Chapter 1

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Growth Management: What It Is and What It Does

Urban growth is a fact of life in the United States. Generations of Americans have moved off farms and out of rural villages to settle in cities and towns. Foreign immigrants have usually chosen to settle in growing urban areas. People born in cities have, for the most part, remained in urban centers and their suburbs. It is not surprising, then, that about four out of five of today's Americans live in metropolitan areas. Almost 90 percent of the nation's increase in population since 1980 has occurred in cities, towns, and urban counties. According to the 1990 Census, metropolitan areas are growing at almost twice the rate of rural areas. That tremendous expansion of urban population, the Bureau of the Census predicts, will continue well into the 21st century.

Some urban areas have attracted far more new residents and employees than others. The great migration of Americans to the Sunbelt states in the past two decades brought unprecedented growth to California, Florida, Texas, and other western and southern states—and to their urban and suburban jurisdictions. In fact, about 85 percent of the nation's population growth during the 1980s occurred in the West and South. Some suburban counties around Los Angeles grew by as much as 45 percent in a decade, for example. The Los Angeles/Long Beach metropolitan area gained almost 1.3 million people in the ten years before 1990.

The 1990s have seen further migration, this time into the Rocky Mountain states. Although fueled to some extent by an exodus of jobs and retirees from California, much of the urban growth occurring in places such as Boise, Idaho; Denver and the Front Range communities of Colorado; and Albuquerque, New Mexico, draws from rural areas in those states as well as from other parts of the nation. And Texas, Florida, and California have emerged from their late-1980s economic doldrums to lure in-migrants once again.

Meanwhile, some midwestern metropolitan areas continue to lose population—Pittsburgh's population declined by 133,000 and Cleveland's by 67,000 from 1980 to 1990. Even in metropolitan areas losing population, however, individual jurisdictions experience rapid growth as their economies prosper. While metropolitan Detroit's population dropped by almost 2 percent from 1980 to 1990, for instance, nearby suburban Troy's rose by more than 8 percent. Indicative of this phenomenon, all of the population increases in the Midwest and Northeast during the 1980s occurred in suburbs rather than in central cities.

Urban growth is therefore not an event peculiar to a few states or communities. Economic trends and population shifts throughout the United States mean that some municipalities and counties in virtually all metropolitan areas must cope with urban growth and change.

Growth Brings Change

Many changes occur when cities and suburbs grow. Subdivisions full of new houses spring up on formerly open farmland. Shopping centers appear at what used to be rural crossroads. Industrial parks and golf courses spread across the countryside. Within once-small towns and suburbs, tall office buildings replace old country stores.

Such highly visible changes are accompanied by shifts in the social and economic dimensions of urban life. Different kinds of people arrive, some of whom crave lifestyles unlike those of past residents. Some may be wealthy and bid up housing prices; others may be poor and require special services.

These changes increase the demand for public facilities and services. Not only must roads and utility lines and schools be expanded to serve additional residents, but larger populations also tend to expect higher-quality services and a wider variety of facilities. Gravel roads must be paved, paved roads widened, and new roads built. New schools, libraries, fire stations, and other facilities must be constructed, each designed according to the latest standards. At the same time, new needs and expectations require governments to secure funding and to administer the construction and operation of ever-larger systems of public services and facilities.

Such changes can be beneficial. Increased development can be a positive force for improving the lives of many residents. Growth may open up more and better employment opportunities, not just in construction but also in businesses and industries expanding or moving to the area. Growth may bring retail stores and services that previously were difficult to find or inconveniently located. Residential development may provide wider choices of housing styles and prices to fit the preferences of a more varied population. More development may produce a sounder long-term fiscal base for the community and diversify possibilities for social and cultural activities.

But urban growth, especially rapid growth, can have a downside as well. It challenges both citizens and governments to prepare for change. They must find ways to adapt personal lifestyles and government structures to new circumstances. Older residents of developing rural and suburban areas often find that the changes brought about by urban growth are threatening and discomforting. A quick trip to the corner store may become a nerve-racking drive on congested highways to a busy shopping mall. New buildings may block backyard views of rolling farmlands and wooded hills.

Governments in rapid-growth jurisdictions also often find the pace, quality, and amount of advancing growth difficult to manage. Frequently, elected officials in growing rural areas and small towns are simply overwhelmed by expanding needs. They are unable to envision new government responsibilities and unprepared to take decisive steps to meet them. The few professional administrators employed by small local governments are often not trained to take on the complexities of planning, financing, and operating larger public service systems and facilities.

Unplanned Growth Poses Problems

The combination of residents' negative reactions and government officials' fumbling response to growth and change adds up to trouble. When local governments are slow to recognize emerging needs, they fail to insist on appropriate standards of development and fail to program and deliver the facilities required to support new development. Postponing planning and facility funding runs the risk of undermining a community's quality of life. The result is that citizens criticize overloaded roads, schools, water systems, and other basic services. Not only do these problems inconvenience residents, but they may lower property values as well.

