

LAND USE AND PLANNING TOOLS

There are several regulatory and non-regulatory tools that can be used by municipalities and towns to guide new development in patterns consistent with local and regional design, natural resource protection, and economic development considerations. Several important federal and state regulations provide guidance for state and local regulatory initiatives to protect the quality of life of communities. The Clean Water Act, the Safe Drinking Water Act and the Coastal Zone Management Act are just a few. Additionally, local regulations, such as zoning and subdivision control, that address overall community concerns are strengthened by the presence of livability objectives in the comprehensive plan. The planning tools and techniques that are outlined in this section will enable communities to put into practice sound land use and community design principles.

These tools are divided into those that are required by the State of Connecticut, those that can be initiated and upheld by towns and those whose specific function is to enable development and conservation.

State Planning Document Requirements

The State of Connecticut requires that each municipality have three documents that govern development: a plan of conservation and development, zoning regulations and subdivision regulations.

Tool	Description
Plan of Conservation and Development	outlines town's development and conservation policies
Zoning Regulations	controls land uses
Subdivision Regulations	controls how land is developed

Plan of Conservation and Development

A plan of conservation and development is a planning document that identifies community goals and is an overall guide for a town's physical development. The plan should increase a municipality's understanding of its development capabilities and limitations and help officials determine the impact of specific development proposals on its long-term goals and vision. By stating the immediate and long-range growth and development goals of the town, the plan provides the guiding framework for writing and revising zoning and growth control laws, and, if need be, defending them in court. It is important to remember that the plan of development is not a legally binding document. For this reason, local zoning regulations need to be consistent with the comprehensive plan in order to implement the plan's objectives. A plan of development should also identify an action program or specific steps the municipality intends to take toward realizing the plan's vision. These actions can include regulatory, non-regulatory and capital programs.

Zoning Regulations

The most widely used and legally binding local mechanism to shape the form and location of future development is a town's zoning regulations. Zoning regulations consist of zoning text, also known as an ordinance, and a zoning map. While zoning ordinances are simply a set of rules,

zoning maps illustrate the types of land use that exist and are allowed, such as residential, commercial, institutional, industrial, recreational, etc. Zoning is a fundamental community design tool for shaping the pattern and scale of growth. It can be used alone or along with other land use regulatory tools to encourage development in particular areas while conserving others. In its most basic form, zoning laws and ordinances are employed to separate incompatible land uses from one another and to designate appropriate districts in which uses are permitted by right. One of the fundamental uses of zoning is to control lot size, density of development and setbacks from the edges of a property lot.

In updating conservation and development plans, towns should reassess existing zoning ordinances and adopt those that support more sustainable land use and incorporate community design principles. Establishing zoning that is consistent with the intent of the plan is a key step toward effectively implementing goals.

Subdivision Regulations

Subdivision regulations differ from zoning in that they do not control the use of land, but rather how it is developed. The primary purpose of regulating subdivision of land is to ensure that building lots are accessible, able to support necessary wastewater facilities and are otherwise suitable for development. The intent is to protect the future buyer by preventing the creation of unbuildable lots and to protect the public from environmental and health consequences resulting from improper development of subdivided land.

Cluster subdivision regulations are often implemented to resolve the problems created by conventional subdivision practices such as uniformity, high development costs and maintenance, and the pressure to develop environmentally sensitive stream and wetland areas. Standard zoning for cluster subdivisions allows the same number of homes on smaller lots, providing flexibility in design and reducing development and maintenance costs. Environmentally sensitive areas are set aside as communal conservation land, thus providing private space around each house and greatly enhancing the beauty, sense of community, and livability of the development.

Local Initiatives

There are also a variety of statutes that can be initiated and maintained by towns that will assist in its preservation and growth.

Tools	Description
Town Plan and Site Plan Review	siting review for appropriateness to town's objectives and context
Design Review Process	review for impact on character of town
Overlay Zones	special zone outlining a significant resource, the zone is overlaid on existing zoning districts.
Consistency Requirements	requires zoning and plan to be consistent
Interlocal Agreements	cross-municipal agreement to protect larger resources
Adequate Public Facilities	requires infrastructure demands be met by developers

Town Plan Review and Site Plan Review

Towns should adopt site plan review, roadway layout, and other siting guidelines designed to produce new subdivisions and commercial development that “fit” the character of existing development in the community. Dimensional requirements, building height and bulk, form and materials, signage and other features of new development should closely match the traditional patterns of compact communities.

A municipality may require site plans to be submitted as part of the development review process. This requirement is usually incorporated into local zoning codes. It is common for these codes to require applicants to submit detailed plans for proposed land uses that require special permits. The site plan review process allows a planning board to review aspects of a plan related to drainage, vegetative clearing, wastewater treatment system design and location, the location and characteristics of roads and structures, the protection of significant natural features, traffic safety, landscaping, architecture and a variety of environmental concerns. A site plan review requirement can also include provisions that protect wetland and steep slopes and control erosion and sedimentation to protect a watershed area. Site plan

approval can become a condition of zoning approval or other local permit acceptance.

Design Review

The design review process is a means by which a town can determine whether a specific proposed project is in line with a town's plan and design guidelines that define the appearance and govern the character of the local environment. More specifically, a design review allows communities to protect and maintain their town's character. A design review should look at several aspects of any proposed project in relation to the rest of the town. Factors such as street patterns and widths, building alignment and entrances, alleys and parking, sidewalks and porches, as well as fences, walls and landscaping can be part of a design review. Further considerations may include: signage, lighting, windows, roof types and building materials. A well-structured design review process, directed by guidelines and explicit design principles, can be an effective way of ensuring that local character is preserved and that new developments will uphold higher design standards that will enhance a community's appearance, character and uniqueness.

