

Dan Stonington
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Essay on the Federal Role in Advancing Smart Growth

Most land use decisions are technically the purview of local governments. This does not change the fact that the federal government remains a powerful force in shaping the ways in which development occurs across our national landscape. This essay briefly examines efforts to define and direct the role of the federal government in achieving smarter growth. Based on research conducted at the Growth Management Leadership Alliance (www.gmla.org) during the summer of 2004, this paper argues that the federal government should more effectively communicate the need for action to combat harmful patterns of development and renew and improve efforts to implement existing proposed solutions that have failed or stalled in the past.

Scholars, government officials, business people, environmentalists, and others have long acknowledged the many harmful effects of the auto-dependent patterns of development that dominate the American urban and suburban landscape. In the late 1950's, William H. Whyte described these patterns as "urban sprawl,"¹ and the five decades that followed have brought discussion of the economic, social, and environmental impacts that sprawl can have on our communities and regions.

For years, there have also been discussions on the role that the federal government should play in addressing sprawl, supporting local land use planning and decision-making processes, and minimizing negative impacts of its own programs. In 1970, Sen. Henry Jackson and others deliberated over various proposals for a National Land Use Planning Act. Sen. Jackson said that "in every state, the tremendous influence of Federal activities...is largely beyond the control of the State government. For these reasons, a national land use policy is needed."² In the 1980's, the General Accounting Office asked "what are the impacts of federal programs on the use and management of non-federal lands and related resources?"³ The results from a 1999 survey by the Fannie Mae Foundation emphasized "the overwhelming impact of the federal government on the American metropolis, especially through policies that intentionally or unintentionally promoted suburbanization and sprawl" such as the 1956 Interstate Highway Act and the Federal Housing Administration mortgage financing regulations.⁴ In the past five years, the GAO issued several reports relating to the role of the federal government in

¹ Whyte, W. H. January 1958. Urban Sprawl. Fortune Magazine, 103-109.

² Nolan, J. R. 1996. Senator Jackson's Time Has Come: Lessons for the Land. Land Use Law and Zoning Digest, 48 (5) <<http://www.law.pace.edu/landuse/jackso.html>> (last accessed May 5, 2004).

³ General Accounting Office. 1982. Land Use Issues: A GAO Perspective. February, CED-82-40, p.2.

⁴ Fishman, R. 1999. The American Metropolis at Century's End: Past and Future Influences. Housing Facts and Findings, Fannie Mae Foundation 1 (4) <<http://www.fanniemaefoundation.org/programs/hff/v1i4-metropolis.shtml>> (last accessed June 30, 2004).

addressing sprawl and supporting local land use decisions, including a 2001 report that identified “actions the federal government can take to help transportation, air quality, and water quality officials better link land use decisions with environmental protection.”⁵

Many of the responses to the demand for a better federal approach to land use have focused on coordination within the federal government and coordination among local, state, and federal jurisdictions. This focus comes at least in part from the inability of single political jurisdictions to address the issues associated with today’s metropolitan areas. Briffault (1996) calls this the “local government boundary problem.”⁶ Senator Jackson’s National Land Use Planning Act would have addressed this issue by effectively creating a “framework to coordinate the impact of federal and state actions on land use.”⁷ The conformity provisions of the Clean Air Act (CAA) link federal clean air regulations with transportation planning regulations, a link that provides some incentives for smart growth.⁸ More recently, the Enterprise Community/Empowerment Zone (EC/EZ) program tried to better coordinate federal grants to cities and rural communities⁹ and the Partnership for Regional Livability aimed to coordinate federal programs around local community and smart growth initiatives.¹⁰

In spite of this history of discussions and multitude of efforts, most have yielded few results. The National Land Use Planning Act was not enacted. The CAA conformity provisions, while establishing some smart growth incentives, have had little impact on actual patterns of development. The Enterprise Community and Partnership for Regional Livability programs have not made significant, lasting improvements to the ways in which federal, state, and local governments work together to make land use decisions. In short, GAO’s 1982 diagnosis remains largely true today: “the lack of comprehensiveness and coordination in land use planning has been accompanied by serious development problems and abuses of land and natural resources, such as... haphazard scattering of urban growth throughout rural and undeveloped areas; increasing use of land for each dwelling unit... burgeoning needs for energy... [and] loss of open space and devastation of wetlands and other fragile resources.”¹¹

Why has relatively little progress been made in coordinating federal, state, and local entities in land use planning processes in a way that enables significant progress on the issue of sprawl?

⁵ General Accounting Office. 2001. Environmental Protection: Federal incentives could help promote land use that protects air and water quality. October, GAO-02-12, p.2.

⁶ Briffault, R. 1996. The Local Government Boundary Problem in Metropolitan Areas. Stanford Law Review, 48: 1115-1172.

⁷ Nolan 1996.

⁸ Moore, Curtis. 2001. Smart Growth and the Clean Air Act. Northeast-Midwest Institute. Washington DC.

