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The Role of the State in Idaho Land Use Planning

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INTRODUCTION

Prior to the recession of 2009-10, Idaho was the sixth fastest growing state by population in the country. Even as the economic downturn reduces the pressures of growth, Idaho's diverse cities and counties continue strive for thoughtful planning that will reflect their community values and needs.

This White Paper will examine the role of the state in local land use planning by (1) comparing Idaho's structure to those of states with a more pronounced role in land use planning and (2) discussing the attitudes of Idaho city officials, planners and members of the real estate and development communities about the potential role of the state in Idaho's local land use planning processes.



STATE GROWTH MANAGEMENT LAWS:

Most states have some requirement for local governments to conduct land use planning. The role of the state in local land use planning regulation has expanded greatly throughout the 20th century. Some scholars have traced the history of state growth management laws through four phases¹:

- The “Quiet Revolution 1960-1969” that mostly focused on single-purpose environmental mandates such as the protection of shorelines and utilized the Model Land Development Code that classified land uses as a model.
- The “Second Wave 1980-1988” of state growth management laws focused on public facilities planning and financing as concerns mounted over controlling sprawl.
- The “Third Wave 1989-1997” of state growth management laws emphasized intergovernmental coordination and on monitoring and evaluating the planning efforts of local governments. These state laws also emphasized providing technical assistance to local governments.
- The “Fourth Wave 1997-Present” that focuses on “Smart Growth” that emphasizes curbing sprawl and promoting livable communities.

Each state’s growth management law is different, but they “commonly require or encourage local governments, and frequently regional and state agencies, to prepare plans that conform to state goals and policies.”² State growth management laws are a form of recognition of the need “to guide development more effectively than local governments can achieve through their individual actions.”³ Oregon and Washington, two of Idaho’s neighboring states, have enacted comprehensive state-level growth management laws. These two states’ growth management laws share the common goals of: containing development within defined urban areas; protecting certain types of land such as agricultural, timbered, or environmentally sensitive areas; and expanding infrastructure to meet development.⁴ Both of these laws authorize some new revenue sources such as developer impact fees. And, most require certain acts of compliance, such as planning at the local level and, in some cases, planning on regional levels.

State growth management laws are not without their challengers.⁵ In 2004, 61 percent of voters in Oregon approved Measure 37, designed to compensate landowners for loss of property value caused by local land use regulation that prevented development: the potential impact of this measure on local government budgets was feared to be enormous. In response, local planning faced serious setbacks as cash-strapped governments allowed previously unwanted development to proceed in order to avoid monetary compensation to land owners.

¹ These phases and their descriptions draw heavily upon Jerry Weitz, “From Quiet Revolution to Smart Growth: State Growth Management Programs, 1960 to 1999” *Journal of Planning Literature* (Vol. 14, No. 2, 1999), pp. 266-337.

² Douglas R. Porter, “State Growth Management: The Intergovernmental Experiment,” *Pace Law Review* (Vol. 13, No. 2, 1993) p.482.

³ Douglas R. Porter, *Managing Growth in America’s Communities* (Washington, DC: Island Press, 1997), p. 255.

⁴ James B. Weatherby and Stephanie L. Witt, *The Urban West Revisited* (Boise, ID: Boise State University Metropolitan Research Series, forthcoming).

⁵ This paragraph is taken from Weatherby and Witt, forthcoming.

To some, state growth management laws represent a loss of local autonomy to the extent that they impose a set of decision making rules on local governments, or in some cases dictate the content of local decisions about growth and local land uses.⁶ State growth management legislation can indeed represent a serious limitation on the powers of cities to make land use decisions as they wish. On the other hand, these laws can also offer cities new authority to shape their physical size, level of service provision, and quality of life. As John DeGrove, a leading scholar in growth management notes, “properly defined, the state acts are neither pro-growth or anti-growth. They represent a deep state commitment to securing an equitable and reasonable ‘fit’ between major objectives [development versus protection of natural systems].”⁷

The state of Idaho has a state law directed at local land use planning, the Idaho Local Land Use Planning Act (ILLUPA). Idaho’s Local Land Use Planning Act (ILLUPA), found in Idaho Code Title 67 Chapter 65, was enacted in 1975. The act sets forth thirteen duties for local comprehensive planning in the areas of: property rights; population; school facilities and transportation; economic development; land use classification; natural resource assessment; hazardous areas; public services, facilities and utilities; transportation; recreation; special areas; housing conditions and community design.

