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I. INTRODUCTION

Ironically, as America's frontier was reputed to close in the late nineteenth century, western cities began to exhibit their own "frontier" as the exodus from downtown to suburban living began. Those with the financial capability moved into sub-urban developments located at the fringes of cities. Predating a land use pattern to be accelerated by the advent of the automobile, the move to the suburbs was initially facilitated by streetcars, trains, and subways moving people to and from residential and commercial uses. From the post-World War I years to the 1950's interstate highway system, low density residential and commercial development was constructed farther and farther from the central city; creating a pattern of urban development now commonly known as "sprawl" that has not slowed over the past 50 years despite increasing gasoline costs and greater commute times. In fact, urban residents are now increasingly living beyond the suburbs in "exurban" areas.

Richard Moe, President of the National Trust for Historic Preservation, popularly defined sprawl as "low-density development on the edges of cities and towns that is poorly planned, land-consumptive, automobile-dependent [and] designed without regard to its surroundings." Though sprawl seemingly accommodates the greatest amount of growth, it requires significant development of new capital facilities and services, with accompanying underutilization of existing built-up area facilities. Consequently, sprawl has engendered seven major crises for America's metropolitan regions: (1) central city and first- and second-ring suburban decline, (2) environmental degradation through loss of wetlands and sensitive lands and air and water quality degradation, (3) energy over-utilization, (4) fiscal insolvency, and

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infrastructure and service deficiencies, agricultural land loss, housing inaffordability, and diminished public health.

Though it has been difficult to control sprawl, both economically and politically, cities and regions are coming to recognize that the costs of providing services and capital infrastructure for development on the fringe are far greater than that for development located closer to existing facilities. "Smart Growth" is a new reality of our changing political climate. This reality has particularly taken hold in the nation's western metropolitan areas and states due to the conflict between sharply rising population demand versus increasingly scarce water resources and fragile environmental systems.

Transportation oriented development, environmentally sensitive lands protection, growth coordination, water regulation, and "fiscal conservatism" concepts form the basis for comprehensive plans and subdivision regulations in the West that encourage and require responsible development, as communities seek in this new century to balance jobs, the environment, and social well-being across a constantly evolving and changing landscape. This essay provides an overview of how a metropolitan area can manage growth without sprawl.

II. THE PROBLEM OF SPRAWL IN TWO GATEWAY CITIES

In journeying to the Natural Resources Journal's conference, this author embarked in Kansas City and deplaned in Albuquerque, a trip vaguely mirroring the path of the pioneers of 150 years ago along the Santa Fe Trail from Kansas City, Missouri, to Santa Fe, New Mexico. What was once a trip between two pioneer outposts is now a trip between two sprawling cities. The Kansas City and Albuquerque metropolitan areas had significant growth during the 1990s. Kansas City added 193,187 residents, an addition of 12.2 percent, while Albuquerque added 111,071 residents, an addition of 22.8 percent. The fact that these regions are growing is not by itself an indicator of sprawl; rather sprawl is indicated by how the regions have managed growth.

Both cities have recently adopted sophisticated growth management comprehensive plans but failed to meet the challenge of sprawl. Growth has occurred largely on the outskirts of both of the metropolitan regions, making them two of the least dense regions in the country. In Kansas City, 98 percent of the region's new population growth occurred outside of the central city during the 1990s. Between 1982 and 1997, the Kansas City metropolitan area grew by 189 square miles, a 36.8 percent increase in the region's urbanized area, amounting to a land consumption rate that doubled the rate of population growth. This land consumption rate has moved the urban edge of Kansas City farther away from downtown Kansas City at a rate of two miles per
decade. Similarly, in Albuquerque between 1960 and 2000, the urbanized area grew from 78 square miles to 224 square miles, an increase of 187 percent. The growth of single-family home subdivisions on the urban fringe of Albuquerque has been described as rising "at a phenomenal rate" in the counties to the north and south of Bernalillo County where the city of Albuquerque is located.24