Overlay Zones

Aside from designating districts or zones for particular groups or types of uses, zoning regulation can identify important natural or community resources within the town that need specific protection beyond what is provided in the conditions on locations and types of allowed uses. Overlay zones, such as a water resources overlay, can specify that new development must not be sited within a set distance from streams, ponds, or wetlands. Certain uses, including those that require the use or storage of hazardous materials, also may not be allowed within the overlay zone and certain activities, such as draining of wetlands, will not be permitted. Overlay zones can be applied as well to other areas with unique natural features such as steep slopes or poor soils. Overlay zones may also be applied over commercial or dense residential areas allowing for mixed uses like housing above ground floor commercial. Overlay zones must be identified by distinct boundaries and be included on the town's zoning map.

Consistency Requirement

The consistency requirement, required by state law but rarely adhered to, is a vital tool in regulating new development and protecting natural assets such as open spaces, wetlands, and recreational spaces. By ensuring that zoning codes are consistent with the town's plan of development, a town can prevent a developer from violating the intentions of the plan. In court it is the zoning—not the town plan—that will be used to settle a development dispute. Without consistency between the two documents it is more likely that developers will adhere to the minimum requirements of the zoning codes rather than a community's vision outlined in the town's plan. By requiring the zoning code and the plan to be in agreement and by using other tools of site and design review, the community can more effectively guide development to fulfill its desired vision.

Inter-Municipal Agreements

There are times when an issue or problem crosses town boundaries. Coordinated inter-municipal planning for cross-jurisdictional issues allows for better community design and economic development. Sharing financial and technical resources, such as forming joint planning boards or a "council of governments," ensures that there is more cooperation and consistency in planning decisions across adjacent towns. Sharing resources may also be the most cost-effective approach. An inter-municipal partnership can encourage development in some areas and discourage it from other, environmentally sensitive, areas. In this way, communities can potentially achieve more than they can by going it alone. Through inter-municipal agreements, towns and villages can work with one another to develop plans and work cooperatively to implement them.

A frequently encountered situation where inter-municipal planning is particularly effective is in the case of rivers, streams, and watersheds, which often do not fit neatly within political boundaries. Activities in one part of the watershed can affect water quality downstream. Preservation of water quality and water resources needs to be viewed by connected municipalities as a single unit. Agreements should be made to guide its development as a whole rather than in individual pieces. Inter-municipal planning in the watershed can take numerous forms, but most important is the coordination of local actions and programs to

achieve common, inter-municipal goals. Coordination may be achieved through joint development of goals, as well as integrated strategies of implementation.

Adequate Public Facilities by Law

This is a mandate that requires that the capacities of public utilities and agencies be assessed. Facilities may include water supply, sewage, roads, schools, fire and police protection, and transportation, as well as recreation and open space. Although Connecticut has not established a uniform set of standards for this method, it can be used effectively to channel growth by creating incentives to develop on land already served by existing infrastructure. Generally part of a capital improvement program, it ensures that improvement needs of new development are consistent with the overall needs of the town at large. In this way, new developments are better integrated into the existing town.

It is important to remember that *Adequate Public Facilities by Law* is a tool for managing growth and an important factor for any and all growth considerations. Of foremost importance among those facilities to be examined are the sewage and wastewater treatment facilities. Any consideration of future density must include a realistic look at the ability of higher density developments to accommodate sewage and wastewater treatment, either through the inception of a centralized wastewater treatment facility or properly sited septic systems. In both cases, there is a financial and environmental cost that must be assessed and accounted for in the capital facilities section of the conservation and development plan.

Development and Conservation Tools

This section describes tools available at the town, state and federal levels that are specific to stimulating appropriate growth and preserving open space. Each of the tools outlined in this chapter provide powerful means of regulating and shaping the growth of your community. It is necessary to assess them for their potential value to the town with respect to the goals identified and to fully understand the impact of those selected on its long-range vision.

Tools	Description
Open Space Zoning	provision requiring clustering of development while setting aside permanent open space
Purchase of Development Rights	purchase a conservation easement to protect farmland from development
Fees in Lieu of Open Space	requires a percentage of open space or payment for its absence
Transfer of Development Rights	allows development options from more sensitive to less sensitive areas.
Urban Growth Boundary	mapped line dividing development areas and protected areas
Neighborhood Revitalization Zones	neighborhood designated areas targeted for growth with special incentives attached
Enterprise Zones	state designated zones established to promote growth in a specific area
Specific Site Use Plan	details conditions for use of a particular site
Greenways Legislation	protects and creates open space corridors
Recreation and Natural Heritage Trust Fund	state administered tool of land acquisition to preserve open space
Critical Environmental Areas	areas defined as sensitive to protect them from unregulated development
Environmental Overlay District	protected areas that contain resource areas
Wetlands Protection	areas defined as wetlands are protected from development
Coastal Areas Management	regulates development and ownership of coast line
Ridgeline Overlays	specific areas designated and preserved from destructive development
Protected Rivers Legislation	state administered tool to preserve river corridors
Multiple Use Rivers	a plan of development that reconciles disparate uses of river corridors

Open Space Zoning

Open Space Zoning provisions require clustering of development on that portion of a site most suitable for development, while permanently protecting land to be used for agriculture, resource protection or recreation. This technique can be employed town-wide or only in designated overlay districts (in areas containing farmland, for example). It is distinguished from traditional cluster regulations in that it generally requires that clustered units be single family, detached units on individual, albeit clustered, lots. This is an important distinction. In most rural and exurban towns, attached wall townhouses are not welcome, either by the community or the housing market.

Purchase of Development Rights (PDR)

Purchase of Development Rights is a technique in which state or local authorities buy a conservation easement on farmland or undeveloped open space to protect the land from development and preserve it as open space or as a working farm. This technique is most often applied to save farmland and keep the farmer in business. Those concerned with farmland preservation know that it is not enough to be concerned with saving farmland—you need to save the farmer, too. Land will only stay in agricultural production if it is economically viable for the farmer.

