; or 4. not available. This last category was indicative of a policy concern that was not addressed in the county plan. In the negotiation phase of this process, efforts focused on resolving the differences. When this was not possible, an agreement was made to disagree.  

The results of cross-acceptance were included in a series of memoranda; the actual plans were not reprinted as amended. The ultimate goal of this process was for the county and regional planning commissions to accept each others' plans as amended. This involved each commission passing a resolution of acceptance. It was the desire of Tri-State that the counties consider municipal plans during this process, but this occurred only in Westchester County, New York, where a not-for-profit housing council facilitated local outreach.  

I was involved in cross-acceptance as a planner in Dutchess County, New York. I worked on the housing component of the plans; another planner worked on land use. There was a fruitful dialogue about the county and regional plan; we would not have examined the regional plan in such detail in the absence of cross-acceptance. This dialogue, however, was limited primarily to the planners directly involved in the process. There was not a lot at stake. New York counties have no zoning powers and hence their planning efforts are mainly advisory. Tri-State also had limited powers and it was dismantled in the early 1980s as a result of federal budget cuts.

Tri-State was the conduit for 701 planning funds which were used to support county participation in cross-acceptance. Tri-State required cross-acceptance as part of the 701 work program.  

For Tri-State Regional Planning Commission, cross-acceptance led to coordination of existing plans. In contrast, in New Jersey,
a modified form of the process is being used as a means of developing a statewide plan. It is a process that forces the state to come down to the local level in its planning efforts and in so doing accommodates a very strong political orientation which emphasizes local control.4

There are 21 counties in New Jersey and 567 municipalities with no unincorporated areas. County governments do not have strong planning powers. The New Jersey State Planning Act of 1986 does not require municipal and county plans to be consistent with the state plan. It is anticipated, however, that cross-acceptance will ultimately lead to consistency.5

The Planning Act defines cross-acceptance as:

the process of comparing the provisions and maps of local, county and regional plans and regulations with those of the Preliminary State Development and Redevelopment Plan and the dialogue which occurs among participants during and after this process to achieve compatibility or consistency between local, county, regional and State plans.6

Rule-making has been used to specify in detail the procedures for cross-acceptance. When the Office of State Planning (OSP) distributes the Preliminary State Development and Redevelopment Plan, they also transmit copies of the Cross-Acceptance Manual. Counties who choose to participate in cross-acceptance submit a proposed work program to the OSP. They also can apply for a cross-acceptance grant-in-aid.

In the first stage of cross-acceptance, counties compare the Preliminary State Development and Redevelopment Plan with municipal plans and the county plan (if one exists). The state plan includes a Preliminary Plan Map which is developed by the OSP in consultation with the counties. It is a graphic depiction of the boundaries of "tiers", the planning unit used in the state planning system. The county's comparison report includes findings, objections, and recommendations. In identifying areas of disagreement, the county has to indicate whether consistency and/or compatibility can best be achieved by changes in state policies, standards, or criteria or whether modifications are warranted at the local or county level. Before this report is submitted to the state, it must be subjected to a public hearing and approved by the governing body of the county.

If a county chooses to waive its statutory authority to participate in cross-acceptance, then the state planning commission must designate a negotiating entity for the county. A municipality can also prepare a dissenting report which gives them the right to participate directly in the subsequent negotiations.
Negotiation takes place in the second stage. The OSP holds a regional meeting to prepare those who will be participating in the negotiations. Pre-negotiation meetings are held between OSP staff and Local Negotiating Committees (LNC). The county planning board is authorized to appoint a committee from among its members and staff to serve as the LNC. This committee must include at least two planning board members. If a municipality wants to negotiate directly with the state, the governing body must authorize a committee to represent the municipality. A member of the county planning board or a member of the county's LNC must be present in negotiation sessions between the state and municipalities.

In pre-negotiation, the focus is on identifying areas of agreement and disagreement. The parties can often claim agreement in principle with recognition that there may need to be some further clarification, particularly with regards to wording. This meeting, which is open to the public, serves to finalize the negotiation agenda. The actual negotiation occurs between the Plan Development Committee, a subcommittee of the state planning commission, and the LNC. Once all negotiations are completed, an Interim State Plan will be prepared which reflects the agreements that have been developed.

The third stage involves issue resolution in which the outstanding concerns will be addressed. An impact assessment of the plan will be prepared which will serve as a benchmark against which the Interim State Plan and its implementation can be evaluated. There will be a minimum of six public hearings before the final plan is adopted. Administrative rules regarding this phase of the process have not yet been developed so it is not feasible to be more specific in describing what will happen.

It is intended for cross-acceptance to be undertaken every three years as part of the review and revision of the State Plan.

The cross-acceptance process officially began in January 1989 with the release of the state's Preliminary Plan. Although it was anticipated that the comparison reports would take six months, it took one to two years for the county comparison reports to be submitted. As of December 1990, negotiations had been completed with 17 counties. The disagreements have been minimal--the biggest issue has concerned farmer's equity.

Cross-acceptance as a process has been well received. Despite earlier projections, all counties have actively participated. Three of the counties did not initially have planning staff. They now have staff and are initiating county level planning activities. The state planning director, John Epling, feels that cross acceptance has helped in moving people away from position-based to interest-based bargaining.
Candy Ashmun, chair of the Plan Development Committee, describes the process as "fantastic, exhausting, and very interesting". She indicated that the cross-acceptance process is structured to facilitate vertical discussions among the different levels of government, cities, counties and the state. A by-product of this, however, has been a considerable amount of horizontal discussion among cities and counties. The counties, in preparing responses to the review of the state plan, have brought city representatives together. As a consequence they become more aware of each others plans. The counties are also talking among themselves. The County Planners Association is emerging as a key player in this process and it is primarily through this forum that the county planners are communicating with one another.

Ashmun noted that they have been asked to include in the plan concerns that have nothing to do with growth management such as insurance for farmers. However, all ideas will be incorporated in an implementation report which will enable them to be more fully considered as part of other programs or planning efforts. Ashmun is concerned about future phases of cross-acceptance. The process will eventually move from the local level to the state level where there will be a number of public hearings. It is at this point that there may be vulnerabilities to the organized pressures of special interest groups. She is hopeful that the agreements that have been so carefully worked out will be able to withstand this pressure.

David Luberoff, who is involved in a five year study of the New Jersey Planning program, feels that the process has successfully forced the state to address the local level perspective. He notes that most of the disagreements at this stage have involved implementation and not basic planning principles. He has observed some counties that are using the process to develop a stronger county role in planning and development.

Whether cross-acceptance results in integration of planning at all levels of government remains to be seen. Local plans have not been changed yet because the state plan is not in place. Furthermore, the term cross-acceptance, in contrast to how it was used by Tri-State Regional Planning Commission, does not involve formal acceptance of the state plan by local governments or vice versa. Candy Ashmun, who is also familiar with Tri-State's approach to cross-acceptance, pointed out that the New Jersey version is more appropriately referred to as cross-comparison. Even this term may be a misnomer because the state is not doing a reciprocal review of local and county plans.

While the legislature has not imposed a consistency requirement on municipalities and counties, there are significant incentives for consistency. Builders Remedy lawsuits arising from the 1983 New Jersey Supreme Court Mount Laurel II decision
mandating the provision of affordable housing created a situation in which developers could locate housing projects just about anywhere they wanted to. In conforming with the state plan, local governments will still have obligations for providing affordable housing, but there will be an ability to balance other planning goals such as the preservation of open space and the provision of an efficient infrastructure system. Another incentive for consistency is that the state intends to target financial assistance for infrastructure funding on the basis of the state plan.

