



This trailer court is part of the impact development at Center, North Dakota.

# Land Use Planning: Guides and Status

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Land use issues in North Dakota involve urban and rural areas with concerns about urban expansion, coal development, saving prime agricultural land and environmental quality. Underlying these land use issues is the basic question of private versus public property rights. This question is difficult to resolve, for it forces us to question our basic beliefs on private property rights.

Since colonial times, three distinct personal and policy beliefs have been held by both farm and nonfarm people in this country. First, hard work is praiseworthy. Second, man has a natural right to acquire property. And, third, man has the right to use, protect and maybe even abuse his property if he sees fit to do so.

Many of these beliefs are being threatened today, which is one of the reasons for the growing concern and controversy over land use policy development and land use planning.

## Local Alternatives

Areas and communities affected by various pressures to change the present and future use of their land must first deal with the basic question of public versus private property rights. Considering the best interests of the community in total, should decisions regarding changes in land use be left entirely to individual land owners or should

the community plan cooperatively the use of land within its geographical boundaries?

## Individual Planning

Should the decision be made at the local level to rely on individual decisions, a community or area-wide educational program should be initiated. Individual land owners should be made aware of policy issues such as the third-party effect, gravitation of land to more intensive uses under the market system, irreversible land use changes and windfall gains and losses. An understanding of these issues will aid land owners in dealing with the dilemma of not only making decisions in their own best interests, but in the best interests of the community or area in which they live.

## Cooperative Planning

With the pressures to change land uses in specific areas, many people feel it necessary that some type of public land use policy be adopted and followed to encourage the wise and prudent use of land. The mechanism to adopt and initiate such

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a plan is available to local citizens in North Dakota.

The state of North Dakota retains some land use decision-making powers. These powers are related to land use issues of statewide importance such as strip mine reclamation, power plant and transmission line siting, etc. However, the state has delegated most of the land use policy decision-making process to local governments. Under present law, incorporated cities, organized townships and counties have the legal right to plan and regulate land use under their jurisdiction.

To be successful, cooperative planning of land use at the local level should involve as much participation by local citizens as possible. Local residents must be willing to serve on planning commissions, boards of adjustment and citizen advisory committees, as well as individually support the plan. Public support is essential if cooperative land use planning and policy efforts are to be effective.

### *The Comprehensive Plan*

North Dakota law states that any land use regulation must be done in accordance with a comprehensive plan which reflects policy goals agreed upon and delineated through active citizen participation. The plan provides a basis for projecting future land use needs with a reasonable degree of accuracy. To do this, the plan must be based upon a complete study of past and present community characteristics.

The comprehensive plan not only attempts to provide the quantity of land to meet stated needs, but proposes specific areas for each land use category to minimize future conflicts. By law, local citizens must be given the opportunity to review and comment on the plan before it is adopted.

### *Fulfillment of the Plan*

Preparation of a comprehensive plan does not assure that the agreed-upon policy will be realized or that the plan will be carried out. The land within the community is owned and controlled by its citizens, many of whom may have views which may differ from the community's stated policy. For this reason, many people feel that some type of governmental control or guidance is required if land uses are to coincide with the community's long-term use policy.

### *Land Use Guidance Mechanisms*

Along with the right to plan, the North Dakota legislature has extended to local units of government the right to use legal methods to

guide land use. Once the required comprehensive plan has been prepared, a number of measures may be applied to assure that land use decisions will fall into the patterns established in the plan.

For example, the division of land into separate parcels for building purposes is covered by subdivision regulations. These regulations permit cities and towns to prepare and adopt guidelines governing the division of land into parcels for urban building purposes. They insure desirable neighborhoods and protect lot purchasers against shady development practices.

Zoning is the primary method of regulating and controlling the use of land in most areas. Once the comprehensive plan has been prepared, zoning may be applied to assure that land use decisions will fall into the agreed-upon patterns.

In North Dakota, zoning is presently allowed by counties, organized townships and incorporated cities. However, the county cannot zone for the township or city unless allowed to do so by the township or city.

A number of other legal mechanisms exist which can be used by various levels of government to influence land use. Examples include nuisance-control ordinances, building and housing codes, restrictive covenants, easements, etc. Eminent domain is yet another legal tool which is used mainly to acquire land for public purposes when private negotiations fail. In the process, the courts determine if there is adequate public need, if the land use is proper and if so, sets the amount of payment to the landowner.

Considerable influence can be exerted on land use decisions through a number of other mechanisms available to local government. These methods include public ownership, deliberate shaping of public policies and the use of taxing power.

### *Importance of Citizen Input*

While effective tools and mechanisms are available to help meet a specific area's land use policy goals, the importance of the local citizen and citizens groups must not be overlooked. Policy development and planning for the wise and prudent use of the land resource involves informed local citizens, leaders, organizations and agencies, all working together cooperatively. The primary challenge becomes one of determining through a complete examination of all benefits and costs, the best possible land use policy—either totally public or private or some combination of the two. A policy should be agreed upon that will allocate resources in the future to best meet long-term needs and still be a policy that is fair and equitable today.