While PDR is an expensive technique, this strategy ensures that agricultural land will stay in production indefinitely while giving the farmer funds that are often converted back into capital improvements on the farm itself. Connecticut has an active PDR program. As of 1995, Connecticut has protected 24,250 acres on 161 farms.⁴

Fees in Lieu of Open Space

Another technique for preserving open space, particularly in subdivisions, is the optional requirement that developers dedicate open space as a condition of subdivision approval. In some instances it is possible for the developer to pay a fee instead of providing open space. However, this is only allowed in cases where the subdivision residents are to be the beneficiaries of the payment.

⁴ A Region at Risk: The Third Regional Plan, New York: Regional Plan Association, Island Press, 1996, p. 107.

Transfer of Development Rights (TDR)

This is a sophisticated method of directing new growth away from environmentally sensitive, historic, agricultural, or open space areas. Within a TDR program, areas to be protected from further development, “sending areas,” and areas better suited for increased development, “receiving areas,” are identified. New development would be directed into the receiving zones using development credits that are purchased from landowners in the sending zones, thereby compensating them for the development value of their land.

Urban Growth Boundaries

In most industrialized countries, development is directed into or adjoins already developed villages, towns or city centers. This developable area can be circumscribed by an “urban growth boundary,” outside of which development is prohibited or allowed only subject to stringent environmental or visual performance standards. This technique was mandated in Oregon in the early 1970s, and, more recently, Maine adopted a similar provision as part of its state growth management act. This is one of the most effective means to maintain compact, efficient patterns of development, and to preserve open space and natural resource areas. Oregon’s experience has demonstrated that urban growth boundaries can actually increase opportunities for higher density (hence more affordable housing and industrial development).

Neighborhood Revitalization Zones

Neighborhood revitalization zones are designed to promote growth in a specific area. These are areas that can be established in a town plan as areas where growth would be advantageous and beneficial. Often incentives are offered to developers to attract housing and commercial development in established revitalization zones.⁵

⁵ State of Connecticut Office of Policy and Management, Hartford, Connecticut.

Enterprise Zones

Enterprise zones are particularly useful in areas where growth is to be stimulated. While neighborhood revitalization zones are defined by the community, enterprise zones are designated by the state and administered by the Department of Economic and Community Development. The intent of enterprise zones is make it attractive for manufacturers and certain service sector firms already located in an enterprise zone to reinvest in that area and to attract new eligible business to stimulate job creation in those communities. Businesses that do invest there are eligible for a series of tax credits, tax abatements and other incentives designed to promote growth in these specific areas.⁶

Specific Site Use Plan

A specific plan is a more explicit regulatory tool that outlines development criteria and imposes detailed land use controls in addition to the existing zoning ordinances. It is often adopted to address either a single project, such as a planned unit development, or a local area with special characteristics that need to be considered. The benefit of creating a specific plan is that it explicitly states a town's goals for land use for a particular sub-area. And, by significantly decreasing the development time and costs for the developer, it becomes more likely that these areas will attract types of projects desired by the local community. This tool can be particularly effective in cases of in-fill sites by involving the local community beforehand in the decision-making process concerning what conditions would need to be met by an in-fill project. This would place the community in a proactive rather than reactive position.⁷

⁶ *ibid.*

⁷ Building Sustainable Communities, An Environmental Guide for Local Government, Center for the Study of Law and Politics, San Francisco, May 1993, p.39-42.

Greenways Legislation

In Connecticut, citizens groups, state agencies and public commissions are planning, funding and creating greenways. Protected corridors of open space can provide for the free flow of people, water, and wildlife—benefits that isolated tracts of land cannot provide. Greenways can be trails, scenic roads, and bikeways for recreation and for travel between destinations. Greenways multiply the value of existing public parks by linking them to a larger network of open spaces. They can also make open space accessible to commercial districts and neighborhoods and help communities shape development by defining corridors of open space that should be protected. Greenways legislation allows greenways to be included in a town's plan of development, permits local conservation commissions to recommend greenways plans, and adds "conservation" to the title of future town plans of development.

The Greenways legislation establishes a greenway capital grant program administered by the Department of Environmental Protection (DEP). Grants may be used to provide matching funds to develop greenways, including those supported by the federal Intermodal Surface Transportation Efficiency Act (ISTEA). Grants may be made for up to 20% for projects that are part of an interstate transportation greenway, such as the East Coast Greenway, up to 10% for an inter-town transportation greenway. For greenways that are not transportation related, grants may be made for up to 50% of project costs.

Legislation also establishes a greenways small grant program to be administered by the commissioner of DEP. The grants, not to exceed \$5,000, may be given to municipalities, towns, councils of governments, councils of elected officials, or non-governmental organizations to plan and implement greenways projects. Grants can also be issued by the Commissioner of Economic Development from the Restoration of Historic Assets Fund.

Making a greenways network a reality will mean building on the local grassroots efforts. Connecticut is helping to foster a statewide greenways network by inventorying local efforts and by providing technical assistance to community-based organizations undertaking these projects. Good examples of places where towns have come

together to establish greenways include the proposed Housatonic Riverbelt Greenway, the Farmington Canal Greenway and the proposed Merritt Parkway Trail. The state has recently created a permanent Greenway Council and authorized small capital and planning grant programs. More importantly, the legislation creating these programs mandates that locally designated greenways be recognized by state agencies in their planning policies.

Recreation and Natural Heritage Trust Fund (state land acquisition program)

This program is a state administered tool to provide grants for the acquisition of the easements and land needed to preserve open space by leveraging contributions from municipalities or non-profits. Between 1986 and 1992, the Recreation and Natural Heritage Trust Program, administered by the Department of Environmental Protection, has acquired over 4,300 acres of land at a cost of \$32.2 million.⁸

Assessment of grant applications is made to coordinate local, state and non-profit conservation activities. Non-profit involvement can be important in attracting landowner participation, and access to these grants allows them to secure matching funds. In some cases, the state may provide as much as 80% of the purchase price of the land. And, although ownership rests with the state, the town may manage the property. Some of the costs of managing the property can be deferred by depositing an additional 20% of the purchase price in a stewardship account.