There are some elements that are common to the two examples of cross-acceptance described here. Both cases had clear review procedures which were used consistently in each county. In New Jersey, where the content of the review is substantially more complex and where the need for resolution is more important, the procedures have greater detail and include a larger number of policy makers and planners.

In both cases, the review process occurs vertically, between local governments and an entity that has multi-jurisdictional planning responsibilities. Neither of these examples have a required horizontal component in which adjacent cities and adjacent counties systematically compare each other's plans. The implication is that any necessary integration between municipalities is done at a higher level, in one case by the regional planning commission as the sponsor of the process and in the other by the counties who played an intermediary role. In the latter situation, the counties would in turn be theoretically coordinated by the state. It is also important to note that resources were made available to the counties to facilitate involvement. For the Tri-State review, these funds were the primary incentive for participation because cross-acceptance consumed just a small proportion of the federal funds that supported other components of a county planning department's work program.

It should also be noted that cross-acceptance maintains the integrity of plans for different units of government. The cross-acceptance as used by Tri-State and New Jersey in and of itself did not result in cooperation agreements or joint plans. These could be a spin-off of the discussions that revolve around cross-acceptance, but they are not an objective of cross-acceptance.

The Tri-State experience assisted in the resolution of some differences between the plans of a region and its counties. While, as noted earlier, these particular results may not have had any major significance, the process did give the counties a regional perspective and the region a municipal perspective. Had this approach been used on other issues over a longer period of time, it would have undoubtedly broadened the planning agenda for all the parties involved.
By the same token, here in Oregon, a modified version of cross-acceptance would be a powerful technique for encouraging the horizontal integration of city and county comprehensive plans. DLCD could develop a process, in its simplest application, that would enable contiguous municipalities to compare each others plans and to discuss and resolve differences. The culmination of this review could be the acceptance by a city council or county board of the plan for a neighboring municipality. While this acceptance may have no legal implications in terms of one municipality controlling the land use decisions of another, the cross-acceptance process would encourage a more regional perspective.

Coordination between and among contiguous local governments is not a new concept. It is mandated in a number of state planning programs including Florida, Maryland, Rhode Island, and Vermont. None of these states have developed a process for facilitating this coordination. In Oregon, coordination is a result of other requirements such as the development of an urban growth boundary or esturine planning. Coordination with contiguous governments is not, however, a general requirement for acknowledgement or periodic review.

Cross-acceptance could also be used by a county as a means of more fully integrating city plans within the county with each other and with the county plan. In order to accomplish this, it would be important, of course, to develop the notion of cross-acceptance among the cities and not just between the cities and the county.

The development of an urban growth management plan as proposed by Lane Council of Governments in their report for the Department's Urban Growth Management Study would be facilitated by cross-acceptance. This could build on the cross-acceptance approach developed by New Jersey in which a preliminary urban growth management plan is developed with the affected municipalities comparing their existing plans with the proposed plan to identify areas of agreement and disagreement. Service districts should also be a party to this process. The conflict resolution aspect of cross-acceptance would need to be further refined if it is to be used as a means for establishing urban service boundaries, consolidating or even abolishing service districts, and addressing other growth management issues.

In conclusion, cross-acceptance has the potential of facilitating communication and sensitizing the perspective of different levels of government to each other. The two actual examples of cross-acceptance described here only scratch the surface of possible applications. The use of cross-acceptance in Oregon is strongly recommended. The further refinement of this approach, particularly as a means of integrating the planning of contiguous municipalities, would expand its usefulness.
EXURBAN DEVELOPMENT

Summary

The guidance of exurban development is a challenge that is unique to Oregon where urban growth boundaries make clear distinctions between urban and rural areas. Planning for and controlling exurban and rural development in Oregon calls for innovation in the policies and standards used as a basis of decision-making. Point-based planning (point referring to a community center) and degrees of care are two approaches that merit specific attention. These ideas build upon the relationships between and among land uses and in so doing help to avoid some of the conflicts that create many land use problems. Another concept worth examining is New Jersey's regional design system which looks at the relationship between and among communities as a context for public policy.

The relationship between exurban and urban development is not clearly understood. Further study is needed.

Findings

1. Oregon's system of establishing boundaries around urban and resource land creates areas within which there are a common set of policies for guiding development. This can be described as area-based planning.

2. Boundaries result in land value differences which form a basis for bargaining. Bargaining can override important planning principles that should guide the location of a boundary.

3. Area-based planning does not take into account the differences among land uses. Contiguous uses on either side of a boundary (such as exurban development and farmland) can have deleterious effects on each other.

4. Point-based planning involves a set of policies that encourage centralized development by controlling the nature, intensity, contiguity, and timing of development.

5. New Jersey's regional design system considers the regional relationship between and among communities as the basis of public policy.

6. Degrees of care is an idea being put forth by Robert Einsweiler in which development is guided by principles that build on and
reinforce potential relationships between and among land uses. This approach would allow for some development within Oregon's resource areas.

7. Point-based planning and degrees of care represent innovations in American land use practices and thus would require a considerable amount of original thinking in their development and refinement. It would be helpful to involve other disciplines in this process such as rural sociology.

8. It is not known to what extent exurban development undermines development objectives within urban growth boundaries. No state planning programs have addressed the issue of the relationship between exurban and urban development.

**Recommendations**

The notions of point-based planning and degrees of care should be more fully examined for their usefulness in guiding Oregon's exurban and rural development. The regional design system concept should be examined for its relevance in setting the context for rural regional planning. The relationship between exurban and urban development needs to be better defined before appropriate policy can be developed.

**Background**

Kay Rand, director of Maine's program, explains that in the absence of an urban growth boundary, the issue of controlling development in exurban or transitional areas has not crystallized. The Maine program calls for the demarcation of growth and rural areas. In rural areas, the primary concern is with protecting rural character as opposed to preserving the agricultural industry since there is little market for farmland. This orientation results in an emphasis on performance standards that address setback and buffering requirements and less of a concern with avoiding land uses that are incompatible with farming. Rand anticipates that minimum lot sizes in rural areas will be about five acres statewide although at least one town has set a twenty acre minimum.

According to Daniel Varin of the Rhode Island Department of Administration, there is a lot of rural land in Rhode Island, but only a fraction of it is farmed. There is an absence of prime agricultural soils and the economy is primarily industrial. The state plan and some municipalities do have a goal of preserving agricultural land. Exurban development is an issue although no explicit approach has been developed. The response has been regulatory such as increased lot sizes, acquisition of open space, and transfer of development rights.
A potentially significant approach to guiding exurban development is emerging as a component of the New Jersey planning system. The Preliminary State Development and Redevelopment Plan includes a tier system and regional design system. While these approaches have not been fully developed, their integration may provide a useful planning tool.

The Preliminary Plan divides the state into tiers. Four of these designate urban and suburban areas that have public services and the fifth is for rural areas that lack services but do not have realistic potential for agriculture in the future. Tier 6 is for the best agricultural land in the state and tier 7 consists of the most environmentally sensitive lands. The plan calls for development that does not exceed the carrying capacity of the natural and infrastructure system. New development is targeted within delineated service boundaries around existing settlements.

The regional design system is an overlay to the tier system which builds on the notion of a hierarchy of central places. It reinforces the idea that development should be concentrated in and around existing communities but adds to this the concept that communities have unique socioeconomic functions within a region of communities. Any planning for these communities needs to consider the regional context so that public investment and policy can reflect and reinforce these differences. For example, certain services may not need to be duplicated in one community because they are available in a neighboring city.

John Epling explained that under the regional design system framework, counties have been asked to identify existing villages and hamlets that will accommodate new growth within tiers 6 and 7. There is some fear that new development will destroy old villages and there is pressure to allow new communities, particularly planned unit developments.

