An Overview of Growth Management Principles

And

Possible Applications

Prepared by the Planning Division of Community Development

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Figure 1: A lone deer grazes at the site of a proposed residence

Executive Summary

Growth management can be a useful land use planning approach to implement in communities where unrestrained development threatens to outpace the provision of adequate infrastructure needed to support it. Growth management tools may be especially necessary in places experiencing faster than average population growth, pressure to convert agricultural land to other uses, and traffic congestion problems, all of which characterize Kootenai County to some degree. Growth management has historically been used to control urban and suburban expansion to ensure the ability of local governments to provide adequate services for new development. Two court cases, Golden v. Ramapo (1972, New York) and Construction Industry Association v. City of Petaluma (1975, California) provide legal precedent in support of the use of growth management tools by local governments. These are just two examples of the legal justification that local governments have to implement limits on growth in the support of planning goals.

Growth management should be viewed as a *tool kit* rather than a single tool, with many approaches to choose from. As with many problems, the use of multiple tools may be necessary to achieve the desired solution. Some of the most common growth management strategies use ubiquitous planning tools such as zoning as their foundation. An overlay zone tailored to specific goals in an area, such as environmental protection, can be a means of controlling growth that may be easily adopted as an amendment to an existing land use code. Kootenai County has many precious natural resources, such as Lake Coeur d'Alene and the Spokane River, which could be better protected from sprawl by limiting development in a shoreline overlay zone. Another tool that many jurisdictions already have, including Kootenai County, is the conservation design subdivision. In Kootenai County, conservation subdivisions are rare, but conservation subdivision requirements can be modified to mandate the inclusion of public spaces, facilitate connectivity with adjacent greenspace, or simply ensure that future residential development is more compact.

Other growth management tools may require more extensive stakeholder input to determine how best to adapt the tools to the needs of the community. Transfer of development rights allows more flexibility in where development occurs than traditional zoning does, as it allows the buying and selling of the ability to develop on the private market, based on the acknowledgement that ideal growth may not be evenly distributed across a city or county. Urban growth areas set limits on urban or suburban development outside a designated core area. The Areas of City Impact in Kootenai County could be utilized to implement urban growth area concepts that help concentrate development in cities while preserving rural areas. Finally, open space programs consist of a number of approaches to preserving open space, either through direct purchase by local governments or tools such as conservation easements.

Growth management tools are available on a broad spectrum, ranging from simple modification and more strategic use of existing zoning standards to comprehensive control of growth through defined urban growth areas. Perhaps the best way to implement growth management in areas such as Kootenai County where concerns over private property rights likely preclude large-scale interventions would be to adopt a number of smaller tools tailored to individual areas of concern that cumulatively have the desired effect of limiting growth to that which can be reasonably supported by existing services.

Introduction

This report offers a brief summary of growth management aspirations and lists some of the more prominent planning tools that have been used throughout the United States. As a general rule, growth management strives to achieve one or both of the following: 1) to ensure that infrastructure and services are available to meet population growth (so-called concurrency planning), or 2) to preserve highly valuable lands that are perceived to have irreplaceable intrinsic value, such as highly productive agricultural lands, environmentally sensitive lands or waters, or scenic or natural areas. Growth management extends the role of traditional land use planning beyond the normal zoning and subdivision controls, which have very limited control over the timing of development. This report summarizes two legal precedents related to growth management, and identifies some of the more noteworthy techniques that have been used to manage growth in the U.S. Following each technical description, staff proposes possible implementation ideas for discussion purposes.

Figure 2: View of Lake Coeur d'Alene from a road leading to a new subdivision

Currently, Kootenai County is receiving a record high volume of requests for subdivisions. In 2020 alone, Community Development received 109 applications for Minor Subdivisions, an increase of over 200% from 2016. This increase in requests has led to an unsustainable development pattern for Kootenai County. Kootenai County's population is growing at a steady rate. The population projection for Kootenai County is predicting an increase from 167,000 residents in 2019 to 227,000 residents in 2030 and that number is projected to increase to 304,000 by 2040 (Kootenai Metropolitan Planning Organization, 2018). The increase in population and subdivisions has led to a substantial increase in vehicular traffic. According to Idaho Transportation Department, traffic on US Highway 95 north of Hayden has increased from 13,500 daily trips in 2010 to 19,000 daily trips in 2019, a 40% increase (Idaho Department of Transportation, 2019).

Growth management strategies are tools to ensure that the great qualities of Kootenai County are not lost to unplanned sprawl. Sprawling development patterns are unsustainable and place undue burdens on the taxpayers, homeowners, and county resources.

Historical Background

At the local government level, the history of growth management is surprisingly long, dating back to the late 1960s and early 1970s. Two of the earliest examples that were tested and survived court challenge are Ramapo, New York, and Petaluma, California. The two communities achieved the same end result, but with different means. They set the tone early on, and are worthy of a quick review because they established legal precedent that is still relevant today: that it is within the right of local government to limit growth until adequate public facilities are available.