While the ILLUPA requires Idaho cities and counties to develop comprehensive plans and zoning ordinances, the act offers limited direction as to how its thirteen duties should be met. Unlike many states, Idaho does not have a state agency to ensure local implementation of comprehensive planning requirements or to provide technical assistance with local governmental planning.

As urban areas expand in rural states like Idaho, those lands traditionally used for farming, forested lands and fragile watershed areas are developed for housing and service uses. These competing needs raise two important questions: Are Idaho’s local governments prepared to conduct the type of land use planning that will appropriately balance demands for development against protection of certain land uses?: and, should Idaho investigate a more assertive role for the state in the development of local land use plans? To inform the discussion of these questions, results from a statewide survey of local officials, planners and development community representatives are presented below.

How the survey was conducted:

In 2009 Idaho Smart Growth facilitated the formation and fundraising for this study and contracted with Boise State University’s Public Policy Center to plan, develop, and implement a statewide survey of land use planning

⁶ Porter, “State Growth Management”

⁷ John DeGrove, “Why States Should Manage Growth,” in Douglas R. Porter, *Managing Growth in America’s Communities* (Washington, DC: Island Press, 1997), p. 246.

practitioners and stakeholders and to conduct focus groups throughout the state with these entities. Their purpose was to benchmark opinions surrounding the current state of land use planning in Idaho.

The study investigated the current state of land use planning as well as the efficacy and sufficiency of the Idaho Local Land Use Planning Act (ILLUPA) and county and city comprehensive plans and ordinances. This research examined perceptions and attitudes about the planning process, including current and potential areas of collaboration, and the tools and obstacles relevant to meeting community needs. The details of this research can be found by accessing the full report at: <http://sspa.boisestate.edu/publicpolicycenter/publications>.

FINDINGS FROM THE STUDY: ATTITUDES ARE MIXED ABOUT A GREATER ROLE IN LOCAL LAND USE PLANNING FOR THE STATE.

Survey findings are mixed:

Results from the survey indicate that the respondents were nearly evenly split in response to questions related to an increased role for state government in local land use planning.

- Survey respondents were evenly divided (40%/46%) on state government taking a more active role in planning, and on whether or not policies should be set in state statute for growth management (44%/40%).
- 41% of respondents agreed that the state should sanction communities that do not fulfill the responsibilities of ILLUPA (25% disagreed with this statement).
- When asked about a technical component of the planning process administered by the state, 29% of respondents agree that the Attorney General's regulatory takings checklist is adequate: this may indicate a low level of awareness or lack of understanding about the checklist as a tool since 58% of respondents said they were either neutral or "didn't know" about the adequacy of the regulatory takings checklist.
- Slightly less than half of respondents (48 and 46% respectively) agreed that ILLUPA provides clear procedures for the process of adoption of the comprehensive plan and zoning codes.