David Luberoff has observed that the regional design system is the "murkiest part" of the New Jersey program. He feels that the idea of linking the concentration of development with preservation of open space requires approaches that are beyond the capabilities of the plan such as tax sharing and transfer of development rights. Candy Ashmun admits that they are still wrestling with this concept. She underscores the importance of relating communities to the region as a whole. A community within a farming area needs to serve the farming interests and not be merely a bedroom community for an employment center an hour away. A farming community would need affordable housing for farmworkers, a farming implement store, a feed store, etc. Ashmun noted that it is ironic that one could not create a new, rural village under current zoning. She feels that one of the drawbacks to refining this concept has been the reluctance on the part of many professional planners to work with the notion of mixed uses such as apartments above Main Street stores. Those on the Office of State Planning staff who have
training in rural planning seem to be the most comfortable in dealing with this concept.

Ashmun, who is from Oregon and is familiar with our planning system, feels that the regional design system would have much greater relevance here than in New Jersey. In New Jersey, the farmers don't want to farm; they have become land speculators. On the same subject, Luberoff argues that in comparison to New Jersey, Oregon has a larger constituency in support of farmland preservation.

Robert Einsweiler is serving on a peer review committee which is providing guidance on the state system to the state planning agency. He is recommending more integration between the tier and regional design systems. He sees the tiers as an area-based land use control system. This is comparable to the Oregon system in which boundaries are created around urban and resource areas. Within the boundaries are a common set of policies for guiding land development. The problem with the notion of boundaries is that land value differences are created which serve as a basis for bargaining about the location of the line. This bargaining can outweigh important planning principles in dictating the location of a line. Furthermore, area-based policies tend to ignore the relationship between areas. For example, exurban development adjacent to farmland can have negative effects on each other.

As an alternative to area-based policies, Einsweiler suggests consideration of point-based policies (in this case, point refers to a center). This involves defining a community center and developing a set of policies that encourage centralized development by controlling the nature, intensity, contiguity, and timing of development. Development is sequenced from the center outward with no "leapfrogging". The policies would encourage dense development in order to avoid excessive sprawl into the countryside. In point-based land use guidance, it is unnecessary to define an ultimate boundary to the community. The New Jersey regional design system has the potential of becoming a point-based system.

Einsweiler also calls for the development of a strategy that builds on an understanding of the relationships between land uses by establishing what he calls "degrees of care" which vary depending on the proximity of different uses. He maintains that human settlements and resource uses can co-exist if attention is given to the relationships between and among these uses. This would suggest the need for performance standards, minimum requirements focusing on how a particular land use relates to adjacent uses. This is in contrast to traditional zoning which specifies allowable uses on a particular parcel without consideration for what is nearby. This context is theoretically established in the comprehensive planning stage. However, comprehensive planning is done at such a general level of analysis that it is difficult if not impossible to consider the more subtle
aspects of how adjacent land uses can and should relate. Einsweiler suggests that for the most part, compatible development within resource areas would be service centers (a notion that is comparable to what Ashmun is thinking) and not exurban subdivisions.

Both point-based planning and degrees of care are concepts that are fairly new to traditional American planning and land use control practices, however, there are antecedents in performance zoning and conditional use requirements. Einsweiler intends to make the development of these ideas a priority at the Lincoln Institute of Land Policy. This could represent an important opportunity for Oregon planners and policy makers to have assistance in examining the applicability of these approaches to our planning system.

In Oregon, point-based planning could be used in guiding development around hamlets and other unincorporated communities. Combined with appropriate siting standards, point-based planning could also set the context for the development of new communities. Addressing the development of sparsely settled exception areas would be particularly challenging because these areas do not necessarily have the potential to function as service areas. Their development may be more appropriately guided through the application of planning principles that are based on the idea of degrees of care. This might, for example, include site planning standards that limit the visual intrusiveness of residential development on the rural landscape.

Neither point-based planning or degrees of care would be useful in controlling exurban development to accomplish infill and redevelopment objectives within urbanized areas. This would need to be addressed through other approaches for guiding development such as concurrency and the transfer of development rights (TDR). Concurrency can result in the redirection of growth pressures to areas where infrastructure is already available (see page 36). TDR could be used to transfer the development rights of exception land to land that is within the UGB.

Any policy that is directed toward controlling exurban development as a means of achieving objectives within the UGB needs to be based on a clear notion of how and to what extent exurban development undermines development within the UGB. If it is determined that the principal concern is that exurban development diverts market demand for housing that would otherwise support accomplishing urbanization, in-fill, and redevelopment objectives inside UGBs, then the appropriate response would be policies that limit or discourage exurban development. If the diversion of market demand has a definable financial impact on urban areas, then it may be worth exploring the idea of an impact fee levied against exurban development.
At this point, other state programs have few ideas to offer in dealing with the relationship between urban and exurban development. It might be worth looking farther afield at the land use control systems used in other countries. It is likely, however, that this would be a policy concern where Oregon would once again have to innovate.

The regional design system approach, with its emphasis on the interrelationships among communities, is a concept worth pursuing for its potential in setting a regional context for the more sparsely populated parts of the state. Theoretically this context is established by the counties as a result of their responsibility for coordinating the plans of cities within their jurisdiction with county-level planning. Realistically, a "region of communities" can extend beyond a county's boundaries. While this approach addresses an issue that goes beyond the scope of Urban Growth Management Study, it is worth pursuing further.

In conclusion, it is recommended that, in developing guidelines and principles for rural residential planning, the state examine point-based planning and degrees of care as possible planning tools. The regional design system should be further examined for its use in guiding the development of rural regions. These approaches would require a new way of thinking that should draw upon the perspectives of other disciplines such as rural sociologists. The relationship between exurban and urban development needs to be more fully explored before appropriate policy can be developed.
STATE AGENCY COORDINATION

Summary

All state planning programs reviewed require that state agencies coordinate their activities and policies with approved local plans and/or state goals. Georgia and Vermont are the only states that have a formal mechanism for facilitating coordination among agencies.

Findings

1. New Jersey and Florida state agency coordination requirement have not been effectively implemented. This is due to a lack of gubernatorial commitment and weak enforcement capabilities.

2. States use a variety of approaches in coordinating state agencies with state land use planning programs:

   a. In Vermont, agencies develop a strategic two year plan that conforms with approved local plans and adopted regional policies.

   b. In Maine, agencies must submit a report every two years indicating how their policies and programs will be amended to support state goals.

   c. In Rhode Island, agencies are involved in developing the state plan and they must prepare their own operations plan. Before undertaking any actions, the agencies must receive a determination of consistency with local plans.

   d. In Georgia, the Governor's Development Council meets on a monthly basis giving agency heads an opportunity to discuss common interests and to establish policy directions.

   e. In the Maryland program, consideration was given to the creation of an Interagency Growth and Resource Management Committee with a number of key responsibilities in administering the state planning program.

5. Oregon's state agency coordination program is more elaborate than those of other states. The primary focus of Oregon's program is the coordination of agency programs and policies with local plans and state goals.
Recommendations

While opinions differ on the actual scope of the present Oregon state agency coordination requirement and what the scope should be, it does not appear that the present mechanism is unsatisfactory.

The state should make an assessment of the extent to which there are problems of coordination among state agencies to determine if it is necessary to address this issue. Coordination among state agencies could be facilitated by a growth management council.

Background

The coordination of the programs and policies of state agencies with local, regional, and state planning goals is a common theme in state land use planning programs. Coordination takes various forms depending on the state. All eight state planning programs reviewed here require that state agencies coordinate their programs with approved local plans and state goals and/or plans. Only two, Georgia and Vermont, have formal mechanisms for coordination among state agencies. This concept was considered for use in Maryland. Oregon's State Agency Council for Growth Issues in the Portland Area represents an effort to coordinate agency activities affecting one region of the state.

