

Local Government

During the 1960's numerous local governments moved to add to zoning ordinances a category for planned unit development or planned community development. These categories escape the traditional restrictions as to lot size, set-backs, side yards, etc., and substitute instead restrictions on overall density for residential classifications within an approved master plan. These new ordinances were virtually essential for community-scale development, providing developers with necessary flexibility in physical planning and streamlining the old cumbersome procedures for zoning approval by tract.

New community developers have in recent years, however, encountered opposition from adherents of the "no growth" or "slow growth" movements. To a local official surveying the chaos of existing growth in his jurisdiction, any new project of large size may arouse fear of more of the same. The projected population at maturity - say 100,000 - somehow makes a greater impact on him than the development period - say 20 years; and in a traditional bedroom jurisdiction it may be difficult to credit the prospect of industrial location relied upon for fiscal balance. Indeed the emotional environmentalist may in any event resist industrial location whatever the consequences.

The tragedy of such attitudes is that they are invariably counterproductive in terms of environmental degradation and fiscal impact. Local government cannot decree an end to the human need for new shelter, employment and services for a mobile and growing

population. Development will occur subject to market forces, and if PUD or RPC zoning is denied, it will occur anyway on a haphazard and incremental basis enforced if necessary by court order. The result will then indeed be more of the same.

It is in the interest of local government to encourage, not discourage, community-scale development. It might in fact be argued that on the fringes of urbanization zoning for urban uses should be conditioned upon adequate development scale and, over time, appropriate balance among use categories. These conditions would force land assembly and assure development balance.

Such an ordinance would undoubtedly require specific state enabling legislation and would even then raise constitutional issues. For the financing of large-scale development is more costly than tract development, and the required scale could be frustrated by holdouts. In other words, the ordinance would very likely lower the value of fringe-area holdings. Nevertheless these objections might be overcome by state enabling legislation providing financing assistance and authorizing the use of eminent domain (under procedural safeguards) against holdouts.

State Government

Whatever land use controls may be exercised over community-scale development by local government, it is now widely believed that state government should become directly involved. Federal legislation is expected to be enacted at the current session of Congress which will encourage and assist states to design and administer a system of land use regulation for community-scale development projects

and surrounding areas. The states may elect to play a role in promulgation or administration of regulations or in review of local decisions. The states might even elect to preempt local zoning jurisdiction.

The American Law Institute is drafting a Model Land Development Code which would establish separate state agencies to (i) issue regulations applicable to local zoning action on large-scale development projects (among other things) and (ii) review appeals from local decisions. Florida has recently enacted legislation based on the current ALI draft, and other states are expected to follow suit.

The most promising vehicle for state involvement in community-scale development is Governor Rockefeller's Urban Development Corporation which now has several new community projects under way and others on the drawing board. UDC has power to assemble land (by eminent domain if necessary), to undertake physical and social master planning (overriding local ordinances if necessary), to develop infrastructure, and to sell land to builders for construction in accordance with the master plan.

The principal advantages of direct state intervention on the UDC model are (i) the ability to tackle projects of special importance to growth policy but doubtful viability by private standards, such as in-town or rural projects, and (ii) the assurance that commitment to quality objectives will not be abandoned by the developer to increase or preserve profits.

There may also be disadvantages. Decision-making in large

government bureaucracies has a tendency to be cumbersome and time-consuming. In the land development process, time is of the essence because of high carrying costs. While New York State's UDC has not appeared to be muscle-bound by bureaucratic procedures, it is still young, and other states may not prove as fortunate.

The Public-Private Partnership

There has been much talk of "creative partnerships" between public agencies and private developers on specific new community projects. The purpose of the joint effort would be to harness the special resources and avoid the drawbacks of each partner. The public agency would make site selection decisions in accordance with growth policy criteria, assure land assembly and undertake master planning. The private developer would refine planning by testing the market, develop infrastructure and sell finished land to builders for construction in accordance with the accepted master plan.