The road systems in Kansas City and Albuquerque make it easy for the populations to spread to the urban fringe. Kansas City has the dubious distinction of having more freeway lane-miles per person than any other city in the country.25 Kansas City’s downtown freeways create a moat around the central business district and shuttle cars out to the suburbs "with almost centrifugal force."26 In Albuquerque, road construction between 1982 and 1997 grew by 57 percent, outpacing the population growth of 28 percent.27 Despite this road construction, Albuquerque ranks as one of the worst cities of its size in the increase over the past 15 years of the number of drivers and the amount of time lost idling in traffic,28 in part because road construction has facilitated growth on the urban fringe, creating "the premature obsolescence of highway facilities."29

Coordination of growth within metropolitan areas faces the typical challenge resulting from the lack of metropolitan governance. Although the center cities of Kansas City and Albuquerque engaged in large-scale annexation,30 the metropolitan areas now extend beyond central county boundaries and far beyond the limits of central city annexation.

Adding to the practical challenges of growth, both metropolitan areas face increased political opposition to growth management. Within Kansas City, Missouri, itself, voters soundly rejected a proposal for a light rail system. Municipalities within the metropolitan area of Kansas City, but outside of the boundaries of Kansas City, continue to vigorously compete with the downtown. In Overland Park, Kansas, which is properly considered a suburb of Kansas City, a convention center is presently in operation, competing with Kansas City’s downtown convention center. In close proximity to the convention center, Sprint has built a 200-acre office campus, housing 14,000 employees.31 Suburban leaders have pressured Missouri’s governor to withhold issuance of an executive “smart growth order,” which would have directed state resources toward managing growth.32 Kansas City also faces opposition to growth management from residents outside the metropolitan area as rural lawmakers have resisted efforts to tap state and license fees for public transit in Kansas City.33 For existing built-up central city and first-ring suburban development, property taxes go up in order to pay for the new development, which does not pay its way.34 Cities and counties, including Kansas City, Missouri, and Johnson
County, Kansas, have been forced to go deeper into debt in order to pay for infrastructure out of scarce general revenue income sources.

Growth management proponents in Albuquerque successfully battled for the adoption of a new comprehensive plan known as the "Planned Growth Strategy" (PGS), but the battle required many compromises, allegedly weakening the final product.\textsuperscript{35} Having been adopted, the PGS is threatened by challenges to its implementation. The 19-member task force drafting PGS implementation policies has been criticized for being comprised of mainly pro-development representatives.\textsuperscript{36} The potential unwillingness of the task force to address sprawl threatens to make the situation worse. Uncoordinated development has already reaped a heavy toll on Albuquerque by creating a severe overcrowding problem in the schools, which the city of Albuquerque has by and large ignored.\textsuperscript{37} The potential cost of infrastructure for new development is estimated to be $3.2 billion over the next 20 years,\textsuperscript{38} even though there is currently a $1 billion infrastructure maintenance backlog in the city.\textsuperscript{39}

Development on the outskirts of Albuquerque's metropolitan area is seriously threatening agriculture. Valencia County was recently forced to update its master plan to protect its farmland from the development pressure extending out of the city of Albuquerque.\textsuperscript{40} One project in Bernalillo County, known as Quail Ranch, located to the north of the Petroglyph National Monument, will consume 6700 acres of prime agricultural farmland.\textsuperscript{41} In addition to consuming agricultural land, Quail Ranch threatens to consume parkland with the proposed construction of the Paseo del Norte extension through the Petroglyph National Monument.\textsuperscript{42}

The inability of Kansas City to control its growth has led to Kansas City being described as the most spread-out region in the country\textsuperscript{43} and a city of fragments.\textsuperscript{44} In fact, viewed in light of some studies, Kansas City might be considered the sprawl capital of the world. "Nowhere in the United States is sprawl more active, more virulent, than [in Kansas City]."\textsuperscript{45} Albuquerque fares much better than Kansas City on such indicators in the sprawl index recently published by Smart Growth America,\textsuperscript{46} but the specter of growth is in some measure more ominous for Albuquerque due to Albuquerque's limited supply of water.