According to John DeGrove, state agency coordination is one of the most important features of state planning systems. He has observed, however, that the states with the most recently adopted land use planning programs (Georgia, Maine, and Rhode Island), are doing better in coordination than those with older programs (New Jersey and Florida).

New Jersey. The State Planning Act of 1986 mandates state agency coordination with the state plan; the problem is that there is no plan in place yet. David Luberoff has the impression that agency interest is fading or where interested, they are keeping the plan at arms length. An early draft of the Preliminary State Development and Redevelopment Plan generated a "hailstorm of criticism". Governor Floria has not taken a position on the plan so his commissioners cannot publicly embrace it. On the other hand, he has convened an executive commission of agencies dealing with transportation and the coordinator is particularly attuned to the relationship between land use and transportation. This commission has referenced the preliminary plan in their own work. The Department of Environmental Protection is also using the plan as the basis for making decisions for a revolving loan account.
John DeGrove indicated that the power for agency coordination in New Jersey is there, but not much is happening yet. He feels that a strong governor could make a difference.

One other element of state agency coordination that should be noted is that the State Capital Budgeting and Planning Commission is responsible for preparing an annual State Capital Improvement Plan that is consistent with the state plan adopted by the State Planning Commission.

**Florida.** Although state agency coordination is mandated, Florida is having a difficult time with this provision. Richard Bernhardt, planning director for Orlando feels that the agencies are simply developing wish lists without realistic budgets. He sees the need for a strong state strategic plan that is targeted to state planning objectives. DeGrove also feels that the agencies in Florida are not being consistent in complying with the coordination mandate and the regulations in this matter are not being enforced. He would like to have "more muscle" in the state agency coordination requirements.

**Vermont.** In contrast to Florida, Vermont state agencies are being very strategic in their planning. The 1988 planning legislation requires that nineteen state agencies develop plans that are in conformance with adopted regional policies and approved local plans (there is no state plan or set of policies). The interim plans were due January 1, 1991. The coordination is done through the governor's planning office under the direction of a five person implementation committee. The legislation, however, does not specify what this coordination will involve or how it is to be done.

The agencies work on a two year time horizon. In the first year the agencies can be very specific because they are working with an actual budget. There is less specificity in the second year, but the agencies are asked to be cognizant of budget constraints. One observer has noted that the state agency plans have tended to vary in quality. "Those agencies that deal with planning issues on a regular basis were able to draft a plan that addressed the planning goals in a coherent, easy to read format. Other agencies were more superficial in their plan development process." Citizen involvement in public hearings on the state agency plans has also been limited.

**Maine.** Kay Rand feels that Vermont's agency coordination approach is stronger than Maine's on paper because the legislation establishes clear direction that agencies must develop plans. Nevertheless, she feels that Maine's agency coordination is also strong. Agencies must submit reports to show how policies and programs will be amended to support state goals. These reports are to be revised every two years. After January 1, 1990, agencies
were required to conduct their activities in a manner that is consistent with state planning goals.

**Rhode Island.** State agencies are involved in preparing relevant elements of the state guide plan. This guide plan has had existence in law since the 1950s with various elements having been prepared in the mid 1960s. The agencies also prepare their own short-term operation plans. A summary of these plans and agency programs is sent to all municipalities to assist them in preparing their local plans. As the local plans are submitted, they are reviewed for compliance and referred to the state agencies. Once approval is given to a local plan, the state agencies must be consistent with it. Before an agency undertakes any action, it must receive a consistency determination. If an agency wants to pursue an action which is found to be inconsistent, the agency must go through a formal public hearing to justify deviation from the local plan. John DeGrove explained that the siting of locally unwanted land uses is anticipated and addressed in the plan making process. If an action has not been anticipated, then the hearing process ensures that the proposal receives full scrutiny and that the agency pays attention to local plans.

The summary of agency plans which was distributed in April 1990 is 81 pages long. Agency and departmental plans, programs, and policies are described in anywhere from one to six pages. In some cases, the emphasis is on planning principles the agency would like to see local governments adopt. In other cases, specific program initiatives are described. The first of forty municipal plans (including one Indian reservation) is to be approved shortly. Therefore, it is not possible to comment further on Rhode Island's experience with this approach.

**Georgia.** The planning act created the Governor's Development Council which is chaired by the governor. The membership includes the heads of sixteen key state agencies and three positions that can be filled by the governor. The council, required by statute to meet on a monthly basis, considers common issues as a means for developing a state investment strategy. The intent of this approach is that policy drives investment. The council is at present an informal group. It will ultimately serve as the state planning commission and will review and comment on the state plan.

The council has been meeting for only 18 months. In that time, it has developed a coordinated statement of critical issues and has derived a consensus on policy directions. While the development of actual agency plans is not included in the planning statute, the notion is that they will eventually emerge. Mike Gleadon perceives that the agency heads like the flexibility of not writing too much down. John Sibley notes that a number of agency heads are independently elected. The Council has caused them to talk among themselves. Although this has been a big step forward,
it is important that the next governor build on this communication."

Mike Gleaton notes that some state agencies want to proceed in linking their programs with consistency between local plans and state planning goals. The Department of Natural Resources wants to do this with single purpose environmental permitting programs including wastewater, water quality, and erosion control. Many communities do not have zoning control. In a number of instances where a development proposal has met all permitting requirements, the DNR has had to grant approval despite local opposition to the project. Consistency requirements give the communities a say in such an instance. The Department of Community Affairs has had to ask that DNR hold back on its desire to base funding decisions on consistency requirements. There is a concern that the state would be perceived as moving too fast in this area.

Maryland. An earlier version of proposed legislation for Maryland called for the creation of an Interagency Growth and Resource Committee consisting of department secretaries or their designees provided that the designees had the position of deputy or assistant secretary. The departments were to include agriculture, budget and fiscal planning, economic and employment development, environment, general services, housing and community development, natural resources, and transportation. The council was also to include a representative from the governor's office and the director of the state office of planning who serves as chair.

Among the council's responsibilities would have been the coordination of the state's review of local plans, review and certification of agency plans, coordination of state level actions that affect the timing and location of growth, and the resolution of interdepartmental disagreements relating to activities that affect growth management. The council was expected to meet on a quarterly basis.

The actual proposed legislation did not include this committee. Instead, each state agency having a role in physical development would be required to cooperate with the state Office of Planning in fulfilling in implementing the planning program. The proposed legislation calls on the Office of Planning to work with the Department of the Environment and the Department of Natural Resources to coordinate activities affecting water resource protection.

Oregon. Within Oregon, the state agency coordination program has been refined and elaborated over the years. In 1978, LCDC approved 25 to 30 state agency programs with the intent of conveying agency concerns to cities and counties who were beginning to develop their comprehensive plans. This phase is similar to that which Vermont is now undertaking. In 1982 and 1983, five agency plans were certified. There were intentions to work with additional agencies,
but DLCD staff resources were redirected toward completing the acknowledgement of local plans. Beginning in 1985, under the direction of the state legislature, work began on revising the state agency coordination rules to incorporate concepts of coordination with periodic reviews and conflict resolution. It took two years to amend the rule. As of the end of 1990, 20 agencies have been certified, 4 have been submitted for certification, and 2 are in the final stages.

Certification involves a process that is somewhat similar to acknowledgement. Review notices are sent to every city and county except in those instances where an agency's programs do not address a statewide concern. Once certification is completed, agencies possess procedures to assure that their land use activities will conform with acknowledged local plans and the statewide planning goals.