Critical Environmental Areas (CEA)

These are areas deemed to be environmentally sensitive in order to protect them from unregulated development. Development in these areas requires an Environmental Assessment and Impact Statement. State law requires special review for state designated areas such as wetlands and coastal areas. For example, the Department of Environmental Protection has identified and protected sensitive aquifers, creating Aquifer Protection Areas (APA). Although these

areas are designated by DEP, the municipality in which an aquifer protection area resides bears the burden of regulation.⁹

Environmental Overlay Districting

This is one of the most commonly used environmental regulations in New England today. Dozens of communities have adopted overlay districts to protect aquifer recharge areas, floodplains and other resource areas. In these locations, additional environmental performance standards are required of new development, including reductions in density, limitations on paved surfaces, and restrictions on underground fuel storage and vegetation clearing. One important new application for overlay districting is along rivers, streams, lakes or the ocean, where shoreland zoning can be used to control the visual and environmental impacts of development. For more than a decade, Maine has required that its coastal towns adopt shoreland zoning to set back and screen development from the coast. Fairfield and New Haven County shoreline communities and the environmental well-being of Long Island Sound would benefit from similar provisions.

Wetlands Protection

Wetlands are a critical feature of the natural environment. They act as natural filters for water by slowing and storing surface water from streams and overland flow so that pollutants can settle out or be assimilated by wetland vegetation. Wetlands also provide valuable habitats for a number of aquatic and terrestrial species. While artificial wetlands can be created to mimic a natural wetland's structure and function for purposes of wastewater or storm water treatment, natural wetlands are invaluable resources that should be protected. Wetland laws protect water quality by regulating activities that affect wetlands and stream corridors.

The U.S. Army Corps of Engineers issues or denies permits for the discharge of dredged or fill material that would affect one acre or more of wetlands.¹⁰ Municipalities can enact wetlands laws to regulate activities in wetlands and their buffer areas. In municipalities that have enacted their own wetlands protections, applicants are still required to

⁸ Preserving Open Space: A Guide for New England, U.S. Department of the Interior National Park Service, 1992, pp. 34-35.

⁹ *ibid.* pp. 20-21.

¹⁰ Watershed Design Manual, U.S. Corps of Engineers, p.57.

obtain all other applicable permits, including state and federal permits.

While the method of identifying wetlands and their boundaries depends as much on legal jurisdiction as it does on science, the definition used by the U.S. Army Corps of Engineers and the Environmental Protection Agency would provide a municipality with the greatest protection of wetlands at the local level. Their three criteria are: hydrologic indicators, such as seasonal standing water; hydrophytic vegetation, plants associated with wetlands because of their competitive advantage in areas with water-logged soils; and hydric soils, soil groups whose development shows the effects of water-limited soil oxygen.¹¹



Coastal Areas Management

In recent years Connecticut has taken a quiet approach to enhancing public access to Long Island Sound. Slow but steady progress has been made in providing additional access and, just as importantly, in improving existing access points. This low-key success is the result of two main efforts. First, both local and state governments have continued to acquire and upgrade publicly owned access points. Second, local zoning officials and state coastal regulators acting under the state's Coastal Management Act have required property owners to provide public access as a condition to a number of shore development approvals. Approximately 10 miles of coastline have been acquired in this way. Access gained in this fashion ranges from pedestrian walkways to boat launches and fishing piers.



¹¹ Managing Watersheds-Combining Water Quality Protection and Community Planning, by Regional Plan Association & NYC Department of Environmental Protection, John Feingold, Robert Pirani, Graham Trelstad, 1995, pp.56-57.

Ridgelines

Ridgelines are natural features of the landscape, significant because of the views they provide and because they usually contain sensitive wildlife and micro-environments that, once disrupted, may never be restored. Common problems with development in ridgeline areas are excessive disturbance of steep slopes that can lead to erosion problems, surface runoff that can contaminate water sources, and excessive and poorly located housing that can disrupt wildlife corridors and critical habitats. Furthermore, development at greater elevation makes it more visible and can disrupt the aesthetic view of the ridge from the valley and surrounding towns. At a minimum, a plan for development and zoning regulations should provide controls to balance conservation and steer development away from such areas.

Traditional zoning regulation has not been effective in encouraging more sensitive development and protection of mountainous terrain such as ridgelines. Therefore, other techniques such as creating “ridge overlay districts” have been recommended because they can be adopted by a municipality without having to amend other aspects of local zoning such as lot size or allowable uses.¹² The overlay district also carries with it supplemental zoning regulations that are concerned with a specific condition.

Protected Rivers Legislation

The state has established legislation that provides for the preservation of river corridors, including the floodplains, wetlands and uplands, and overland runoff. A particularly useful tool, this review of the river corridors offers ample opportunity for both community review and community initiative. Those river corridors that are eligible are designated by the state after the completion of a rivers assessment data base. The municipality may request the establishment of a rivers committee whose duty is to inventory and map the river corridor and create a river corridor protection plan. The protection plan must be reviewed by public hearing, the commissioner and the state for consistency with state and municipal land use laws.

¹² Shawangunk Ridge, Conservation and Design Guidebook, by David Church and John Myers, Catskill Center for Conservation and Development, Inc., 1993.

By requiring compliance with a local town’s land use ordinances, this legislation is a powerful tool for the community, particularly when provisions are made in the comprehensive plan to protect the river corridor. Public notices and hearings provide a forum that ensures that all voices in the community are heard and that local concerns are addressed. If a town has a river corridor within its boundaries, it is imperative that provisions for the preservation and management of that resource be included in its comprehensive plan.