Unfortunately, local governments are all too frequently unprepared for change. For decades, all levels of government have underinvested in community infrastructure. Critical support systems in many older communities have deteriorated while those in newer communities lack capacity to grow without major investment. By one estimate, the nation's annual level of spending for infrastructure should be double the $45 billion expended in 1985 for public works. Much of this investment should go simply to catch up with existing system deficiencies.

While the gap between needs and expenditures has widened, consumer expectations have escalated. People are demanding more and better services, spelling higher costs for new infrastructure. Ironically, higher-quality facilities provided in new developments may put pressure on public officials to raise standards in older areas, thus adding to fiscal burdens.

Local governments that allow unplanned growth may also be endangering important natural and cultural assets in the community and region. Haphazard growth consumes valuable open space and prime farmland, disturbs wildlife habitats and wetlands, and destroys historic and cultural features that link the community to its heritage.

By paying insufficient attention to potential growth and change, communities are caught off guard when it happens. They usually react with "too little and too late." By simply letting growth happen, local governments miss opportunities for creating long-term stability and value in residential neighborhoods or for forming compatible and convenient clusters of commercial and industrial activities and providing efficient public facility systems.

The outcomes of unplanned growth engender resentment and anger in local voters. As development compromises valued community qualities, citizens' antigrowth sentiment grows. In ensuing elections, citizens often demand public actions that they believe will slow or temporarily stop development. Faced with such demands, public officials are apt to take punitive actions to limit development. Unfortunately, most such actions cannot cure the problems and, too often, prevent reasonable solutions. Over the long term, stop-gap solutions and crisis-reactive management perpetuate political turmoil and community conflict.

Planning Ahead Prevents Problems

Although growth has earned a bad reputation in many communities, it is the failure to plan for growth that should take the blame. Governments that fail to anticipate growth see opportunities turn into problems, not only for themselves but usually for surrounding communities as well. In contrast, communities that "plan ahead" to foresee and meet the needs associated with urban development can capitalize on the benefits of growth. These communities are practicing growth management.

Many people support such a proactive approach to projected growth. Several studies have tested the hypothesis that growth restrictions and regulations are pursued by certain organizations or exclusive communities that wish to restrict access to their communities and increase their property values. In fact, the study results have shown that support for growth management is not just the province of a few elitist or environmental groups. As summarized by Elizabeth Deakin, ". . . characteristics such as education, income, homeownership, and political attitudes [are not closely related to] attitudes toward growth." Instead, differences among attitudes pertain to the specifics of growth management. More educated and less fiscally conservative people tend to worry more about environmental issues, and less educated and more fiscally conservative people tend to be more concerned with economic issues.[1] But Deakin points out that many types of communities adopt growth controls, usually because they are undergoing rapid rates of growth, loss of farmland, traffic congestion, and fiscal distress. Therefore, a variety of people and groups in many types of communities support growth management as a useful means of coping with growth.

What Growth Management Is

The concept of urban growth management was born in the late 1960s and nurtured by Americans' awakening interest in environmental protection, which was then sweeping the nation. Undoubtedly, its environmental roots account for the emphasis of many early growth management programs on limiting urban development to preserve environmental resources. For a time, it seemed that growth "management" was synonymous with growth "control," whereby regulatory innovations were intended primarily to slow or even stop urban development. The notable court cases of the late 1960s and early 1970s that legitimized various forms of growth management all dealt with attempts to limit the number of building permits issued or the amount of population growth allowed in a community.[2]

With time, however, and after considerable practical and academic exploration of the concept, growth management came to be accepted as a planning and administrative approach to dealing with development. It emphasized support and coordination of the development process more than placing limits on it. Growth management evolved into a positive tool to guide community development rather than into a negative force to contain it.

Corporate managers understand that "management" of any enterprise requires the formulation of a well-conceived strategy to guide future actions. That strategy is crafted in response to estimates of trends in basic conditions, the definition of goals and objectives, a determination of workable approaches to achieve those goals, and programming of investments necessary to implement those approaches. As conditions change, managers revise their strategies, goals, and approaches to keep their enterprise viable.

Management of urban development follows a similar path. The fundamental difference is that a public/private partnership is a vital component of the management program. Local governments generally adopt public programs and regulations to guide development carried out by private developers, builders, and landowners operating within the economic marketplace. Public sector growth management, then, must be responsive to both community goals and market interests.

Public sector growth management also must acknowledge and reconcile the major forces affecting urban growth, including tensions between and among economic development, the need for social justice, and protection of environmental resources—the concept of sustainable development. Increasingly, business and political leaders are concerned with finding equitable solutions to the issues raised by sustainability, not only at the global level but also in their own communities. A public sector management approach provides a useful process and forum for achieving these ends.

These broad themes are reflected in most of today's local growth management programs. So, too, with regional efforts at growth management and with the wave of state growth management laws that now influence the actions of local governments in at least ten states. These regional and state programs are concerned with making certain that the development process is managed to achieve an equitable balance between public and private sector interests.