The overall process of certification has taken longer than anticipated; agencies did not appreciate the magnitude of work involved. The nature of work necessary, i.e., an audit of functions to identify which programs relate to land use, is not easy. Another limitation of note is that the certification process did not address conflicts between agencies. There has also been some concern expressed that the certification process did not fully capture all programs that have land use implications.12

Oregon's coordination program has focused primarily on coordinating state agency activities and policies with local plans and goals. There has not been a concurrent emphasis on coordinating among state agencies or addressing interagency conflicts. This coordination is occurring on an issue specific basis through such organizations as the Governor's Watershed Enhancement Board and the State Agency Council for Growth Issues in the Portland Area both of which bring state agencies together. Neither of these initiatives, however, are being undertaken under the auspices of the state's land use planning program.

Comments

With the exception of Oregon, state agency coordination programs are not long in duration. It is still possible, however, to derive some basic principles that are helpful in guiding a coordination program. First, it is important to have the support of the governor. The governor sets the political agenda for appointees which, as can be observed in New Jersey, influences the extent to which these administrators can support statewide planning and coordination. Oregon's experience indicates that legislative and budgetary support are also necessary. Second, it is important that agencies see how consistency with local, regional, and state planning can enhance their efforts. This acknowledgement is already in place in Georgia where the Department of Community
Affairs finds itself in the unusual position of having to "rein in" the Department of Natural Resources which wants to mandate consistency requirements right away. Finally, it is important for agencies to plan strategically, otherwise their efforts will not be credible or useful as has been the case in Florida.

State agency coordination as practiced in Oregon is more elaborate and sophisticated than what is found elsewhere. This is to be expected given that the Oregon system is much older. With regards to procedures for coordinating state agencies with local plans and state planning goals, there is little that can be gleaned from this survey that could be used to improve Oregon's program. While opinions differ on the actual scope of the present Oregon state agency coordination requirement and what the scope should be, it does not appear that the present mechanism is unsatisfactory.

A growth management council might be a useful concept for facilitating coordination among state agencies. It should be noted, however, that the council in Georgia (and the proposed committee in Maryland) has a considerable amount of policy making powers. In Oregon, this authority is granted to LCDC. Before the idea of a council is pursued, it would be necessary to ascertain the extent to which there are problems of coordination among agencies. It could be that this is not a real issue.
STATE FUNDING FOR INFRASTRUCTURE

Summary

Tieing state financial assistance to growth management planning and program requirements can serve as an important incentive that encourages local and regional participation in planning. This approach can also result in the more efficient and effective use of state resources.

Findings

1. A number of states have explicit policies in which state funds are contingent on consistency between local plans and state goals and/or plans.

2. New Jersey mandates consistency and establishes priorities for funding. These priorities, however, target assistance to the broad areas of urban revitalization and distressed communities. Other than a requirement for consistency, state funding is not predicated on the existence of specific growth management practices.

3. The potential effectiveness of New Jersey's policies are limited because the state is experiencing a fiscal crisis.

4. Maryland intends to predicate funding decisions on the relationship between a proposed project and growth patterns, local funding availability, and growth pressures.

Recommendation

DLCD should explore further the idea of linking the allocation of state financial assistance for infrastructure with the existence of local growth management policies and programs. Because all municipal plans are already acknowledged, this financing program would need a more explicit set of criteria than those that are being used in other states. LCDC would have to develop a clear concept of the types of growth management practices that should be in place in order for a municipality to be eligible for financial assistance.
Background

New Jersey. The State Planning Act of 1986 requires state agencies to use the state plan to identify where money will be spent. The Preliminary State Development and Redevelopment Plan gives priority for state infrastructure funding for urban revitalization. The Interim Plan will give priority to distressed communities regardless of whether they are urban or not. Other than a requirement for consistency, state funding is not predicated on the existence of specific growth management practices. Unfortunately, the state is experiencing a serious fiscal crisis and there are no funds for the development of new capacity. John Epling indicated that this is not an appropriate time to concentrate on the issue of state funding for infrastructure.

Rhode Island. Some programs have been tied to planning in that the infrastructure for which financial assistance is being sought must be included in the local and state plans. These programs include recreation and open space, water supply, wastewater treatment and construction, and economic development.

Vermont. Steve Holmes, the Vermont state planning director, feels that there is a need to tie state financial assistance for infrastructure to the state planning program. He feels that their law is already strong enough to justify funding priorities, but they need the political will to do this.

Maine. Two years after applicable deadlines for submittal of proposed comprehensive local plans for state review, a town must have an adopted local growth management program that is consistent with the State's Planning Act to be eligible for certain state financial assistance for the following purposes:

1. to accommodate additional growth and development;
2. to improve, expand, or construct public facilities;
3. to acquire land for conservation, recreation, or resource protection; or
4. to plan for or manage specific economic and natural resource concerns.

The local plan must be certified by the state as consistent with the Act to be eligible for:

1. Enforcement assistance; 
2. Open space acquisition assistance
3. Land for Maine's Future Fund (funding is not currently available to towns); and 
4. Multi-purpose Community Development Block Grants

If any deadlines for compliance with the state planning program are missed, eligibility for the first set of state programs
will be jeopardized. The second set of programs are considered to be so important that a local plan must be approved by the state to ensure eligibility. In each case, the growth management program must include components that are directly related to the purpose of the assistance being sought.

**Georgia.** While the state planning act does not require municipalities to undertake planning, the penalties for not planning include a loss of selected state grant and loan assistance. The Department of Community Affairs (DCA) administers 8 programs with a total value of $40,000,000. After the first five years of the program, eligibility for these is dependent on planning. The programs include Community Development Block Grant funds, the Appalachian Regional Commission infrastructure funds, the Capital Felony Grant program, Downtown development revolving loan fund, an Employment Incentives Program, Immediate Threat and Danger Program, Local Development Fund Implementation Assistance, and the Jail Improvement Program. Department of Transportation and Department of Natural Resources (DNR) programs are not specifically mentioned in the state statute as being tied to planning. The DCA, however, will make regular reports to these agencies about the status of the planning program and the agencies have the right to link their programs to consistency requirements. DNR intends to ask if projects are consistent with local plans.

**Maryland.** The proposed Maryland planning legislation includes the creation of a Growth Management Infrastructure Fund with monies that are to be appropriated annually. It is anticipated that this fund may have as much as $62 million above and beyond what is already allocated for infrastructure. This fund would include both formula (entitlement) grants and competitive grants. The funds can be used for a variety of purposes including the construction or rehabilitation of schools and day care centers, sewerage and water systems, storm water management facilities and transportation capital projects. Funds can also be used for the acquisition of transit equipment and the acquisition of land for redevelopment, resource conservation purposes and parks.

The Office of Planning is responsible for certifying that a local government's request for funds addresses the objectives of the state planning program. The criteria that are used are as follows:

1. extent to which a project results in more efficient and denser growth patterns;
2. amount of local funding sources to be used;
3. extent of growth pressures being experienced;
4. political subdivision's fiscal situation; and
5. amount of state assistance needed.
Comments

Because none of these state programs has been fully implemented, it is not feasible to assess the impact of policies tying state financial assistance for infrastructure with growth management strategies. It is clear that this approach is considered to be an important element of state planning programs. Vermont is the only one of the six programs reviewed which does not have this policy in place and its director would like to take the program in this direction. The other five programs are using eligibility for state funds as an incentive to encourage consistency between local and state planning. Both New Jersey and Maryland are going one step further in setting state priorities for funding. Maryland is actually looking at the relationship between the proposed project and a local government's fiscal capacity and growth pattern. As the other programs mature and consistency is achieved, then they will also need to move in the direction of more targeted assistance.