For the following statements, please select the answer that most closely fits your experience.	Agree	Neither Agree nor Disagree	Disagree	Don't Know	# of responses
ILLUPA provides clear procedures for the process of adoption of the comprehensive plan .	48%	19%	10%	23%	227
ILLUPA provides clear procedures for the process of adoption of zoning and codes to implement the comprehensive plan.	46%	18%	13%	23%	226
The attorney general's regulatory takings checklist is adequate.	29%	32%	12%	26%	229
The planning process allows for collaboration with state agencies and other local agencies.	50%	21%	24%	5%	230
State statute should set policies regarding growth management	44%	15%	46%	2%	240
The state should enact sanctions for communities that do not fulfill the responsibilities outlined in ILLUPA.	41%	28%	25%	5%	230
State government should play a more active role in guiding community growth.	40%	12%	46%	2%	240

Focus group participants more likely to want state level involvement:

Focus group participants, on the other hand, expressed interest in increased state involvement in local government planning. Some participants commented on the need for a state agency or board that would provide oversight for local planning and facilitate collaboration across jurisdictions. Many comments focused on the need for a local option tax and increased state resources to fund staff and technical support for planning. Participants noted the gaps between current comprehensive plan activities, and the funding and data needed for future planning, especially in regard to infrastructure.

Along with the many ways that multiple state administrative jurisdictions increase the complexity of planning, focus group participants discussed inconsistencies in the way that various state agencies approach the planning process and implement planning laws. Participants noted that the territoriality of local jurisdictions made regional approaches to planning difficult, while the need for increased coordination was a frequent theme. Participants observed that these are all needs that might be addressed by the presence of a state agency tasked with administering and coordinating local land use planning.

MANY LOCAL GOVERNMENTS LACK THE CAPACITY TO DO LAND USE PLANNING EFFECTIVELY IN IDAHO

Survey Findings:

The survey asked several questions related to the capacity of local governments to conduct the business of local land use planning.

- 49% of respondents disagreed with the statement that the level of technical information available for land use planning is sufficient.
- A majority of respondents, 54-58% believe that costs associated with developing and implementing the comprehensive plan are not adequately covered.
- Only 28% of respondents, however, agreed that the comprehensive plan is a burden for a community to develop (54% disagreed).

Table Two: Local Capacity for Local Land Use Planning:

For the following statements, please select the answer that most closely fits your experience.	Agree	Neither Agree nor Disagree	Disagree	Don't Know	# of responses
The comprehensive plan is a burden for a community to develop.	28%	15%	54%	3%	242
The level of technical information available for land use planning is sufficient.	23%	23%	49%	4%	243
The computer hardware and software to map land use and planning decision is sufficient.	38%	18%	33%	11%	240
Costs associated with developing comprehensive plans are adequately covered.	13%	20%	54%	13%	241
Costs associated with implementation of the comprehensive plan are adequately covered.	11%	18%	58%	13%	240
Costs associated with development applications are adequately covered.	28%	22%	41%	10%	239

Focus group participants recognize need for more resources for rural land use planning

Focus group participants appeared to perceive the realities and capacities of urban and rural governments differently in regard to planning. A frequent comment from focus group participants was that rural communities do not have adequate staffing and resources to plan effectively, and those differences between urban and rural resource protection are often ignored. Often cited was the need for education and training for all participants in the planning process (elected officials, developers, rural planners, the public, Universities, etc.) to help rural communities develop planning resources.

CONCLUSIONS FROM THE STUDY:

- Support for an increased state role in local land use planning in Idaho appears to be mixed. Survey respondents and focus group participants seemed most clear on their desire for an increased level of technical assistance, financial assistance and coordination of state agencies directed toward local land use planning, and less clear on supporting an increased regulatory role for the state.
- In the absence of a state agency tasked with overseeing implementation of the state land use law (ILLUPA), there is no public entity to provide this support across local governments. The Association of Idaho Cities has stepped in to provide a series of trainings on land use planning, and Sage Community Resources has been working with some municipalities in their area to increase access to trained planners, but the coverage across the state may be incomplete.
- When Idaho communities once again face rapid rates of population growth, pressures on Idaho's valuable agricultural land and natural resources will increase. Effective land use planning will play a critical role in shaping the design of our built environments and preserving the quality of life Idahoans have come to rely upon.
- Policy makers in Idaho will need to evaluate the pros and cons of leaving this critical function entirely to local governments or recognize an increased role for state government in guiding, supporting and regulating local planning.



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