Albuquerque has gone to great measures to preserve water in its arid climate. In 1995, the mayor of Albuquerque called for a 30 percent reduction in water usage in ten years, and city residents responded by decreasing per capita water usage by 30 percent as of 2002,\textsuperscript{47} but the city of Albuquerque's increasing population works to offset gains in water conservation. To handle the growth in population, Albuquerque had planned on drawing water from the Rio Grande River. This plan, however, is in jeopardy due to a recent federal court decision currently
on appeal with the Tenth Circuit Court of Appeals in Denver, which ordered the Bureau of Reclamation to release water into the Rio Grande for the survival of the silvery minnow. As discussed in a recent report from the Bureau of Reclamation, Albuquerque's increasing population and the presence of endangered species such as the silvery minnow lead to the conclusion that the Albuquerque region will be highly likely to develop conflicts over water by 2025. Residents aware of this problem cite population growth and urban sprawl as two of the most important issues that must be addressed to preserve water in the region and avoid future conflicts.

III. CONTROLLINGSPRAWL

There are some municipalities and regions that have been battling sprawl for over 40 years, but only within the past decade has sprawl become a mainstream national issue as it has begun to diminish the quality of life of all Americans. In the search for a regional tonic, regions only just beginning to address sprawl can build upon the successes of municipalities, metropolitan areas, and states that have been battling sprawl for over 40 years by using the effective tools that they have developed or utilized.

The tools and strategies used to address sprawl commonly fall under the rubric of "growth management," although "Smart Growth" is the latest label given to efforts in battling sprawl. Smart Growth reduces the consumption of land for roads, houses, and commercial buildings by channeling development to areas with existing infrastructure or contiguous to existing growth. It centers growth on urban, older suburban areas, transportation corridor centers, and New Urbanist villages, thus preserving green space, wetlands, and farmland.

Smart Growth combats sprawl through the intelligent implementation of urban and regional planning. The type and quality of planning varies by problem and community, as do the implementation policies, techniques, and strategies.

Communities engaging in an effective comprehensive planning process recognize that in order to properly plan future development within their own municipality, they must coordinate with adjacent municipalities within the same region or metropolitan area. Municipal boundaries are poor representations of the interactions and interdependencies within a region. Even with the benefit of annexation, many municipalities cannot keep up with the pace of sprawl as the urban area of a region spreads into neighboring counties or states. As discussed above, Kansas City and Albuquerque demonstrate this problem well.
Addressing sprawl requires cooperative national, state, and local government efforts to effectuate regional solutions utilizing regulatory incentives and intervention. Unfortunately, however, regional planning suffers from "balkanization," as local governments jealously protect their ability to regulate land use. Some states have chosen to intervene to overcome this hurdle. Some regions, such as Portland and Minneapolis, have state-created coordinating bodies that oversee and coordinate land use development within their regions. Other states, such as Florida, Washington, and New Jersey, require municipalities to coordinate their comprehensive planning with other municipalities, the region, and the state.

Municipalities in states that have not authorized effective regional planning are not without solutions of their own. Rather than creating a new governing structure, intergovernmental agreements have developed as a palatable approach to regional planning. Intergovernmental agreements are formal agreements, made between two or more governmental entities, that are capable of securing direction over development within an urbanizing area by timing and sequencing the development of regional and local public facilities and the implementation of capital improvements programs. Municipalities can share responsibilities and revenues, undertake unified development and growth planning, and provide coordinated and non-confrontational tax and development incentives at local, state, and federal levels with intergovernmental agreements.

Urban planning mired in a myopic perspective that does not look beyond municipal boundaries and the boundary of the regulating urban government only feeds sprawl. Viable regions do not arise from planning efforts that focus on one sector of the region at a time, but ones that take into account the region as a whole. Smart Growth is implicitly both a regional and a local concept.