As a mature program with all local plans acknowledged, Oregon does not need to use state funds as a general incentive to undertake planning. Rather, the state should set growth management priorities and identify growth management practices that ought to be encouraged. These, then, would shape the strategies for state funding. It should be noted that a strategy in which state funds are conditioned on local growth management practices would be obviously more effective if it goes hand in hand with a strong state agency coordination program.
REGIONAL REVIEW

Summary

Four state planning programs have regional review procedures, a process in which local plans are reviewed at the regional level. Each approach is substantially different. The programs vary in regional review powers, in requirements for the development of regional plans and policies, and in the extent of responsibilities for project and resource reviews and assistance in mediation. The models are not directly applicable to Oregon although they include some elements that merit further examination.

Findings

1. Four state planning programs have made use of existing regional planning commissions and/or councils of governments.

2. In Florida and Maine, the regional councils are advisory to the state in their review of local plans.

3. In Georgia and Vermont, regional councils review and approve local plans.

4. In Georgia, regional plans will be developed in accordance with state standards after local plans are completed. The state plan will be prepared last.

5. Regional Development Councils in Georgia have responsibilities for mediation, review of projects with regional significance, and identification and planning for regionally important resources.

6. In Florida, all regions prepared regional policy plans before the review of local plans began.

7. The development of regional plans is mandated in Vermont, but these are not subject to state approval. Regional policies are mandated in Maine, but the law does not establish state review and approval procedures nor does it prescribe what must be considered.

Recommendation

DLCD should explore alternatives for incorporating a regional perspective in the state planning program. In regions that include more than one urban area, consideration should be given to the creation of regional planning commissions with responsibilities for
cross-acceptance (page 4) of city and county plans, mediation, and review of developments of regional impact. The regional design system concept discussed earlier (page 13) could serve as the rationale for coordination in rural regions.

Background

Georgia. Regional Development Councils (RDC) are the "linchpin" in Georgia's three-tier planning process. The councils were given major responsibilities helping counties and cities meet state requirements.

The RDCs were originally known as Area Planning and Development Commissions. They were formed in the late to mid-1960s, starting out as voluntary consortiums of 7 to 12 local governments. Their primary purpose was to share technical resources such as criminal specialists and transportation planners. They also participated in the A-95 review of federal programs. Initially the boundaries of the commissions were loosely defined, although no counties were bisected. In the early 1970s, Governor Jimmy Carter made readjustments to align the commissions with economic zones.

The State Planning Act of 1988 renamed and restructured the Commissions. The governing body of the Regional Development Councils consist of a "big board" and an executive committee. The big board includes the chief elected official of all counties and cities within the region. This membership requirement ensures that municipalities have access to and responsibility for what is happening within the council. Board membership also includes private sector representatives; each one is selected by a county and the cities within its boundaries. Total membership on the big board ranges from 50 to 100.

The fifteen member RDC executive committee includes five city, five county, and five private sector representatives. This committee is empowered to do everything that the big board can do except approve annual programs and budgets and hire and fire the RDC executive director.

The RDC boundaries are essentially the same as those of the Area Planning and Development Commissions. Some changes have occurred within the Atlanta region where counties that have undergone recent urbanization have been moved from peripheral regions to the Atlanta Regional Commission (which did not receive a name change).

Regional participation in the state planning program is mandatory. According to Mike Gleaton, all of the RDCs are really being cooperative. They want the additional responsibilities and the state is providing resources for undertaking them.
The state issues two contracts to each region which specify duties and responsibilities. The value of the contract ranges from $150,000 to $400,000 based on the population and the number of local governments. The base contract is $75,000 per year. The state program uses about $50,000 of this amount with the remainder to be used for local and regional work programs. The second contract represents supplemental funds to be used for plan review, mediation, and mapping assistance.

Some of the regions provide planning services under contract to member governments. This arrangement now represents a problem, because the RDCs are required by law to review local plans. Many RDCs are now trying to create 2 separate sections within their agency structures in order to have different staff perform the functions of technical assistance and plan review. The state is also training one or two persons in each region to serve as mediator in resolving conflicts associated with the planning process.

Under the Georgia program, regions must comply with local plan review procedures and guidelines. All regions use the same checklist in reviewing plans. Two checklists are actually in use, one for certifying preexisting plans and the other for new plans. Once an RDC has determined that a local plan meets the minimum planning standards, then a local government may adopt the plan as submitted. After the RDC notifies the DCA about the adoption of the plan, the DCA issues a statement indicating that the local government has Qualified Local Government status.

There is some concern that the regional reviews could be too parochial. Planners from each RDC are required to attend a one day session every three months, sponsored by the Department of Community Affairs. At this meeting they discuss new developments in the program. A policy memo series focusing on questions and answers is issued quarterly and receives wide distribution. During the first year of local plan reviews, the state will be conducting a concurrent review as a means of "checking the checkers".

Local plans will be developed over the course of the next five years. In 1992-93, the Department of Community Affairs will develop and issue minimum standards for regional plans. These will then form the basis of the development of regional plans which are to be prepared in 1995-6. The final stage of the process is the development of a state plan.

During the initial development of local plans, the RDCs cannot have mandated policies allowing their disapproval of these plans; they can only have advisory policies. In the future, when local plans are revised, the minimum standards which they must uphold, will be amended to give regional policies some degree of standing. The state law also gives regions the right to require additional planning elements such as a beach access element, but again, this
provision does not come into play in the first round of local plan development.

The RDCs have three other responsibilities that should be noted. They are responsible for mediating interjurisdictional conflicts using a detailed set of procedures adopted in November 1990. Under the Georgia planning act, a government that fails to participate or does not participate in good faith in mediation in appropriate circumstances can lose its "qualified local government" certification. A second set of responsibilities revolves around the designation and review of regionally important resources. This includes a natural and historic resource that extends beyond the boundary of a single jurisdiction or has a value to a broader public constituency. The third responsibility has to do with review procedures for developments of regional impact. Procedures for the second and third responsibilities are still in draft form.

The first local plans will not be certified until September 1991 and it is not known what level of controversy will ensue. Thus it is far too early to assess the effectiveness of Georgia's regional aspects of their state planning program.

Vermont. The Vermont planning system was started in 1970 with the passage of Act 250. This established a regional permitting system in which new developments were measured against 10 environmental criteria. Over time it was realized that the process was missing a planning component. There was a concern with the cumulative impacts of development and in the absence of any planning, it was difficult to address this issue. In 1988 the state legislature passed Act 200 to be used in conjunction with Act 250.

The new law mandates the development of regional plans and state agency plans. The regional plans must conform with state requirements, but these plans are not subject to state approval. The law does not require municipalities to undertake planning. The regional planning commissions are given authority to confirm that a municipality is engaged in a planning process that will lead to adoption of a plan; this confirmation enables the continuation of state funds for planning. The commissions are also authorized to approve local plans. It should be underscored, that the regions act as the "arm" of the state in reviewing and approving local plans.

Vermont has 12 regional planning commissions established between 1965 and 1973. The boundaries were based on a study by the State Planning Office. In most cases, county boundaries are followed, but there are some anomalies. Watersheds, ridgetops, and socio-economic indicators were also considered. Counties have limited authorities other than maintaining courts and sheriff services. The state is divided into towns and a few unincorporated areas. There are 271 jurisdictions.
Municipalities appoint one to two members to the regional planning commission. Generally, each town has one vote. In one region, they have adopted proportional voting.

The design of the planning system places the regions on a pedestal; the state plays a limited role. The state Department of Housing and Community Affairs provides technical assistance only in ways spelled out in the law. The department was required, for example, to develop guidelines for affordable housing and to work with the regions to help them develop their own guidelines. The state has not even developed a regional planning manual. It is felt that there is enough talent at the regional level to do the required tasks. One region has developed a checklist for their own use which is now being used statewide.

The regional planning commissions are required to develop their own plan which meets state goals, includes ten elements, and is compatible with neighboring regions. The first of these plans are due in July 1991 with the remainder to be completed in December 1992. The commissions are currently approving local plans in the absence of new regional plans. They are using preexisting plans that were developed voluntarily under state enabling legislation.