Some Definitions

Specific definitions of growth management attempt to describe a concept that tends to be all-inclusive. Volume I of *Management & Control of Growth* states that managed growth

> means the utilization by government of a variety of traditional and evolving techniques, tools, plans, and activities to purposefully guide local patterns of land use, including the manner, location, rate, and nature of development.[3]

The authors of *Constitutional Issues of Growth Management*, an early book that influenced an entire generation of growth managers, define growth management as

> a conscious government program intended to influence the rate, amount, type, location, and/or quality of future development within a local jurisdiction.

They go on to note that practitioners intend growth management

> to influence certain characteristics of growth and [use] a variety of governmental policies, plans, regulations, and management techniques. . . .[4]

These broad definitions suggest that growth management programs can provide policy and action frameworks for a wide variety of development activities.

In a recent article, Ben Chinitz framed a more incisive and comprehensive definition.

> Growth management is active and dynamic. . . ; it seeks to maintain an ongoing equilibrium between development and conservation, between

various forms of development and concurrent provision of infrastructure, between the demands for public services generated by growth and the supply of revenues to finance those demands, and between progress and equity.

ULI's Growth Problems Task Force defined *effective* growth management as ". . . a dynamic process for anticipating and accommodating development needs that balances competing land use goals and coordinates local with regional interests."

Several key aspects of these definitions bear examination. First, growth management is a *dynamic process*, which suggests an evolving and ever-changing program. Growth management is more than a plan and an action program; it is a continuous, proactive process of evaluating current trends and management results and updating both objectives and methods.

Second, growth management provides a means of *anticipating and accommodating* development needs. A principal purpose of growth management is to foresee the scope and character of future development, identify future needs for land and infrastructure, and fashion government actions to ensure that those needs will be met efficiently and equitably. With a few exceptions, communities generally formulate growth management programs to accommodate rather than limit expected development.

Third, growth management programs provide a forum and process for determining an *appropriate balance* between competing development goals. Public interests must be weighed against private property rights. Furthermore, individual public objectives remain meaningless until their value is weighed against the importance of growth management goals. Growth management programs must mediate among choices related to emphasis, priorities, and coordination, all of which translate general intentions into workable plans for future action.

The fourth aspect is linked to the third in its recognition of local needs in *relationship to regional concerns*. Ideally, growth management encourages communities to reach beyond their self-serving interests in future development to reflect regionwide needs and goals. Local governments' management of growth must recognize that individual jurisdictions operate within a context of metropolitan economic and social activities, goals, and needs.

A Political and Technical Process

In practice, growth management can be viewed as a political process in which local public officials seek community consensus on the composition, quality, and location of future development. Growth management seeks to adopt a strategy and policy framework to guide the many political decisions that otherwise would be made incrementally, without coordination. The objective of such a political process is to build and maintain a livable community for all residents and businesses.

Growth management is also a technical process. As already noted, future development trends must be identified, desirable forms of development defined, and policies, programs, incentives, and regulations employed to achieve those forms of development. These tasks require an understanding of complex relationships and regulatory approaches and benefit from technical competence and continuous administrative coordination among the various agencies responsible for them. The complex nature of urban development is matched by the technical intricacies of determining appropriate forms of growth management and tracking their effects on development.

Growth Management and Comprehensive Planning

"Growth management" is sometimes considered another term for comprehensive planning. When the term growth management was coined in the late 1960s, it was intended to embrace and expand the ideas of comprehensive planning, zoning and subdivision regulations, and capital improvement programs that are commonly used by local governments. Some planners think of growth management as a more proactive form of urban planning—that is, growth management incorporates action programs that go beyond mere plans and regulations. In practical terms, however, growth management should be viewed as a collection of plans, programs, and regulations that does the job the community needs to do. If community objectives are achievable through the use of basic planning techniques, those will constitute a satisfactory growth management program. If innovative or experimental techniques are considered necessary, then the growth management program will incorporate a larger package of techniques.

The hallmark of growth management, however, is that the individual techniques should be interlinked and coordinated, not applied independently. Beyond the selection of techniques, the manner in which growth management programs are administered is frequently more critical to their effectiveness than the precise tools and techniques they employ.

Growth Management Can Incorporate Economic and Social Concerns

Growth management is commonly intended to address land use and development concerns in urbanizing areas and is often associated with growing small cities and suburban communities. The term, however, can be as inclusive as needed to treat problems associated with community development. Growth management programs, for example, increasingly include affordable housing elements. They can also incorporate programs that deal with employment opportunities, housing assistance, child care, and other social and economic problems. In this regard, the increasingly popular "benchmarking" programs used by several states and local governments usually incorporate measures that reflect a comprehensive set of physical, economic, and social concerns. In the central-city context, redevelopment activities, infrastructure renovations, neighborhood upgrading, and other public actions can be coordinated through development management programs that use some if not all the techniques employed in suburban growth management.

What Growth Management Does

Growth management programs consist of one or more specific regulatory approaches and procedures chosen from an overwhelming array of possible techniques. One of the early studies of growth management identified 57 varieties of tools and techniques.[5] Many of those techniques, however, might be considered variations on a theme rather than distinct approaches. In fact, there is little unanimity throughout the United States on the terminology used in growth management. Names of techniques vary from community to community and from region to region. Nevertheless, some techniques are widely used and generally recognized as similar in application.