The Tennessee Valley Authority has been exploring such a partnership with the Boeing Company in the context of a proposed new community in a remote location on the banks of the Little Tennessee River. If agreement is reached on such an undertaking, it will be closely watched as a prototype for pooling of public and private resources in the service of both quality and locational objectives of growth policy.

In the context of inner-city new communities, the public partner might well be an agency of local government. Such partnerships are currently being explored in New Orleans and San Antonio.

The Federal Government

The federal new communities assistance programs under the Urban Growth and New Community Development Act of 1970 offer enormous promise that multiple objectives of national policy may be achieved through the encouragement of community structure for growth accommodation.

Both public and private developers are eligible under the 1970 Act for federal guarantees of long-term debt and grants for physical infrastructure and innovative planning. Each of these forms of assistance responds to a specific economic problem inherent in community-scale land development: the high cost of essential long-term financing, of front-end physical improvements and of testing innovative concepts.

In exchange for this assistance, the developer becomes contractually bound to a development plan specifying detailed requirements in each year of development as to the location, character and pace of residential, commercial and industrial development, the mix of housing by type and price range and by owner or rental occupancy, and the phasing and standards for circulation systems, utilities, open space and educational and other public facilities. The plan also embodies detailed commitments by the developer as to environmental quality controls, cultural programs, health services, governance and resident involvement, project management, relations with local government and participation by local contractors. An affirmative action program assures that housing, employment and business enterprise within the community

will be actively promoted for the benefit of all, without discrimination based on race, color, religion, sex or national origin.

By the end of 1972, 14 projects had been approved as eligible for federal new community assistance. Because of the lead time required for site planning and infrastructure development before structural building can be begun, it is still too early to evaluate performance in terms of growth policy objectives. But if the contractual undertakings of the development plans are observed, major new quality standards will be set for land development in the market areas of approved projects.

The sweeping nature of this change in standards is underlined by the fact that most of the subject matter in federally approved development plans has not traditionally been considered a concern of the land developer at all.

Some observers have in fact warned against heaping the program with a wide variety of public objectives for which the available financial assistance is not commensurate. They urge that the bureaucratic tendency to add new public burdens to each new project be moderated in the interest of retaining within the program developers who have the financial capacity to go it alone though at smaller scale. It is precisely that smaller scale which the program seeks to discourage.

These observations are particularly relevant in the context of the severely limited financial resources which the Administration has committed to the new communities programs. The record of federal new communities assistance has been disappointing in several respects,

most of which may be traced to the penny-wise philosophy of the Office of Management and Budget.

Locational Objectives: No Incentives for the Public Sector

First, the federal programs have not stimulated establishment by state or local government of development agencies with a special mandate to pursue the locational as well as quality objectives of growth policy. Two of the fourteen approved projects are being developed by the New York State Urban Development Corporation, but both UDC and its projects were born, before the new communities programs, entirely as a consequence of enlightened initiatives by pioneering state government.

A principal reason for failure of the states and localities to act has been the lack of incentive to public developers offered by the principal form of federal assistance: the guarantee of long-term debt. Because tax-exempt interest rates (which must be waived to obtain guarantee assistance) are lower than federally guaranteed rates, the interest differential gap must be closed by a direct grant in order to stimulate the creation of public development agencies for community-scale projects.

Congress authorized such a grant program, but the Administration has never permitted it to be funded. The reasons for this action are unclear because studies indicate that the increased tax revenue from waiver of the tax exemption for interest on guaranteed bonds would equal or exceed budget outlays for the interest differential grants. In other words, this is that rarest of federal grant programs: not only does it achieve objectives of

public policy but it actually saves money for the public treasury in the process.

It is clear that in the absence of direct participation by public developers in community-scale development of land, the potential contributions of new communities to the locational objectives of national growth policy will never be adequately tested or realized. Of the 14 approved projects, only two have inner city locations (Cedar Riverside in Minneapolis and UDC's Welfare Island in New York City) and only one has a remote rural location (Soul City, North Carolina).

Quality Objectives: Stunted Administration

Second, while the absence of incentive for public developers inhibits realization of locational objectives, the full new community potential for realization of quality objectives of growth policy has been inhibited by wholly inadequate staffing for administration of the federal programs.