Multiple Use Rivers

Similar to the Protected Rivers Legislation, the Multiple Use Rivers Act relies heavily on both the state rivers assessment data base and the creation of a rivers commission. In this case, however, the rivers commission is charged with the task of preparing a river corridor management plan, designed to recognize existing uses and conflicts that may arise among different towns along a river’s corridor. The goal of the management plan is to account for and reconcile these conflicts by recommending modification to municipal plan of development, subdivision, site plan and wetlands regulations. “The recommendations made may concern tourism, navigation, utility and transportation rights-of-way and water dependent recreational, industrial and commercial uses. Possible recommendations may include proposals for specific setbacks from the river, dimensions of new lots and buildings, restrictions on cutting vegetation, restrictions on earth moving for mining and other purposes, prohibited activities and regulation of paving and other forms of impervious ground cover.”

This act allows a community to voice its needs and assist in the creation of a means of managing the river corridor in its town. By providing explicit rules governing the uses of the river and its adjoining areas, towns can be certain that the river will continue to be a valuable resource.

Community Participation

Community Participation in the Planning Process

“Plan ahead.” “Plan for the future.” We have all heard these words of wisdom applied to many facets of our lives. What do they mean in the context of municipal life? A strong planning process gives ordinary citizens an avenue through which they can influence the development of their community. The state’s statutes require that localities write a plan of development or comprehensive plan and include citizen comment as part of the process. One statute states that town officials must hold a hearing after a notice has been publicized in the local paper. The extent of input beyond that is largely up to the community leaders. The planning process is the only formal opportunity local residents have to discuss the development issues facing the community as a whole instead of on a parcel-by-parcel basis, as with zoning change hearings. Some communities use survey techniques to sound out the citizenry and others merely hold the statutory required hearing on the plan.

Why is community input so important? A home is probably the largest investment any of us will ever make, and decisions made at the municipal level profoundly affect that parcel’s value and the overall quality of life in a community. Aside from the periodic trip to the ballot box, there is no other way for the average citizen to voice his or her opinion on development matters on a comprehensive basis. The importance of community participation can be found in current debates over big box retailers and their effect on communities. These debates themselves are instructive for two reasons. First, in the absence of a periodic plan review and discussion of issues, the town administration, in the hopes of holding down property taxes, may pursue businesses that residents feel are inappropriate for their communities. Administrators will not know this unless they ask their residents. Without the planning process there is no formal mechanism to solicit this information. Second, the planning process provides residents with the opportunity to direct their town leaders’ actions when deciding on their town’s future. The big box retailer or superstore debate is as much about large scale retail as it is about community control and who has it.

Planning is positive in other ways. It helps a community conserve scarce fiscal resources by directing development in an orderly fashion. It encourages people to think about where their town is heading in terms of demographics, its role in the state or regional economy, how existing natural resources should be used or preserved, and what and where infrastructure investments should be made.

Methods of Public Participation

A plan of conservation and development contains a clear expression of a community's goals for future development, areas of improvement and assets worth preserving. It should reflect the values and best thinking of the community's residents. It is essential that local citizens be involved in the preparation and update of the plan, not just in its review. A town/village forum, public workshops and brainstorming sessions should be held to give residents opportunities to offer ideas and perspectives, to participate in developing the vision of the community's future, and develop and select the programs and methods to achieve that vision.

A citizen-based "planning committee" should be appointed by the town board or planning board and charged with developing ideas and support for programs that local elected officials will be responsible for implementing. A planning professional can be very helpful in facilitating the public involvement process that identifies issues that need to be addressed and can engage residents in shaping their community's response to issues and challenges (by revising or adopting zoning for example).

Implementing a community's vision requires effective citizen participation in the political process at the local, regional and state levels. Land use decisions are made by elected officials with technical as well as political considerations. The following are rules of thumb from the Conservation Foundation's Guidebook to Growth Management Strategies.¹³

- *Know the decision-making process.* Knowledge of procedural rules and timetables is critical in knowing how and when to effectively participate in the process.
- *Know the key decision makers.* These include council members, planning commissioners and staff members. Look for ways to increase your effectiveness by building bridges to local officials.

¹³ Creating Successful Communities, A Guidebook to Growth Management Strategies, The Conservation Fund, Washington D.C., Island Press, 1990.

- *Be a credible resource for public officials.* Public officials value comments and sources of information they can trust. Therefore, fulfill the commitments you make to them.
- *Build effective coalitions.* Be creative in identifying common ground with other interest groups. It may be particularly effective to build coalitions on specific issues with influential groups that are not natural allies.
- *Pick your issues strategically.* Do not wage or prolong counterproductive campaigns. Do not lose sight of the big picture.
- *Staying power is critical.* Planning and growth management is an ongoing process. Specific development proposals may be in the review process for many months, sometimes years. You will be taken more seriously if you stay involved over the long term.
- *Do your homework.* Stay informed about the issue and the players. When meeting public officials or addressing a public hearing, there is no substitute for thorough preparation.
- *Do their homework.* Keep public officials informed about growth management and resource protection issues. Give them useful articles, studies and sample land use ordinances from other nearby communities.
- *Clearly articulate why public officials should support your position.* Give them reasons that complement their interests for supporting your position. For example, demonstrate the public popularity of your position, the strength of your support and the fiscal responsibility of good growth management.

Local Government

In order to be able to effectively participate in the planning process, it is necessary to understand precisely how your local government works. In Connecticut, there are typically three types of local hierarchies that run your municipality.

Selectmen-Town Meeting

The first and most common form of governance in the state is called the selectmen-town meeting format; a board of selectmen and a first selectman are elected and whose duties are to manage the day-to-day running of the town. This is balanced by the town meeting where all residents are allowed to express their views and vote on issues facing the community. The primary authority for the governance of the township rests in town meetings which may occur several times during the course of the year. This form is common in the smaller towns in the state where there are generally fewer than 25,000 residents.