⁹ Keith Laughlin, June 30, 2004. Personal communication via phone.

¹⁰ Parzen, J., Leahy, S. August 22, 2001. Federal Role in Regional Initiatives: Lessons Learned from the Partnership for Regional Livability. Partnership for Regional Livability report series. <<http://www.pfrl.org/pdf/prl-lessons-learned.pdf>> (last accessed June 25, 2004).

¹¹ General Accounting Office. 1982, p.6.

Several factors have made federal improvements to inter-jurisdictional coordination difficult. Unlike some issues that have elicited dramatic federal responses such as the environmental crises of the Cuyahoga River and Three Mile Island that contributed to major federal environmental legislation, sprawl has occurred relatively steadily over the past several decades. There has not been, for example, a severe and prolonged spike in gasoline prices and fuel shortage to force a dramatic reconsideration of the country's system of transportation and patterns of land use. The ability of the federal government to advance smart growth goals and improving decision-making processes is also affected by lobbying from the housing industry (and others that profit from current patterns of development) against reforms.¹² Adding to these difficulties is the delicacy of federal, state, and local government relationships. Land use decisions are the legal jurisdiction of local governments through zoning and planning functions, and efforts on the part of state governments, and especially the federal government, to encourage regional approaches and smarter patterns of development have met resistance from those concerned with maintaining local decision-making authority.¹³ Finally, the inertia and complexity of the current system of land use decision-making, involving multiple layers of government, makes change slow and difficult. This inertia can be amplified by a change in administrations and resulting changes in personnel. Since work to change and improve processes can be time consuming, slow, sometimes unsuccessful, and therefore a risky investment of resources for those involved, progress can depend on the establishment of trust and working relationships among the individuals in the effort. When these individuals are no longer involved, process change becomes more difficult to achieve.

Do these barriers to change suggest that improving the federal role in land use through better coordination of land use planning is not appropriate? No, the failure to pass legislation such as the National Land Use Planning Act, to address issues identified in early GAO reports, or to fully implement changes proposed through programs such as the Partnership for Regional Livability does not indicate that the concepts and approaches contained within these proposals are no longer valid. The reasons listed above for why reforms have not occurred have more to do with communicating the need for action, political timing, and maintaining a sustained strategy and effort to bring about change. For instance, the absence of a single, obvious crisis such as the Cuyahoga River means that Congress and the public are less likely to demand dramatic change, and that the individuals and organizations interested in making progress on the federal role in land use must focus on explaining why change is necessary. The delicacy of federal, state, and local government interactions means that coordination of these entities is much more likely to happen when all participants share an understanding of goals and have the time and resources to build working relationships.

Given these reasons for why reform hasn't happened, the federal government should focus on strategies for communication and implementation. Communications strategies create a message that conveys the need for action. Implementation strategies should put ideas into effect that have already been proposed through GAO reports and various

¹² See *e.g.*, Hirschorn, J. 2004. *Sprawl Kills: How Blandburbs Steal Your Time, Health, and Money*. Revolution Publishing: Portland.

¹³ Briffault 1996.

federal initiatives. More specifically, the Administration should convene a task force of agency leadership, smart growth experts, and business and community leaders from around the country and instruct such a group to use the following questions to develop an approach to increasing coordination of agencies and levels of governments and advancing smart growth goals.

Communication:

- Where is smart growth on the overall administration's priority list?
- How can the administration's top priorities be used to leverage support for smart growth and federal initiatives that aim to bolster local and regional land use decision-making processes?
- Which simple campaign values/themes can be used to attach smart growth and improved regional decision-making processes to the overall momentum of major administration initiatives?
- Should an administration promote "smart growth" as a concept or should initiatives under the purview of smart growth be promoted as components of broader efforts (economic development, obesity, security)?
- What are the political hurdles, risks, and benefits to the federal government's promoting smart growth and how can a communications strategy maximize benefits and reduce risks?

Implementation:

- What immediate actions can federal agencies take on their own to advance smart growth and what are the low hanging fruit in each department and agency?
- Which existing (EPA) smart growth initiatives could easily and with immediate results be scaled up/expanded with the addition of more resources?
- How much money is optimal for fostering local/regional cooperation initiatives?
- What ongoing regional initiatives are ripe for federal participation?

As a final note, it is important to highlight that from a practical standpoint, the adoption of these recommendations depends on a high degree of federal political capital and interest. The research for this essay was conducted with the hope that John Kerry would win the 2004 Presidential election, and with that victory would come an opportunity to ask critical questions about the federal role in land use issues. With the Bush Administration in the White House for another four years, it is very unlikely that a similar opportunity exists. The Administration has not shown an interest in asking these strategic questions despite the fact that there is a real need to do so. Still, the recommendations in this essay for building better federal smart growth communication and implementation strategies remain valid even though their chances for adoption are admittedly low.