The following is a list and discussion of some Smart Growth tools used within different sections of a region (i.e., rural lands, suburban and urban areas) and how they work together to combat sprawl.

A. Preserving Rural Lands: Urban Growth Boundaries, the Tier System, and TDR/PDR Programs

Preserving rural land enhances the agricultural economy and protects environmentally sensitive areas. Protection of rural lands occurs when urban development is redirected to areas with existing or planned infrastructure. Urban growth boundaries, tier systems, and TDR/PDR programs are Smart Growth tools that can be used to protect rural lands.
1. Urban Growth Boundaries

Urban growth boundaries (UGBs) are a popular method for controlling growth on the urban periphery. Approximately 146 municipalities presently have UGBs. A UGB is a mapped line that separates urbanizable land from rural land and within which urban growth is contained for the life of the plan. UGBs channel growth into higher-density mixed-use nodes and centers. Because UGBs require large areas in order to effectively contain regional growth, they are often designated on a regional basis or by intergovernmental agreement. Oregon, Washington, and Tennessee require UGBs; Florida encourages them; and municipalities in other states have been doing them for decades.

2. Tier System

A more sophisticated application of the UGB approach is the “tier system.” The tier system adds the element of time to UGBs and links specific growth management techniques to particular geographic and functional areas. This approach was first implemented in Ramapo, New York, where its validity was upheld in Golden v. Planning Board of Town of Ramapo, and has since been implemented in regions such as San Diego, California; Palm Beach County, Florida; Baltimore County, Maryland; and the Minneapolis-St. Paul metropolitan area in Minnesota.

The tier system divides communities into “growth” and “limited growth” categories. These categories are then further divided into subcategories, which become the tiers. The growth category is divided into two tiers representing urbanized and planned urbanizing areas. The urbanized tier consists of those areas that are at or near build out and served by public facilities. The planned urbanizing tier represents the “new” growth area. The limited growth category is typically divided into three tiers representing rural/future urbanizing, agricultural, and conservation/open space areas. Each of the tiers has specific geographical boundaries and is capable of being mapped. The rural/future urbanizing tier may be a permanent rural density development area or a temporary “holding” zone until the growth areas are built out. The agriculture tier is intended to identify those lands that should be preserved permanently for agricultural production. The conservation/open space tier consists of lands containing natural resources or environmentally sensitive areas.

3. TDR/PDR Programs

Transfer of development rights (TDR) and purchase of development rights (PDR) programs are typically used to protect
environmentally sensitive land, open space, and agriculture. In a PDR program, the government purchases and extinguishes development rights from prioritized zones. Landowners sell conservation easements to governments or private conservation agencies such as a land trust. The price of the development right is generally equal to the diminution in the market value of the land resulting from the removal of the development rights and, thus, is the difference between the value of the land for agricultural use or open space and the land’s development value. In return for the payment, the landowner agrees to use the land for open space or agriculture or preserve environmental features, in perpetuity, though some programs allow termination of the condition under certain restrictions.

A TDR program works in the same manner as a PDR program; however, TDR programs involve interplay between urban and rural landowners. Unlike a PDR program, which only discourages development in some areas, TDR programs both encourage and discourage development in designated areas. TDR programs allow landowners in restricted areas (“sending areas”) to transfer densities and other development rights to landowners in areas appropriate for higher density development (“receiving areas”). If a landowner or a developer in a receiving zone purchases a development right from a landowner in a sending area, the landowner is then typically permitted to build at higher densities and, as a consequence, can reap greater profits on the development. The TDR program directs development away from agricultural or environmentally sensitive lands to urbanized or planned urbanizing areas. TDR programs give governments an alternative to purchasing land outright and ameliorate the harshness of restrictive zoning, such as large lot agricultural zoning, by compensating the property owner for the property value loss resulting from restrictive regulations.

B. Development on Rural Land: Cluster Zoning and Mitigation Fees

Residential development is appropriate in rural areas so long as the development is compatible with rural character and levels of service. When development is appropriate, Smart Growth tools such as cluster zoning and mitigation fees should be used to minimize the impact of the development on agriculturally or environmentally sensitive land.