Mayor-Council

The second most common form of local government is the mayor-council format. This decision-making process is less diffused than that of the selectmen format. In this case, the day-to-day decisions are made by the elected head, the mayor, and the council, also elected, which serves as the town's representatives. There are two variations of this format. When the mayor has appointment authority, budget administration and veto powers it is called the "strong" mayor format. The "weak" mayor format, by contrast, has much less power over the day-to-day operations of the city. In this case, it is the council that has control over appointment of department heads and budget assessment and preparation. In either event, the authority of running the city is abdicated by the townspeople and granted through the election process to the mayor and the council.

Council-Manager

The council-manager format is the least common type of local governance in Connecticut. Here, the day-to-day running of the city is handled by a city or town manager who is frequently hired from outside the municipality to oversee the operations of the city. The

council is the only directly elected body in the chain of governance and has the responsibility of electing the manager, who oversees the city.

In each of these forms of governance, the department heads and commissioners are appointed by those officials that have been elected by the voters. While the process of overall management of the township is important to know and understand fully, it is also important to be aware of the departments and commissions that will have to be addressed by a community at large in making any significant changes to the town's plan of conservation and development. In each municipality there are likely to be numerous commissions and departments involved in any such plan. Some of these include: the Planning and Zoning Commission, which will likely have both Planning and Zoning Commissioners; the Zoning Board of Appeals; the Zoning Enforcement Officer; a Conservation Commission and commissioner; an agency dealing with the preservation of inland wetlands; and many others. Since these vary from town to town, it is important to understand precisely which boards and commissions will be affected by the changes that are to be implemented. An excellent reference for outlining this hierarchy is the Connecticut State Register and Manual which is published by the Connecticut Office of the Secretary of State.

New Regulations and Programs

A planning board or plan committee can fashion the framework of a zoning code based on objectives articulated in a comprehensive plan without the aid of a professional planner or legal counsel. However, before drafting begins, a professional planner or land use lawyer can explain the range of regulatory approaches and choices available and can help a community select the most appropriate type of local law or ordinance to meet community objectives. And, the actual drafting of a zoning law should always be left to a competent professional planner or lawyer familiar with the plan and with municipal land use law and its implicit effects. It is important to note that most municipal lawyers excel in procedural and statutory matters, which are essential to land use regulation, but not the results of regulation. These can be best interpreted and guided by a planner or lawyer specializing in planning issues. In either case, the planner or lawyer assisting in developing land use regulations must be equipped to fully interpret, understand and explain the effects of the laws and to ensure that the local officials responsible for administering them fully understand them in detail. Whomever assists the town or village, the evaluation must be sensitive to environmental, economic development, social and community design issues. If they are not prepared thoughtfully and with a full understanding of their effects, the outcomes of zoning and subdivision laws can be worse than if no such laws had been adopted.

Carrying Out the Plan

When adopted by a town or village board, a plan of conservation and development should guide many of the municipality's decisions. Is the decision consistent with the plan? Does it set the municipality's agenda for action? An action program should include non-regulatory and regulatory actions, as well as capital programs arranged in priority order. A plan of conservation and development can be used to enlist the support of state agencies in carrying out a municipality's action program. The plan shows outside agencies that the community has thought about its future and that the proposals it is implementing are part of an integrated plan to achieve community goals.

Conclusion

We do not have to make stark choices between development and open space. We also do not need to hobble our economy or make it too expensive to live and work here as the price of preserving the character of Connecticut towns. And we do not have to accept the destruction of the character of the region and its communities. Rather, we need to create new patterns of development which meet public needs while respecting and perpetuating those attributes of our communities that have given them their sense of place.

In Connecticut where citizens are resolved to resist continued suburban and exurban destruction of the open spaces and special places that define their lives, generating public understanding and political support for more coherent patterns of development must, therefore, be the focus of efforts.

Conventional planning and development practices are not always in keeping with the wishes of the community. In fact, in the absence of a thoughtful plan, communities may lack the capacity to assess the long-term and cumulative effects of piecemeal development. The impacts may appear in many forms of overburdened water resources, inadequate wastewater treatment facilities, pollution control mandates, traffic congestion and inadequate road systems, over-crowded schools or housing costs rising beyond the reach of local residents and employees of newly located industries. Also, conventional planning, zoning and development practices have created suburban sprawls that lack a sense of community and attractive public spaces, forcing residents to rely on their automobiles to get around.

While review of development proposals by the town planning board and the community on a case-by-case basis may appear to be constructive, it creates an atmosphere of uncertainty for developers who fear being ambushed at every stage of the review process. Reviewing projects in this manner also places the town and community in a reactive position. As communities and regions become known as difficult places to develop, the result is either no growth or spotty growth. Furthermore, only projects which are designed for easy approval are proposed and built. Such projects usually meet lower common denominator standards aimed only at meeting the letter of applicable law, leaving little room for creativity or efforts to meet larger community needs.

Local comprehensive planning will not solve all of the problems of Connecticut's fractured and segmented land use and development practices, but good local planning can set the tone for what happens on the ground. Most importantly, a comprehensive plan is the town's opportunity to communicate its vision. The process of developing a plan should involve the participation of a wide range of citizens who are encouraged to put their differences on the table and develop consensus around these issues now, rather than in court later. Spelling out the ground rules and the vision for the community in the local plan would make the development process and preservation of the sense of community much less of a gamble, less contentious, more predictable and more successful.

Appendix: Model Ordinance Language

The following model zoning language was produced by the Connecticut Fund for the Environment to enhance conformity between a town's plan of conservation and development [hereafter Master Plan] and zoning as well as to enhance open space protection within the zoning ordinances.

Model Consistency Language

Model Zoning Regulations

Many land use practitioners believe that a lack of consistency between planning and zoning is a serious problem which leads to poor decision making. Although zoning authorities are required to consider the Master Plan of a municipality, they are not under any mandate to render decisions consistent with that plan. Towns need to compel zoning authorities to look to the Master Plan as a guide to thoughtful environmental planning and require that zoning be in harmony with the planning mandates of the town.