For purposes of this description, techniques can be classified according to their primary aims: comprehensive growth strategies, guiding special-area development, planning and funding infrastructure, protecting environmental and agricultural lands, preserving community quality of life, and coordinating metropolitan growth.

Comprehensive Growth Strategies

One of the mainstays of community planning and growth management programs is the comprehensive or general plan. This basic policy document defines fundamental goals and policies for guiding the location, amount, and character of desired development. The plan almost always incorporates maps showing how policies will be applied in specific areas. Many states, however, consider the plan only advisory in controlling development and may virtually ignore it in official actions on zoning and subdivision matters. Even in states where the comprehensive plan has legal force—that is, where regulatory actions must be consistent with planning policies—the comprehensive plan may be too loosely drawn to provide firm guidance for day-to-day decisions.

Several growth management techniques aim for more strategic applications of comprehensive plans to increase the plans' effectiveness in directing development. The following techniques, which may be incorporated into comprehensive plans or into separate ordinances supporting the plans, provide the means for implementing planning goals and policies:

> *Vision statements* are often used as a prelude to comprehensive planning. Visioning exercises bring together a broad spectrum of community representatives to define desired qualities of the future community. As part of the consensus-building process that produces community plans, visioning is especially useful in defining and establishing broad support for the strategic objectives of growth management.
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> *Urban growth boundaries or urban service limits* are mapped lines that distinguish areas in which development will be permitted or encouraged from areas in which development will be prohibited or discouraged. Such boundaries are intended to promote compact urban growth in order to provide urban services more efficiently and to preserve rural land and natural resources. Boundaries are usually established to accommodate the amount of growth projected for a 15- to 20-year period.
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> *Designated development policy areas* take the concept of urban growth boundaries a step further by identifying areas within which specific development policies apply. Known by several terms, including tiers, policy areas typically are designated to maintain and/or redevelop existing urbanized areas, continue urbanization in developing areas, reserve land for future urbanization, and preserve land for open space, agricultural production, or environmental protection. Policy areas then provide a framework for other planning and zoning requirements.
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> *Functional plans* for major land use components or infrastructure systems are used to augment comprehensive plans. Although comprehensive plans theoretically embrace all aspects of community development, functional plans single out important components for more detailed consideration. Functional transportation plans, housing plans, and economic development programs, for example, are often developed in coordination with comprehensive plans but in finer detail to guide year-to-year implementation programs.

Large lot zoning, a popular technique for controlling growth, requires minimum lot sizes of one, two, or more acres as a means of dampening the pace of development, reducing the demand for public infrastructure, or encouraging development of higher-priced homes that will have a positive fiscal impact on the community. Often condemned by planners as urban sprawl, large-lot development may exacerbate infrastructure problems, serve exclusionary purposes, and adversely affect environmental values.

Threshold standards extend the concepts of adequate facilities provisions and performance zoning. They provide standards for a variety of public facilities and services but also for environmental qualities—such as air and water quality—that must be met to allow development to proceed. A few communities have established such standards at levels that permit virtually no development until conditions improve, thus invoking a moratorium on development.

Benchmarking establishes measurable targets for accomplishing community objectives. Increasingly popular as a means of encouraging action and tracking progress toward achieving broad planning policies and goals, benchmarking determines existing conditions among an array of indicators and sets future targets. Periodic reviews and updates provide evidence of specific progress in growth management programs.

Flexible zoning or performance standards establish basic standards and criteria for performance rather than prescribe specific uses and design requirements for planned projects. Standards usually measure the potential effects of development on adjacent properties or areas in terms of such considerations as noise, traffic, and design compatibility. The standards may be applied through *permit systems*, in which special permits must be approved for every project, and/or through *point systems*, which provide priority ratings for projects based on their adherence to the standards.

Growth limits establish annual quotas for building permits to limit the rate of growth either permanently or temporarily. Many California and Colorado communities and some local jurisdictions in other states have adopted growth limits. (Throughout California, "growth management" means "growth limits" to most people.) Most commonly, growth limits regulate the pace of development to an amount that can be served by the community's infrastructure improvement program. Some communities attempt to slow the pace of development to retain their small-town character or to preserve open space. Typically, limits require a method, such as a point rating system, for determining priorities among potential projects.

Moratoriums are temporary growth limits based on immediate needs. They permit a community to buy time to correct or forestall problems related to health, welfare, and safety concerns. Such limits are imposed for a few months to a few years and may apply to an entire community or a part of it.

Guidance of Special-Area Development

Many communities that adopt comprehensive plans also conduct more detailed planning and implementation for areas or features of special interest to the community. A wide variety of techniques define and encourage specific development qualities in designated areas.