1. Cluster Zoning

Cluster zoning allows the developer of a subdivision to change “the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping” of a subdivision so as to preserve open space and/or agricultural uses.
Cluster zoning requires more creativity in urban site design in order to protect on-site amenities or environmentally sensitive areas. Cluster zoning is also known as "open space zoning" or "density zoning," and cluster subdivisions are sometimes known as "cluster developments," "open space," or "open land subdivisions." The most effective clustering ordinances are those that are mandatory. When clustering and open space preservation is optional, few developers take advantage of the approach.

2. Mitigation Fees

When development occurs below the average density established in the region, that development is consuming a greater percentage of the region's land. Mitigation fees can be exacted on development consuming agricultural lands, environmental resources, or open space. For example, before a zoning change from agricultural to nonagricultural use is permitted, a mitigation fee ordinance can require developers to either purchase development rights on agricultural lands or provide the municipality with funds to purchase development rights. For every acre of agricultural land converted to another use, an easement or some similar mechanism can be required to be granted in perpetuity, or an in-lieu fee for the development rights of an acre of agricultural land must be paid. The money generated by the mitigation fee ordinance could go into preserving agricultural land through TDR or PDR programs.

C. Managing Growth in Urban Areas: Adequate Public Facilities Ordinances/Concurrence Programs and Impact Fees

Controlling growth in rural areas helps guard against fiscal insolvency and infrastructure and service deficiencies by redirecting development toward existing infrastructure and planned urbanizing areas. As growth occurs in urbanized and planned urbanizing areas, adequate public facility ordinances and impact fees are essential to assure that development pays its fair share of infrastructure costs generated by the development. This prevents creation of new deficiencies and guides general revenues toward effective operation and maintenance costs and to repair existing deficiencies created from past inadequate policies.

1. Adequate Public Facility Ordinances

Adequate public facilities ordinances (APFOs) are a bifurcated technique relying on both the police powers of a city to regulate the timing and sequencing of development and the fiscal powers to require
that public facilities and services be provided concurrently with development growth. The result is that growth occurs at a rate that is economically beneficial to the community and consistent with the community's privatized capital improvement programs. The primary features of an APFO are adequacy and availability. Adequacy requires that, before development is approved, it must conform to the level of service (LOS) standards established by local regulation. Availability requires development to be timed and sequenced in a manner consistent with the capacity of the facilities. The key to an effective concurrency system is the adoption of an LOS standard for each facility. The adopted LOS will govern the amount of growth and development in the area and the amount of public investment needed to achieve the standard. APFOs establish ascertainable criteria against which new development will be reviewed. Good facilities capital improvement programming is required to assure that APFOs do not become permanent moratoria.

2. Impact Fees

Impact fees are founded on the principle that those creating the need for, and benefiting from, new facilities should pay for the facilities. Impact fees are mandatory payments paid by developers or builders in return for development approval. They are calculated to be the proportionate share of the capital cost (e.g. roads, schools, sewer lines, or gutters), the need for which is created by a new development. The costs of developing infrastructure for a new development are charged at the time of development, reducing the need for the city or county to rely on bonds, and the community is not forced to pay for the costs of development on the urban fringe out of general revenues or suffer development without existing infrastructure.

D. Developing the Urban Area: Transportation Oriented Development and Infill

With development controlled on the hinterlands of a region, the focus inevitably becomes the urban area. Permitting the pattern of development that has traditionally occurred in suburbs over the past 50 years to continue within the urban area is counterproductive. Low-density development will quickly consume the urbanized and planned urbanizing areas, continue the over utilization of energy, and further, if not exacerbate, gridlock on the highways. Rather than continue the traditional form of urban development, regions must encourage a greater percentage of development to fit a pattern of transit oriented development and infill.
1. Transit Oriented Development