The following proposed amendment directs zoning authorities to examine the Master Plan as the primary source of guidance when making zoning decisions. The Master Plan includes the conservation planning of the town and the zoning regulations. With this guidance, the Zoning Board would be directed to "do the right thing." The following model language should link planning and zoning.

In addition to other guidelines and factors for consideration by the Zoning Board, the decisions, rulings, opinions, and conclusions by the Zoning Board on any matter over which they have authority, including any limited to modification, amendment, or change of the zoning map, regulations, or guidelines, established by this section as a power of the Zoning Board, shall be:

- (a) consistent and in substantial conformity with the letter and spirit of the Master Plan as established by the Charter of this municipality as amended from time to time.

This is an appropriate amendment where planning and zoning powers are vested in one authority. However, under Connecticut state law, the town planning and zoning responsibilities can be vested in more than one authority.¹⁴ Consequently, the following subsection (b) directs the

¹⁴ Planning and Zoning authorities may be joint or separate. Conn. Gen. Stat. § 8-4a, reads, "Any town, city or borough . . . may by

Zoning Board to follow the decisions of the Planning Board as a source of precedent and policy,

(b) consistent and in substantial conformity with the decisions, rulings, opinions, and conclusions of the Planning Board as operation and established under the Charter of this municipality as amended from time to time.

Also, the Planning Board regulations should be amended to additionally read:

The Planning Board shall have the power to review the decisions of the Zoning Board and offer guidance to assure the conformity of the actions of the Zoning Board with the Master Plan.

With this review, presumably fewer appeals on consistency grounds would be generated because the zoning board has a starting point for their analysis and they will have reviewed what the planning board has decided about the current question. Additionally, a veto in the hands of the planning board would be the most appropriate for the purposes of the environment and responsible planning and government. In instances where the power structure of the municipality is significantly different to prevent a structural change such as this, there is an alternative which would provide similar safeguards against the trampling of the Master Plan by the zoning authority. In this alternative, chain of review could go from Zoning to Planning with the board of representatives as the final point of review. In this case, veto power could be amended to name the town legislature as the reviewing body, by appeal from the Planning board, and satisfy the potential competition between Planning and Zoning authorities.

ordinance or by vote of its legislative body designate its zoning commission or its planning commission as the planning and zoning commission for such municipality, and such commission shall thereupon have all the powers and duties of both a planning commission and a zoning commission and shall supersede any previous planning commission or zoning commission, as the case may be."

Strategies for Open Space Identification and Protection

Wetlands Identification and Protection The wetlands protection process begins at the municipal level. The powers of the inland wetlands commission to survey and record can be exercised by an independent authority or be vested in the planning or zoning commission. Identification, however, is not sufficient.

Towns can achieve more significant results by ranking the wetlands found in the survey by the priority in which they need protection. Important wetlands without such a ranking might be subject to destruction. An independent indicator of relative importance is a substantial factor to consider when making wetlands decisions.

The solution to this problem is to amend the wetlands regulations to include categories for addressing the relative importance of wetlands. This priority should be used as reasoning to protect high-ranking parcels from development. However, this ranking should not be used by owners of low-ranking wetlands as factor, in and of itself, to allow development. The following model language should be included in section 10.2, Considerations for Decision, Standards and Criteria for Decision, of Appendix A of the Inland Wetlands and Watercourses Model Regulations published by the Connecticut Department of Environmental Protection in the Wetland Commissioner's Handbook (1994).

The wetland agency shall consider the relative rank of the wetlands as identified by the inland wetlands commission of the town and consider the priority or relative importance of the wetlands.

Once the identification and ranking of the wetland is made, the town can use this information in conservation, planning and zoning decisions. As wetlands are designated and ranked, changes made by the town wetland authority can be made to the map and Master Plan so those factors will be considered when zoning decisions are made

Incentives for Cluster Development Cluster development is identified as a goal of zoning under Conn. Gen. Stat. § 8-23. As defined in § 8-18, cluster development is important as it provides additional considerations and points of balancing when asking for planning and zoning decisions.

Conn. Gen. Stat. § 8-18, defines cluster development as "a building pattern concentrating units on a particular portion of a parcel *so that at least one-third of the parcel remains as open space to be used exclusively for recreational, conservation and agricultural purposes except that nothing herein shall prevent any municipality from requiring more than one-third open space* in any particular cluster development." (Emphasis added.)

With this language, towns can compel open space set-asides for conservation. Taken together with the fees-in-lieu-of-open-space strategy, towns are in a better position to purchase the most important parcels within their boundaries.

Large Acreage Zoning/Lot Size requirements In order to protect substantial resources within its borders, a town can take advantage of the provisions of Conn. Gen. Stat. § 8-23 and designate an area fitting the following description and use those criteria in zoning decisions.

The commission of any municipality, more than 20% of which is existing preservation area, conservation area, or rural land, as defined in the state plan of conservation and development adopted pursuant to chapter 297, shall consider it as part of its plan of conservation and development the use of cluster development to the extent consistent with soil types, terrain, and infrastructure capacity within the municipality.

Also, lot size requirements, adopted as part of the zoning code and town's Master Plan, can provide a tool to manage the impact of development across the entire municipality, as long as there is a mandatory or voluntary cluster development provision,

Fees in Lieu of Open Space Once open space is identified, through wetlands survey or pursuant to cluster development, the basic provisions

covering fees in lieu of open space, Conn. Gen. Stat. § 8-25, allow the zoning commission to make requirements of those persons wanting to develop land.¹⁵ The commission may require that the locations and designations of such requirements be placed on the master map of the town. To ensure compliance, these regulations allow payment of a fee to the town or transfer of other land to the municipality in lieu of any requirement to provide open spaces. In the interest of fairness, the statute sets a cost cap to developers, a provision for fair market valuation in case of dispute, and an intra-family transfer protection provision.