Neighborhood, downtown, and other special-area plans are increasingly popular. To address special planning problems in parts of their communities, local governments often prepare plans for special areas, such as residential neighborhoods, downtown or other business centers, historic preservation areas, and critical areas of environmental significance. Plans for reconciling wetlands and wildlife protection with development are growing in importance in many communities. In addition, developers may be required to prepare plans for large tracts where development will have a major impact on the community. "Specific plans" in California and "developments of regional impact" in Florida are two examples of such plans. Presumably, detailed plans are consistent with the comprehensive plan but provide greater control over the types and qualities of allowable development.

Planned Unit Development (PUD) provisions, usually applied to large sites, permit more flexible site development than that allowed under standard zoning. The provisions may relax or waive some requirements in favor of detailed site plan reviews. They frequently allow a greater choice of housing types and sometimes permit nonresidential uses. PUDs usually provide for an overall plan that is implemented in phased, smaller increments.

Overlay zoning, which is applied "over" other basic zoning districts, addresses special features or conditions that may pertain to several distinct districts, such as historic areas, wetlands, and downtown residential enclaves.

Floating zones are zoning districts and provisions for which locations are not mapped until enacted for a specific project. The zones are often used to anticipate the development of certain uses, such as shopping centers, that cannot be located until developers initiate action.

Incentive zoning incorporates provisions that encourage but do not mandate development of certain uses, amenities, or design qualities in return for defined benefits, such as increased densities. Incentives are often used in downtown areas and suburban business centers to gain open space, special building features, or public art.

Development agreements are used in a number of states for reaching public/private understanding about infrastructure contributions, among other concerns. With the shift from public to private sector provision of capital facilities, developers often wish to establish their responsibilities and rights to development through written agreements with local governments.

Planning and Funding of Infrastructure

Capital improvement programs are the basic tool used by local governments to determine priorities, schedules, and revenue sources for capital facility investments, usually over a six-year period. Until recently, elected officials seldom heeded such programs when authorizing annual expenditures. With the increasing fiscal problems of local governments, however, especially in funding capital facilities, elected officials are making greater efforts to identify future needs and to carry out more responsible fiscal planning to meet those needs. As a result, they frequently attempt to find new revenue sources, thereby shifting the cost burden from the general public to the direct beneficiaries of needed facilities. In so doing, they are applying some of the following regulatory and fiscal techniques:

Adequate facilities requirements link the amount and location of development to the capacity of public facilities to support that development. Project approvals are contingent on evidence that public facilities have sufficient capacity. When facility capacity is inadequate, developers may either postpone development or contribute the necessary funds or facilities to meet local requirements.

Development exactions often require developer contributions of land, facilities, or funding for certain types of public facilities that may serve more than the developer's project or be located off site. Exactions go beyond typical requirements for the provision of basic on-site facilities.

Impact fees are one-time fees imposed on new development, often to fund off-site public facilities necessitated by that development. Impact fees allow local governments to collect funds for such facilities as intersection or arterial road improvements or community parks.

Special taxing districts are established by local governments to provide one or more types of facilities and to assess property owners for the costs of building and operating the facilities. The districts provide broad support for facility funding without burdening the entire community.

Asset management is gaining acceptance as a technique for more effective management of publicly owned property. Asset management encourages public officials to extract maximum benefit from publicly held land both in terms of efficient use and realizable value.

Privatization of some erstwhile public facilities or services has been gathering interest as a technique for reducing public costs of infrastructure. A number of communities are considering or have made plans to build toll roads, private utilities, and other privatized facilities.

Protecting Environmental and Agricultural Lands

Much of the impetus for the early growth management initiatives can be traced to environmentalists concerned with protecting environmentally sensitive lands, open space, and farmland from the onslaught of urban or suburban development. The past several years, however, have seen the evolution of many specialized approaches to conservation, including conservation easements, land trusts, tree preservation ordinances, and other techniques too numerous to detail here. Broader concerns for managing growth to protect land from development are reflected in the following techniques:

Land acquisition programs are a common method for preserving open space and environmentally sensitive lands. Many communities have approved special taxes to raise funds for acquisition of either development rights or all rights to property. Although acquisition can be costly, it establishes more permanent protection than regulatory approaches to conservation.

Agricultural or conservation zoning is a form of large-lot zoning intended to protect farmland and important environmental features from development. Regulations may require minimum lot sizes (i.e., ten or more acres) intended to preclude development in areas defined as especially suitable for agriculture or forests or as especially valuable for their environmental qualities (e.g., floodplains, stream valleys, steep hillsides). Legal issues similar to those related to large-lot zoning may arise. For that reason, transferable development rights may be used in conjunction with such zoning.

Transferable development rights (TDRs) provide a means of compensating landholders affected by regulatory programs such as agricultural zoning and historic preservation. TDRs permit owners of restricted property to recoup some lost value by selling development rights to developers. Developers then transfer the rights to other locations for which they receive increases in development densities.

Cluster zoning allows developers to group dwellings more densely on one part of a site to preserve open space or environmental features on the remainder of the site. Typically, cluster zoning provisions specify minimum lot and yard sizes and open space requirements. Like PUDs, cluster site designs are subject to more intensive reviews and may be implemented through subdivision regulations rather than through zoning provisions.