Transit oriented development locates residences, jobs, and retail destinations closer to public transit facilities at sufficient densities to encourage the use of public transit and pedestrian activity. In order to stimulate pedestrian activity at the street level and encourage transit usage, transportation-oriented development often includes urban design amenities and general criteria for aesthetic and/or architectural compatibility to create a more livable and aesthetically appealing environment. In addition to the benefits on the road system created by increased transit usage and pedestrian activity, transit-oriented development also minimizes congestion by redesigning the road system. Unlike many suburban patterns of roadway development, which divide roads into arterial, collector, and local road classifications, transit-oriented development builds on a grid street system, which has the ability to distribute traffic evenly and efficiently rather than concentrating traffic on several arterials. This type of road system is more likely to reflect the needs of people and healthy neighborhoods rather than cars alone.

Local land use and zoning controls profoundly affect the form of urban development. To accomplish transportation corridor development in lieu of sprawl, transportation oriented zoning and subdivision regulations should be encouraged. Land use regulations should permit or require adequate densities to encourage the utilization of transit. Ordinances can encourage or require more intensive development patterns by establishing minimum densities or by offering density bonuses in exchange for the provision of transit facilities or other urban design features. Although few ordinances mandate particular densities, planned unit developments (PUD) and development agreements include minimum and maximum densities and can be used to achieve density goals. Densities should be calculated according to the current or planned capacity of the transit system and the demand needed to cover transit operating costs.

In order to achieve higher densities, ordinances often feature maximum setback (or "build-to" lines) rather than minimum setbacks and the frontage and lot size requirements should be reduced. Bringing buildings closer to the street and each other gives the street a more pedestrian scale and forces parking to the rear of buildings.

2. Infill

Infill involves developing parcels of land in already developed areas, which allows for the use of existing infrastructure, such as sewers, roads, public transit service, and schools. Infill development complements transportation-oriented development by offering no cost...
growth for the transit market and developing communities in established neighborhoods that are not as auto dependent.\textsuperscript{95}

The revitalization of cities requires the utilization of an entirely different approach to development. To ensure urban revitalization, the central city must take steps and utilize the techniques that will encourage development and redevelopment. One of the basic techniques for urban revitalization involves the government’s power to work with existing landowners to assemble parcels. Financial techniques include tax increment financing, property tax relief, and public and private sector partnerships.\textsuperscript{96} Regulatory techniques include administrative streamlining, density bonuses, and the elimination of over zoning for industrial uses in urbanized areas.\textsuperscript{97}

IV. CONCLUSION

The above list sketches a regional Smart Growth plan. There are many more tools available that encourage Smart Growth.\textsuperscript{98} The above list merely demonstrates to the reader the different roles of Smart Growth tools in a regional planning system and how they synergistically accomplish Smart Growth in a unified fashion.

Regions are dynamic; actions in one area of a region will have impacts in others. Regional planning should provide incentives to focus growth around transportation centers and along transit corridors using such tools as UGBs, tier systems, and TDR/PDR programs. Land use codes must be changed to create an urban form conducive to mass transit and pedestrian activity. Financing techniques, such as public/private development, can reduce the cost of public infrastructure while increasing the number of uses for a site; and transit oriented development can be more efficiently implemented by using such tools as development agreements or PUDs. Adopting these changes will require great effort in some communities, but given the tremendous costs of sprawl, the changes will be well worth the effort.

ENDNOTES

1. \textsc{Frederic Jackson Turner}, \textit{The Frontier in American History} (1893).


9. See id. at 76; see also Burchell, supra note 7; GERALD E. FRUG, CITY MAKING: BUILDING COMMUNITIES WITHOUT BUILDING WALLS 165-218 (2001).


20. BELMONT, supra note 7, at 10.

21. BROOKINGS INSTITUTION, supra note 17, at 29.

22. Id., at 31.


27. Id.


29. S. Putnam, Highway Planning and Land Use: Theory and Practice, in PLANNING FOR A NEW CENTURY: THE REGIONAL AGENDA 90 (J. Barnett ed., 2000). For a full discussion of this phenomenon as it occurred in Minneapolis, see also BELMONT, supra note 7, at 231-35.