The fees collected from this provision allow the town to select and provide for the purchase of critically important open space areas as part of their Master Plan. These fee ideas are and should be used in conjunction with the following ideas and strategies. Once the open space is identified and

¹⁵ Conn. Gen. Stat. § 8-25, covering the subdivision of land, reads in part, "(a) . . . Such regulations shall also provide that the commission may require the provision of open spaces, parks and playgrounds when, and in places, deemed proper by the planning commission, which open spaces, parks and playgrounds shall be shown on the subdivision plan. *Such regulations may, with the approval of the commission, authorize the applicant to pay a fee to the municipality or pay a fee to the municipality and transfer land to the municipality in lieu of any requirement to provide open spaces.* Such payment or combination of payment and the fair market value of land transferred shall be equal to not more than ten per cent of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the commission and the applicant. A fraction of such payment the numerator of which is one and the denominator of which is the number of approved parcels in the subdivision shall be made at the time of the sale of each approved parcel of land in the subdivision and placed in a fund in accordance with the provisions of section 8-25b. The open space requirements of this section shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle or first cousin for no consideration." (Emphasis added.)

purchased, it can be protected for the future as a greenway or other conservation zone.

Ridgeline Identification and Protection As specialized subset zoning, ridgeline protection is concerned with a particular, focused geographical type for conservation. Conn. Gen. Stat. § 8-23(a) authorities, "any municipality in which a traprock ridge . . . is located may make recommendations for conservation and preservation of traprock ridgelines." Once a town has identified a traprock ridge on its map, it can take significant steps to protect the ridgeline setback area.

Currently, P.A. No. 95-239 § 1 defines "Traprock Ridge" by a list of place names that, in the judgment of the legislature, qualify as a particular place worthy of protection. Sections 2 and 3 set out a precise definition of what area is to be considered a traprock ridgeline and what setback areas exist surrounding a given ridgeline.

Towns are free to adopt and utilize the definition of traprock ridgeline in their own regulations. Once identified, the process of protection is much harder to reverse. Identification of a parcel as a ridgeline forces the planning and zoning system to recognize sensitive and important environmental features of the landscape.

Greenways: Identification, Protection and Development As a matter of protecting open spaces, municipalities can protect significant areas by recognizing greenways in their master plan. Greenways are a system for the promotion of conservation and cooperation between neighboring municipalities. In 1995, the Connecticut legislature enacted the Greenway Capital Grant Program and established a system of assistance to municipalities for funding and information to develop greenways in towns, whether or not they are transportation related. The provisions provide for a grant program administered by the department of environmental protection to give matching funds, including those types of

greenways supported by the federal Intermodal Surface Transportation Efficiency Act of 1991.¹⁶

For the purposes of this program, greenways means a corridor of open space that:

- (1) may protect natural resources, preserve scenic landscapes and historical resources or offer opportunities for recreation or non-motorized transportation, (2) may connect existing protected areas and provide access to the outdoors, (3) may be located along a defining natural feature, such as a waterway, along a man-made corridor, including an unused right-of-way, traditional trail routes or historic barge canals or (4) may be a green space along a highway or around a village.¹⁷

The program also sets up different levels of greenway assistance. Both large and small grants are contemplated by the legislation. The program is based on matching funds. Depending on the monetary means available to a town or regional planning authority, either large-scale or small-scale projects can be completed. The capital grant program provides:

- (1) for transportation greenways projects that are part of interstate greenways, not more than 20% of the project cost and (2) for transportation greenways projects that are local spurs from interstate greenways or that are inter-town greenways projects, not more than 10% of the project cost and (3) for greenways that are not transportation greenways, not more than half of the capital costs of the project.¹⁸

¹⁶ Unfortunately, ISTEA funding is not moving quickly and may not be forthcoming in the near future. However, funds collected under fees in lieu of open space might be directed toward a project such as greenway development.

¹⁷ P.A. No. 95-335, § 1, amending Conn. Gen. Stat. § 32-6a.

¹⁸ P.A. No. 95-335, § 2 (a).

The small grant program does not consider land acquisition as part of its mandate. These small grants can not be for more than \$5,000 and the yearly total can not exceed \$50,000. The small grant program is primarily concerned with organization, design, and implementation of greenway projects.¹⁹ For consistency and uniformity in planning, a council is created by the legislation and charged with organizing the distribution and implementation of the greenways.²⁰

¹⁹ P.A. No. 95-335, § 2 (b).

²⁰ The greenway council has a series of duties, which, according to P.A. No. 95-335, § 3 (b), read in part, "(1) to advise and assist in the coordination of state agencies, municipalities, regional planning organizations and private citizens in voluntarily planning and implementing a system of greenways; (2) to operate a greenways help center to advise state agencies, municipalities, regional planning organizations and private citizens in the technical aspects of planning, designing and implementing greenways, including advice on securing state, federal and nongovernmental grants; (3) to establish criteria for designation of greenways; (4) *to maintain an inventory of greenways in the state . . .* (5) to advise the commissioner of economic development on the distribution of grants for greenways transportation projects . . . and 6) to advise the commissioner of environmental protection on the distribution of grants." (Emphasis added.)

Other Sources:

A Better Way to Grow - For More Livable Communities and a Healthier Chesapeake Bay, Chesapeake Bay Foundation, Inc.

Building Sustainable Communities: An Environmental Guide for Local Government, by the Global Cities Project

Connecticut Economic Resource Center

Conservation Design for Subdivisions - A Practical Guide to Creating Open Space Networks, Randall Arendt, Island Press and Natural Lands Trust

Creating Successful Communities: A Guidebook to Growth Management, Michael Mantell, Stephen Harper, Luther Post, The Conservation Foundation

The Growth Management Handbook: A Primer for Citizen or Government Planners, MSM Regional Council

Local Government in Connecticut, Frank B. Connolly

Managing Community Growth and Change, Robert Einsweiler and Deborah Mines , Lincoln Institute of Land Policy

Planning for Development Rights: A Handbook for New Jersey Municipalities, Burlington County Board of Chosen Freeholders

Technical Report on Open Space, Planning Report Project #1, South Western Regional Planning Agency