Environmental provisions in subdivision regulations, in addition to federal and state permit requirements, can protect wetlands and wildlife, prevent soil erosion, reduce stormwater runoff, and preserve other environmental features and qualities.

Preserving Community Quality of Life

While this broad objective may encompass all the techniques already described, it also has engendered other growth management techniques designed to encourage certain qualities or types of development deemed important to maintaining community livability.

Design review procedures may be established for certain types of development such as multifamily housing, cluster housing, or shopping centers to ensure high-quality site and building design.

Affordable housing programs are in widespread use in response to the availability of federal and state financial assistance. Individual communities, however, have fashioned their own highly effective programs that rely on public funds or a variety of cost-cutting private sector financing approaches to develop or renovate low- to moderate-income housing in areas where the market would otherwise dictate higher-cost housing.

Inclusionary zoning requires and/or provides incentives for the construction of lower-income housing as a condition of project approval. Such provisions may allow density bonuses in return for promised housing and may or may not permit on- or off-site construction of such housing.

Economic development programs provide financial or other incentives to attract or retain land uses that support the local economy. In many cases, such programs are a starting point for undertaking growth management, which can be viewed as a means of retaining desirable community qualities that help maintain economic vitality.

Coordination of Metropolitan Development

Many of the techniques described above (e.g., functional plans, growth boundaries, conservation planning) can be applied at the regional level to manage growth among multiple local governments in a metropolitan area. In addition, states may give local governments special authority to coordinate their development objectives with those of surrounding jurisdictions.

Extraterritorial jurisdiction and annexation policies provide local governments with some control over adjacent urbanizing areas. In some states, local governments possess the power to execute interlocal agreements to plan and control urban development beyond their boundaries until annexation becomes appropriate. Planning for the future development of extraterritorial areas can proceed hand in hand with comprehensive planning for the area within municipal jurisdictions. State-authorized annexation procedures also often require the planning of annexed areas to be completed in advance of annexation.

Interjurisdictional agreements are allowed in most states to permit agreements between local governments on development plans, standards, and infrastructure extensions in locations of mutual interest. Local governments, for example, may execute agreements with surrounding counties to establish urban development standards beyond city boundaries.

Tax-base sharing establishes a regional cooperative network among local jurisdictions to pool and redistribute part of the tax increases generated by new development. Much-discussed but used in only two or three regions, tax-base sharing is intended to reduce competition among jurisdictions for fiscally advantageous developments, thus allowing more rational development patterns.

It is unlikely that this review of growth management techniques has covered all the permutations of techniques for planning and carrying out growth management programs. Indeed, new techniques are initiated all the time. In addition, many of the techniques can be and are used for more than one purpose. For example, cluster zoning can save on infrastructure costs while conserving open space. Further, it is unlikely that a community will incorporate all or even most of these techniques into its growth management program. The great majority of community programs focuses on a few innovative techniques that are closely connected with traditional planning tools. The case studies demonstrate how communities have mixed and matched techniques to create programs uniquely suited to their needs and objectives.

Benefits and Costs of Growth Management

In attempting to guide the course of private development, growth management approaches can have both positive and negative effects on community development, the private sector development process, and citizens in general. Effective growth management programs ensure that benefits outweigh costs.

The Value of Growth Management

As a means of coping with impending community development, growth management programs confer significant benefits on communities, developers, and the general public. The ultimate aim of growth management, of course, is to achieve a desirable quality of life in the midst of community growth and change. For citizens in general, growth management can ensure certain standards of development quality, the availability of community facilities and services, and a strong emphasis on amenities. It means approaching community development holistically by addressing the natural as well as built environment and recognizing social and economic needs as well as the demands for infrastructure.

Growth management also confers benefits on the public realm. When local governments track community growth and development trends in order to anticipate future needs, they alert local officials and the general public to likely needs for public action. When public administrators work out plans and programs aimed at accommodating growth and change, they instill a degree of certainty and predictability in the development process, thereby reducing development risk and encouraging higher-quality development. When public officials make continuing commitments to providing reasonable standards and requirements for development, they create a positive context for development that meets private as well as public sector needs.

Nowhere is this commitment more beneficial than in planning and programming adequate infrastructure in support of community development. Communities that invest in defining future public facilities needs, working out equitable public and private sector sharing of improvement costs, and following up with timely action prevent disruption in the development process. Moreover, developers who can count on public commitments for infrastructure extensions can increase their investments in amenities and quality.

Local governments also realize benefits from the development process by establishing requirements that create expectations for high-quality development. Developers who are assured that their projects will be protected from poorly designed or constructed development in surrounding areas understand the long-term value created for their projects. Effective administration of standards and requirements also ensures equal treatment among developers and builders, an important plus in a competitive market.

Local governments that track development trends and update plans and ordinances to reflect the changing marketplace assist the development process by making available a reasonable supply of land appropriately zoned for development. Developers should not have to initiate a complex rezoning process each time they respond to market needs. When public officials anticipate growth and zone for it, they support an efficient development process.