There is a council of regional commissions that reviews and makes comment on regional plans and state agency plans and hears appeals from decisions that regional commissions make on municipal plans. The council has seventeen members. Twelve are municipal representatives to regional planning commissions and five are appointed by the governor.

Art Hogan of the Chittenden Regional Planning Commission views the Vermont planning approach as a user friendly system. The lack of direction from the state underscores the emphasis on a "bottom up" planning approach. Steven Holmes noted that some recently elected state legislators ran on a platform that called for changes in the regional approval mechanism. Hogan cites Vermonters habit of giving things time to work, and he does not foresee any changes in the system.

Maine. In Maine, regional councils are responsible for reviewing the plans of cities, towns, and plantations (towns with home rule). The councils are to look specifically at the existence of regional coordination of shared resources, a required element of the local plan. The councils are also supposed to ensure that local plans address regional policies.

The law does not prescribe regional policies, it is up to the councils to develop them. Towns are held accountable for consistency with regional policies only if the policies are in place. In their absence, the review is limited to the regional coordination.
The regional review is done at the same time as the state review with regional comments being incorporated when they are in agreement with the state's review. In contrast to Vermont, in Maine, the state does the primary review.

There are eleven regions in Maine that are based on riversheds. Sixteen counties are bisected, but their responsibilities are limited to deed registration and law enforcement and they have no planning authority. The regions were created in the late 1960s to facilitate A-95 review. In some cases, the regional councils are councils of governments. Each COG has a different membership structure in accordance with its charter; in all cases, at least half of their members are elected officials. Other regional councils are regional planning commissions. These do not have a required percentage of elected officials. In planning commissions, membership is determined by election among the membership.

Kay Rand has indicated that the regional policies are generally very unspecific and therefore not controversial. She is seeing the need for rethinking the initial policy of a hands off approach. Policy makers need to decide if what has been done so far is good enough for a beginning; there is a concern that some regions will not go any further. The regions tend to be very parochial unless there is a common threat. The biggest threat is state intervention, thus it is dangerous for the state to take a strong hand in setting priorities. At the same time, Rand feels that the regional priorities are very important. Regional planning has not received many accolades; regionalism is seen as a threat. Therefore, regional planning will have to happen slowly.

Kathy Johnson, of the Maine Natural Resources Council, noted that the regional coordination components of the five plans she has looked at so far have tended to be relatively vague. She suggests that there may not be sufficient direction being given to this element. There is also a problem with the timing of plan preparation. Communities are on different time schedules which are based on their growth rate. It is difficult for those who are completing their plans to coordinate efforts with those who have not yet started.

Florida. In Florida, all regions were required to adopt regional policy plans by July 1, 1987. Before adoption, the plans were subjected to a state level review which was coordinated by the governor's office. None of the plans were challenged at that time, but since then amendments have been made.

There are eleven regional councils. Many of them were formed in the 1960s. In 1979/80, they were recognized by statute and were given responsibilities and funding. The membership of each council is 1/3 appointees of the governor and 2/3 local officials.
Counties are required to be members of the councils, municipalities are not required.

According to Ben Starrett, in reviewing local plans, the regional councils have not taken as strong a position on consistency as has the state. Most of the councils have looked at the plan as a whole. In contrast, the state has said if five points are inconsistent, then the plan is rejected. He also noted that local governments are not likely to censure each other. The secretary of the agency is biased against the regional councils and the agency has not made efforts to build bridges with the councils. He would like the councils to serve less as local advocates and more as implementors of the state planning program. He is anticipating 5 to 6,000 plan amendments on an annual basis and is concerned about how his staff of five can manage this workload without a stronger role for the regional councils.

Rick Bernhardt, planning director for the City of Orlando, explains that Orlando's review goes to the state who then sends it to the region. The region's comments are sent to the state and if the state wants to incorporate them, they can do so. This tends to leave the regions out of the process because their input can in effect be ignored. Bernhardt feels that the role of the regional agencies needs to be clarified. This could involve either strengthening or weakening them; what is important is to move away from the ambiguity. He also noted that regional councils do not have self-taxing powers and thus they find it difficult to withstand local political pressures.

The principle features of regional review are summarized in the table below.

<table>
<thead>
<tr>
<th>Weak Counties</th>
<th>Review of Local Plans</th>
<th>Local Plan Approval</th>
<th>Regional Planning Standards Set by State</th>
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<tbody>
<tr>
<td>Florida</td>
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<td>Georgia</td>
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<td>Vermont</td>
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As can be observed, the approaches are very different. Vermont has a "bottom up" planning system with the regions granting local plan approval with little guidance from the state. Georgia is at once both "bottom up" and "top down". The planning sequence is local, regional, and state plans with the state setting the policy context and the regions doing the approvals. Maine's system requires the regional perspective in plan review, but the state maintains local plan approval authority. Likewise, in Florida, the regions are part of the process, but they do not carry significant weight.
While the Oregon planning program needs to strengthen and institutionalize a regional perspective in the planning process, the models followed in Florida, Georgia, Maine, and Vermont are not appropriate here. Oregon does not have in place the statewide system of regional agencies that these states have. This does not preclude the creation of such a system, but it does suggest that Oregon would face a very different set of challenges. Foremost among these would be the need to provide adequate resources to support the system. Also, unlike Vermont, the number of regional agencies would have to be large were each region defined in a way that all the communities within it were interrelated from a planning standpoint.

Nonetheless, Oregon lacks a framework for systematically introducing the regional perspective in multi-jurisdictional regions outside of the Portland area. Even in the Portland area, there is no provision for routine regional review of city and county plan amendments by either Metro or other jurisdictions. In urban regions with a single city, the proposal by the Lane Council of Governments study for designation of a jurisdiction with lead responsibility for growth management would meet this need. However, this would not be enough in places like the Medford area where several cities and the surrounding areas comprise a single urban region. In such areas, consideration should be given to the creation of a regional planning commission. This commission could sponsor and facilitate the cross-acceptance process discussed earlier (page 4). The mediation process that will be used by the Regional Development Councils in Georgia would be an important complement to cross-acceptance. Georgia's ideas for review of developments of regional impact and the identification and planning for regionally important resources are also responsibilities that a regional planning commission could assume.

In conclusion, I recommend that DLCD explore alternatives for incorporating a regional perspective in the state's planning program. Regional coordination should be required where there are multiple jurisdictions that make up a "community of interest" such that the policies and planning of one affects the others. The importance of a regional approach is apparent in urban regions, although the regional design system concept discussed earlier (page 13) could serve as a rationale for coordination in rural regions. In any case, it must be recognized that not everyone would buy into the importance of regionalism and thus it would be necessary to build a constituency for this approach by demonstrating its relevance.
CONCURRENCY

Summary

Concurrency is a concept that has been developed as a key component of the Florida state planning system. At its center is a requirement that, before a development permit may be issued, the local government must ensure that the proposed development will not erode minimum standards the local government sets for levels of service provided by infrastructure facilities. The intent in Florida is to require that public facilities and services needed to support development be available concurrently with the urban service demands brought by the development. Concurrency has the potential to operate as an important component of a growth management program by helping redirect growth to locations serviced by adequate public facilities.

Findings

1. While Florida's concurrency program is too new to judge its effectiveness, in part because Florida communities have up to six years of grandfathered development projects, the officials interviewed believe it is working.

2. Concurrency has potential for addressing the deterioration in livability caused by development with insufficient or substandard urban services.

3. In the absence of an urban containment, concurrency can encourage urban sprawl by directing development to areas with excess capacity.