The new communities staff at the end of 1972 had more than 50 project proposals or applications under review. The complex nature of the program requires that each project be closely evaluated by numerous specialists and that the contracts for approved projects be negotiated on a custom-crafted basis. Disciplines required on the staff include physical planning, architecture, environmental engineering, social planning, land appraisal, cost engineering, market analysis, finance, accounting and legal skills. The new communities program has never been decentralized to regional or area offices, primarily because of this complexity; yet budget

restraints at the Washington office of the Department of Housing and Urban Development have never permitted the combined professional and clerical staff to exceed 35 people.

This staff cannot possibly do justice to the large volume of pending projects, many of which will obviously be forced to stand in line for 1 to 2 years at present staffing levels. Because of the importance of timing in land development, those in line who can afford to go it alone will do so, to the great detriment of the growth objectives served by new communities.

The attitude of the Administration on staffing is difficult to understand, since the new communities guarantee program shows excellent money-making potential from its substantial fees and charges pegged to commercial rates. Developers pay HUD in excess of 1% per annum of the principal amount guaranteed. The guarantee of \$50 million for a single project over an average term of 20 years yields more than \$10 million in fees to the government. In these circumstances, a few extra dollars for salaries of new staff members sounds like a good business investment.

Yet due to inadequate staffing, a loss of developer confidence now poses a serious threat to program credibility. Unless the current staff is doubled immediately with authority for recruitment outside HUD, the promise of a revolution in quality standards of land development throughout the country will be lost.

The Poverty of Innovation

Third, the few projects approved for federal assistance are disappointing in terms of the testing or demonstration of innovative

features.

The basic reason for this is that, prior to commitment on permanent financing, developers regard the cost of planning for untried innovative features as a prohibitive luxury. Substantial outlays for control of land and basic "seed" planning are required during this early period when financing for the project is still uncertain. The developer will always attempt to hold early planning costs to bare essentials.

Yet for the most part the momentum of planning forecloses community-scale innovation unless it is initiated in this early period.

Recognizing this dilemma, Congress established a program of planning grants and loans for innovation in new communities designed to supply funds during the early planning process which yields a full application for guarantee assistance. For the 1972 fiscal year, Congress, acting without an Administration request, appropriated \$5 million for the program of innovative planning assistance; but even this tiny appropriation was impounded by the Office of Management and Budget. The opportunity of using initial new community projects to advance substantially the state of the art of community building was thrown away.

Reassessment of Government Support

There are nevertheless signs that the Administration is reassessing the support merited by the new communities programs. Before departing, HUD Secretary George Romney cited new community assistance as one of the two or three major areas of accomplishment

during his four years with the Administration. More revealing, the new communities programs are virtually the only HUD programs for which prior levels of activity will be continued during the eighteen months commencing in January 1973. While, as indicated above, funding levels are inadequate to assure achievement of potential growth policy objectives, the Administration, by failing to suspend or eliminate the programs altogether, has at least indicated a willingness to proceed with its cautious evaluation of federal assistance to balanced community-scale land development.

There are good reasons to expect that the evaluation will be positive and that government at all levels will recognize the need to bring community structure to the accommodation of growth. This will occur when Sam and Sally conclude that there is no issue of greater importance to them than improvement of the physical and social environment in which they live; that while preservation of the wilderness deserves the attention it receives, rescuing the quality of the environment in which they live might deserve even more. When this happens, it is in the nature of democratic government to be responsive.

If there is anything worse, after all, than being without a country, it is being without a community.

There breathes now not a man but a suburban generation to whom it would never occur to say: this is my own, my native town. The total energy of this generation is consumed in getting from one look-alike corner of metropolis to another. It is a generation raised among look-alike structures and look-alike people with look-alike

problems. The trouble is that those other problems of those other people probably can't be avoided for more than a generation before they forcefully become the problems of everyone's children.

Eventually it will become evident at all levels of government that communities are healthier not only for growing children but also for growing counties, growing states and growing nations.