Possible Downsides of Growth Management

Growth management programs designed to guide the actions of private developers and landowners inevitably impose some constraints on private sector opportunities. Presumably, the burdens of such constraints are more than offset by the benefits they generate for both the community and developers. Even the most well-intentioned programs, however, tend to increase the time and effort required to obtain development approvals, limit the latitude of property owners to respond to market demands, and restrict the supply of developable land. Furthermore, applied improperly, growth management techniques may exclude from the community some classes of residents and business.

All of these effects tend to increase development costs and raise the price of housing and other types of development. Unfortunately, the several studies undertaken on the effects of growth management on the development process have so frequently been hampered by inadequate data that their findings often disagree. Nevertheless, Professor Elizabeth Deakin, in an overview and summary of such studies (mentioned earlier), concludes that growth management measures usually have adverse economic effects, particularly on housing prices, although those effects are probably smaller and less significant than previously thought. In an exhaustive review of studies on effects of growth controls, economist William Fischel also finds that ". . . growth controls do affect housing and other land-use markets and that such effects are, on balance, inefficient."[6] He cautions, however, that inefficiencies of growth controls are not well documented to date.

Specific growth management techniques may produce unforeseen consequences. Urban growth boundaries that restrict development in certain areas, for example, run the risk of creating artificial shortages of developable land, thereby driving up land prices. Requirements for adequate public facilities may trigger moratoriums when public funding of infrastructure falls short of needs. Zoning intended to encourage certain types of development may run counter to market trends. These examples illustrate the problems that may arise when growth management programs are not well tailored to meet local conditions.

In addition, growth management techniques often impose major planning and administrative requirements on local governments whose budgets and staffs may not be up to the challenge. For growth management programs to work well, they often require additional staff time and expertise. Expert staff are not always easy to find or fund. With inadequate staff capability, project approval time stretches out and developer costs rise. Even earnest attempts by local governments to permit more regulatory flexibility may backfire when review procedures require public officials to make highly discretionary decisions.

These effects on the development process reflect the reality that growth management programs are imperfect despite the best efforts of local officials to manage development equitably and reasonably. Deakin's summary of growth management evaluations concluded that many approaches suffered from ". . . too-narrow problem specification, overly optimistic expectations of compliance, and lack of attention to the potential for unintended responses and results."[7] Most growth management programs are less comprehensive in scope and less systematically structured than the concept suggests. It is not unusual for important aspects of community development to be shunted aside to focus on current crises and narrowly focused solutions.

Perhaps more difficult to detect are the effects of programs calculated to limit growth or exclude certain types of development. By curtailing or screening out unwanted development, communities shift demand to other communities and, in the process, often encourage urban sprawl. Large lots that lure wealthy new residents may bring a healthy fiscal bottom line, but they serve only a fraction of the demand for housing while consuming large amounts of potentially developable land. These types of action distort regional patterns of urbanization and raise concerns about affordable housing, traffic congestion, and air quality. Often masked by official statements about "retaining the character of the community" or "preventing incompatible development," the motivations behind local government actions may be difficult to detect. The exclusionary results may become evident only over time.

The larger issue for some people is whether government should impose any constraints at all on development through laws and ordinances. They argue that a free market system is most efficient in determining land use patterns and proper building procedures. While the belief in an unrestrained market is popular in some quarters, it overlooks the fact that public policies favoring "freedom" in the marketplace actually encourage certain types of development. Tax policies, for example, give a definite edge to homeownership by not taxing mortgage interest payments. Governments' construction of new highways benefits adjoining property owners. The real issue is whether public guidance of development fairly balances community interests against those of private property owners. The evidence is that most Americans wish their governments to exert some public guidance over the land development process.

Legal Issues

This is not the occasion to delve deeply into the thicket of land use and growth management law in the United States. Other authors have treated these subjects in depth.[8] Besides, at the risk of overgeneralization, it might be said that the court battles over growth management programs were settled years ago in favor of community rights to regulate development, assuming that those rights were established through due process and after reasonable consideration of facts, trends, and communitywide interests and objectives. The judiciary has usually upheld the validity of growth management techniques, although individual applications of those techniques occasionally run afoul of the courts.

The legal history of land use law in the United States began with the 1926 U.S. Supreme Court decision in *Euclid* v. *Ambler* that upheld zoning as a legitimate public enactment. Since then, the legal framework for land use regulation has continued to evolve. Governments' exercise of the police power to regulate the use of private property constantly bumps up against the interests of private owners in unhindered enjoyment of their property. Essentially, the law attempts to reach a reasonable balance between the rights of private property ownership and the responsibilities of governments to protect the public health, safety, and welfare. That balance is constantly shifting, however, as courts interpret the application of specific regulations to specific properties.

Over the years, the courts have tended to widen governments' use of the police power to approve more restrictions over property owners' rights. They have granted local governments a great deal of discretion in determining appropriate land use regulations so long as public officials can demonstrate that they have followed correct procedures and established defensible rationales for their actions. Beginning in the 1970s, court decisions upheld the use of most growth management techniques. The accompanying feature box profiles some of the major decisions regarding growth management laws.