Recommendation

Concurrency should be examined in more depth for its potential use in Oregon as a means of addressing problems caused by insufficient or substandard urban services and to help direct development to locations with available capacity.

Background

Concurrency is a mechanism for guiding development which is part of the Florida planning system. The legislation requires that public facilities and services needed to support development be available concurrent with the impacts of the development.
Municipalities are required to establish adequate and realistic level of service (LOS) standards for public services and facilities including sanitary sewer, solid waste, drainage, potable water, parks and recreation, roads, and mass transit (where applicable). Florida officials stressed that concurrency is intended to mean more than preserving minimum service levels. LOS standards are one part of a package which also includes an obligation to prepare and carry out capital improvement programs designed to meet the infrastructure needs of new development. The municipality must develop a financially feasible capital improvements plan (on a five year schedule) that enables the local government to achieve and maintain the adopted LOS standards. Before a development permit is issued, the local government must ensure that the adopted LOS standards are maintained.

Most local governments in Florida charge impact fees to subsidize a portion of the infrastructure costs. In many cases, a developer can avoid degradation of local services by providing development specific services. It is less feasible to do this in the case of roads, however, and thus the LOS requirements for the road system tend to be the biggest constraint to development.

It was originally anticipated that some of the costs of infrastructure improvements called for in local concurrency plans would be assisted with state funds to be generated from a tax on services. The governor withdrew support for this tax and it was repealed; alternative sources of funds were not identified. There has been concern that in the absence of funds, concurrency would not work. Furthermore, every community has up to six years of approved projects that have been grandfathered.

Rick Bernhardt, planning director for the City of Orlando, feels that concurrency is working. Bernhardt notes that local governments are using concurrency management systems to "direct development to locations where facilities are either in place, under construction, or programmed to be in place concurrent with the completion of the development." There are serious efforts to make concurrency work because if growth management fails, there is the potential for citizen backlash that could result in significant development restrictions.

Bernhardt suggests that local governments need flexibility in options for financing infrastructure. Local governments in Florida have limited options for raising revenues. It would help considerably if they could make use of sales taxes, gas taxes, or car rental surcharges. Bernhardt also said that many communities are putting forth plans that have a short term perspective that are primarily geared toward getting local officials through their terms. In Orlando, service problems are often created by developments outside of the city's jurisdiction. There is a need for more coordination and a method for conflict resolution. In
Orlando, they are forming a joint county level planning organization with arbitration procedures.

The state is considering a rule that would allow the development of traffic performance districts. This is an area-wide (rather than road by road) approach in which the level of service is based on land use and capital improvements. This is a more flexible system that enables the development of a trip bank.

Ben Starrett also feels that concurrency is working. He does note one of the ironies of concurrency. In the absence of an urban containment program concurrency can actually encourage urban sprawl because developers are going to go to those areas that have excess capacity. To address this problem, he recommends that the levels of service need to be distinctly different in rural versus urban areas. The LOS should be much stricter in areas where development is not desired. This would reduce the excess capacity that can spur development. At the same time, low levels of service and congestion need to be accepted in highly urbanized areas.

Starrett also noted that the LOS standards adopted by a local government have important political ramifications; the willingness to accept low or high services depends on attitudes toward growth. Those communities that want to restrict growth will set high LOS standards which give them the leverage to turn down development proposals. Most communities in Florida, however, are seeking to accommodate growth.

Here in Oregon, Washington County has developed a countywide traffic impact fee program which generates 20 to 25% of the funds that are needed for the development of new capacity over the next fifteen years. The fee is applied countywide on a uniform basis with the cities administering it within their boundaries. This program is not designed to control development as it does not link development approvals with the availability of infrastructure. A funding source is a necessary component of concurrency, however, and Washington County's program could serve as a basis on which this aspect of concurrency could be built.

Concurrency can be used to achieve greater concentration of development to increase the efficiency of infrastructure investments and the density of development in urban areas. For this to happen, however, it is necessary to set high service levels in areas where development is not desired. It is also necessary to ensure that the urban areas have appropriate zoning; consideration needs to be given to mandating minimum densities in order to achieve the most efficient use of the infrastructure.

It is also possible to lower levels of service over time as an inducement to development. In this way concurrency could be used to control the timing and sequence of development.
As a planning and infrastructure management process, concurrency has the potential for addressing the deterioration in livability caused by development with insufficient or substandard urban services. This can be accomplished by programming publicly funded capital improvements and by specifying the standards with which new development must be built. It may also be possible to establish relatively low service levels in a given area as an inducement to growth in order to achieve the density that could support additional public improvements. Concurrency mandates would have little relevance, however, in an area with limited growth pressures.

Concurrency is a concept that definitely merits further consideration if for no other reason than it is a term that is being increasingly used by both planners and policymakers. There appears to be a general understanding at an intuitive level of the intent of concurrency. It needs to be more widely recognized, however, that concurrency, as practiced in Florida, involves a rigorous, defensible planning and management process that clearly establishes who is responsible for infrastructure improvements and when they will be achieved. Concurrency has potential for success in the extent to which it is used to redirect rather than prohibit development.
SUGGESTED PRIORITIES

This survey has examined six features of state land use planning programs that have the potential for application in Oregon. These include cross-acceptance, control of exurban development, state agency coordination, state funding for infrastructure, regional review, and concurrency. Each of these features include innovations that are worthy of further consideration as a means of addressing some of Oregon's growth management challenges.

In considering the recommendations that were made, I would suggest the following priorities.

First--Concurrency is a concept that can be incorporated within individual municipal plans. Its effective implementation calls for coordination which helps legitimize the need for regional reviews and coordination mechanisms such as cross-acceptance. The proper use of concurrency can facilitate the more efficient use of infrastructure by directing growth to locations where capacity exists.

Second--Cross-acceptance and regional coordination share the second priority. They go hand in hand because cross-acceptance can be a tool that enables regional coordination. These approaches would have to be thoughtfully implemented to assure their acceptance and usefulness. Concurrency is a concept that many people intuitively understand; this is not the case with regionalism.

Third--The ideas about a regional design system, point-based planning and degrees of care need a considerable amount of further thought. Unlike the first two priorities they do not represent concepts that are even close to being implementable. Nevertheless, these ideas should be given a relatively high priority simply because they require a challenge to traditional land use control practices and in so doing would draw on the creativity of planners and policy makers.

Fourth--The recommendations about coordination among state agencies get priority four because it is not clear to what extent there is a problem. An assessment of this should not be difficult. If the resources for implementing any of these six concepts are strictly limited, then perhaps state agency coordination should be given first priority because it would probably involve the least amount of effort.

Fifth--State funding for infrastructure is given the lowest priority because until the impacts of Measure 5 are sorted out, it is clear that there will be no state funds available for such a
purpose. Meanwhile it would be valuable to do some thinking about how this approach could be implemented so as to be ready when the state's fiscal situation improves.

One final recommendation is that DLCD continue to monitor the planning programs in other states. There are many innovative ideas that are being tested and in all likelihood new ideas will continue to emerge.
ENDNOTES

1. The Taubman Center for State and Local Government at the Kennedy School of Government is undertaking a five year study of the Florida, Maine and New Jersey planning programs. John DeGrove is also working on an update to his book on land use planning.

2. Floyd Lapp, Director of Bronx Planning Department, New York City, formerly with Tri-State Regional Planning Commission, phone interview December 13, 1990 and personal correspondence.

3. Ibid.


7. Luberoff, ibid.

8. Steven Holmes, Commissioner of Vermont Department of Housing and Community Affairs, phone interview, December 17, 1990.


10. Daniel W. Varin, Associate Director, Rhode Island Department of Administration, Division of Planning, phone interview, December 18, 1990.

11. John Sibley, Special Assistant to Georgia Governor Harris, phone interview, December 21, 1990.