30. DANIELS, supra note 10, at 147; DAVID RUSK, INSIDE GAME OUTSIDE GAME: WINNING STRATEGIES FOR SAVING URBAN AMERICA 1-3 (1999).
33. Id.
41. Sierra Club, supra note 39.
43. Benfield, Raimi, & Chen, supra note 7, at 8.
45. Lester & Spivak, supra note 34.
52. All states require some form of comprehensive planning but what comprehensive planning means in each state varies widely. In some states comprehensive planning only requires that a local government's zoning and subdivision regulations have a rational basis, while in other states comprehensive planning requires a written document, separate from zoning and subdivision codes, which plans for the future development of a community. Florida, for example, requires municipalities to adopt a separate written document examining capital improvements; land use; traffic circulation; sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; implementation; and intergovernmental cooperation. FLA. STAT. ANN. § 163.3177. For further discussion see EDWARD H. ZEIGLER JR., *RATHKOPF’S THE LAW OF ZONING AND PLANNING*, § 14 (5th ed. 1998).
53. See generally NATIONAL COMMISSION ON URBAN PROBLEMS, BUILDING THE AMERICAN CITY REPORT 199-254 (1968).
54. See generally URBAN-SUBURBAN INTERDEPENDENCIES (Rosalind Greenstein & Wim Wiewel eds., 2000).

56. *Smart Growth*, 55.


61. *See, e.g., Municipal Services and Research Center for Washington, Inter-governmental Agreements (July 31, 2003), at http://www.msrc.org/subjects/planning/intergovagree.aspx. (This website provides numerous examples of inter-governmental agreements pertaining to growth management and a good example of the numerous situations in which intergovernmental agreements can be used.)*


68. *Avin & Bayer, supra note 60.*


70. *Freilich, supra note 14; Robert H. Freilich, A Five-Tiered Growth Management Program for San Diego, 2-7 to 2-11 (1976); Freilich & Ragsdale, supra, note 61.*


72. *Freilich, supra note 14, at 119.*

73. *See generally Rick Pruett, Saved by Development: Preserving Environmental Areas, Farmland and Historic Landmarks with Transfer of Development Rights 31 (1997).*


77. *Freilich, supra note 14, at 288.*

78. *Andrew J. Miller, Transferable Development Rights in the Constitutional Landscape: Has Penn Central Failed to Weather the Storm?, 39 Nat. Resources J. 459, 467.*

79. *Freilich, supra note 14, at 288.*

80. *N.Y. Town Law § 278(1) (McKinney 2003).*


82. *Samuel N. Stokes et al., Saving America's Countryside 182 (2d ed. 1997).*

83. *Am. Farmland Trust, supra note 81, at 103.*


85. *Id. at 4.*


89. Frug, supra note 9, at 3-4; see also Nicolas M. Kublicki, Innovative Solutions to Euclidean Sprawl, 31 Env'tl. L. Rep. 11001 (2001).

90. See Andres Duany & Emily Talen, Making the Good Easy: The Smart Code Alternative, 29 Fordham Urb. L.J. 1445, for a detailed discussion of a Smart Growth code integrating public transportation as a central feature.


92. The seminal study on the relationship between transit and land use by Pushkarev and Zupan presents a range of densities for various types of transit facilities ranging from four units per acre for local bus systems serving an employment destination of 10 million gross square feet, to 9-12 units per acre for light rail systems serving an employment destination of 35-50 million gross square feet. B. Pushkarev & J. Zupan, Public Transportation and Land Use Policy 184-99 (1977).


96. For an extensive list and discussion of financing possibilities, see Robert W. BurcheII & David Listokin, Linking Vision with Capital: Challenges and Opportunities in Financing Smart Growth 57-75 (2001).


98. See generally Freilich, supra note 14, for several examples of comprehensive regional planning systems.