Some Important Growth Management Cases

Village of Euclid, Ohio v. *Ambler Realty Co.*, 272 U.S. 365 (1926) the first U.S. Supreme Court case that upheld zoning as a valid form of police power regulation.

Golden v. *Planning Board of Town of Ramapo*, 285 N.W.2d 291 (N.Y. 1972) upheld regulations that established development phases and quotas and made permits contingent on the availability of adequate public facilities.

Construction Industry Association v. *City of Petaluma*, 522 F.2d 897 (9th Cir. 1975) denied an appeal from a lower court decision that upheld Petaluma's growth limits.

Southern Burlington County NAACP v. *Mt. Laurel Township*, 336 A.2d 713 (N.J. 1975) and 456 A.2d 390 (N.J. 1983) were two cases in which the state court ruled that New Jersey communities must provide for a fair share of regional needs for lower-cost housing.

Penn Central Transportation Co. v. *New York City*, 438 U.S. 104 (1978) upheld the city's imposition of landmark status on Grand Central Terminal, preventing construction of an office building over the station as a justifiable regulation that required no compensation to the property owner.

Nollan v. *California Coastal Commission*, 483 U.S. 825 (1987) determined that the California Coastal Commission had not established an appropriate connection (or nexus) between a required exaction and the cited public objective for the exaction.

First English Evangelical Lutheran Church of Glendale v. *the County of Los Angeles*, 482 U.S. 304 (1987) found that a regulatory taking of property, even if temporary, can require compensation to the landowner. (A subsequent state court decision on this case determined that no taking had occurred; thus, no compensation was required.)

Lucas v. *South Carolina Coastal Council*, 112 S. Ct. 2886 (1992) ruled, in a U.S. Supreme Court case, that damages are due in the relatively rare situations in which a government entity deprives a landowner of "all economically beneficial uses" of the land.

Dolan v. *City of Tigard*, 114 S. Ct. 2309 (1994) held, in a U.S. Supreme Court case, that the government has the burden of justifying permit conditions requiring dedication for which the property owner is not compensated.

In the 1980s and early 1990s, landmark decisions by the U.S. Supreme Court (*Nollan* v. *California Coastal Commission, First English Evangelical Lutheran Church of Glendale* v. *the County of Los Angeles, Lucas* v. *South Carolina Coastal Council*, and *Dolan* v. *City of Tigard*) established some new guidelines for regulatory requirements that insist on responsible public action as the basis for regulation. Even those cases, however, recognize the broad powers of local governments to regulate the development of private property in the public interest.

The most significant limitation on regulatory restrictions on the use of private property is Americans' widespread respect for private property. Although the strength of this conviction varies from place to place, most public officials are keenly aware that, when regulating development, they must balance community interests against those of private property owners. They are reluctant to enact measures that substantially reduce current or prospective property values or severely curtail owners' options for use of their property. When making decisions about regulations, most public officials walk a fine line between community interests and private property owner concerns. Such decisions often limit the actions of local governments more than would the courts.

Thus, the history of land use law in the United States describes the working out of an uneasy and continually evolving truce between the rights of local governments to protect the public health, safety, and general welfare based on a legitimate exercise of the police power and the rights of individuals to the use and enjoyment of private property. As a result, the truce has shifted over the years with the courts' expansion of the interpretation of health, safety, and general welfare to include aesthetic and other concerns.

Growth management, in sum, is a concept and regulatory approach that is widely applied in expanding cities, suburbs, and counties. Growth management programs are intended to support community development through the use of a broad variety of techniques that build on traditional planning methods. From its beginning, however, the concept of growth management has been complex and controversial. The following chapter examines how effectively communities have employed growth management programs to improve the quality of development.

Notes

1. Elizabeth Deakin, "Growth Controls and Growth Management: A Summary and Review of Empirical Research," in David J. Brower, David R. Godschalk, and Douglas R. Porter, eds., *Understanding Growth Management* (Washington, D.C.: ULI–the Urban Land Institute, 1989), p. 6.

2. Readers interested in more information on early growth management programs and court cases involving communities such as Ramapo, New York, and Petaluma, California, can find extensive information in Randall W. Scott, ed., *Management & Control of Growth,* Vol. 2 (Washington, D.C.: ULI–the Urban Land Institute, 1975).

3. Ibid., p. 4.

4. David R. Godschalk et al., *Constitutional Issues of Growth Management* (Chicago: The ASPO Press, 1977), p. 8.

5. Michael E. Gleeson, Robert C. Einsweiler, Robert H. Freilich et al., *Urban Growth Management Systems* (Chicago: American Society of Planning Officials, Planning Advisory Service Report Nos. 309 and 310, 1975).

6. William Fischel, "What Do Economists Know about Growth Controls? A Research Review," in *Understanding Growth Management,* pp. 80–81.

7. Deakin, *Understanding Growth Management,* p. 14.

8. See, for example, Godschalk, *Constitutional Issues;* any of the volumes of *Management & Control of Growth;* and Brian W. Blaesser and Alan C. Weinstein, eds., *Land Use and the Constitution* (Chicago: APA Planners Press, 1989).