Golden v. Town of Ramapo (1972, New York)[1]

Ramapo is a suburban Town in Rockland County outside New York City. In the late 1960's, the Town Planning Board worked to identify opportunities to control the Town's growth. They were concerned about extremely rapid population growth and sprawl—with good reason. Between 1950 and 1968 the Town experienced a 300% growth in population (Nolan, 2003). It was projected to double again by 1985. This was partially driven by the opening of the Tappan Zee Bridge which made it an "easy 25 minute commute to New York City" (Bosselman, 1973). A detailed comprehensive planning process was paid for by Housing and Urban Development (Nolan, 2003), and between 1966 and 1969 the Town developed a plan which undertook a number of important changes to its land use laws, including a set of 1969 amendments linking new subdivision development to the provision of "adequate public facilities" (Golden v. Ramapo, 1972). At the time, this was a new, innovative concept in local land use control and one that had not yet been dealt with by the courts (Nolan, 2003).

The goal of the Ramapo plan was to preserve the area's rural, semi-rural and suburban character and to direct further residential development to existing residential areas. It achieved this end by restricting development to areas in which there was adequate municipal service (Nolan, 2003).

Golden sued on the grounds that the new timing controls were not legislatively authorized and were therefore an unauthorized interdiction against subdivision. The trial court found in favor of Golden, but the Court of Appeals of New York (the state's highest court) reversed and found in favor of the Town. In its findings, the court determined that "the present amendments are the product of foresighted planning calculated to promote the welfare of the Township. The Town has imposed temporary restrictions upon land use in residential areas while committing itself to a program of development. It has utilized its comprehensive plan to implement its timing controls and has coupled with these restrictions provisions for low and moderate income housing on a large scale. Considered as a whole, it represents both in its inception and implementation a reasonable attempt to provide for the sequential, orderly development of land in conjunction with the needs of the community, as well as individual parcels of land, while simultaneously obviating the blighted aftermath which the initial failure to provide needed facilities so often brings."

[1] 285 N.E.2d 291 (N.Y. 1972).

Construction Industry Association v. City of Petaluma (1975, California) [2]

Petaluma pioneered the time-controlled approach to development. After U.S. Highway 101 was re-aligned as a freeway in 1955, residential development permits tripled, from 300 in 1969 to 900 in 1971. Because of the region's soaring population in the sixties, the city enacted the "Petaluma Plan" in 1971. This plan limited the number of building permits to 500 annually for a five-year period beginning in 1972. At the same time, Petaluma created a "red belt" around the town as a boundary for urban expansion for a stated number of years. Similar to Ramapo, New York, a Residential Development Control System was created to distribute the building permits based on a point system conforming to the city's general plan to provide for low and moderate income housing and divide development somewhat equally between east and west and single family and multi-family housing (Fulton, 2005). The stated objectives of Petaluma's time controlled growth management were to ensure orderly growth; to protect the city's small town character and surrounding green space; to provide a variety of housing choices; and to maintain adequate water supply and sewage treatment facilities (Construction Industry Association v. City of Petaluma, 1975).

The controlled development plan attracted national attention in 1975 when the city was taken to court by the Construction Industry Association. The city's restriction was upheld by the 9th U.S. Circuit Court of Appeals in 1975 (Construction Industry Association v. City of Petaluma, 1975).

[2] 522 F.2d 897 (9th Cir. 1975), *cert. denied*, 424 U.S. 934 (1976).

Growth Management Strategies

1. OVERLAY ZONES

An overlay zone is a planning tool used to impose a set of standards on a specified geographic area in order to achieve a desired local outcome. The overlay zone is in addition to the existing underlying zoning designation(s), and can be used to achieve land use goals pertaining to environmental protection, historic preservation, future transportation needs (including transit-oriented development), and/or affordable housing. The overlay zone is versatile, and can be used at a variety of scales to solve problems that may not be fully addressed by existing zoning (Garvin, Summber 2001). Overlay zones can be particularly effective when some aspect of the land causes a need for more stringent planning review, or as a tool of growth management. One rationale for growth management through overlay zoning is the protection of natural resources and ecological services (Russell, 2004). The overlay zone, as a versatile tool allowing local governments to tailor a unique set of development standards to the underlying land, can be a powerful tool for growth management while also facilitating the realization of other land use benefits.

EXAMPLES

WHATCOM COUNTY WATER RESOURCE PROTECTION OVERLAY DISTRICT

Whatcom County, Washington, a county with multiple lakes providing valuable natural resources, has implemented overlay zoning districts as a means of protecting sensitive watersheds. Land within this overlay district is subject to more stringent development standards, including greater limitation on impervious surfaces and a requirement that all subdivisions resulting in lots smaller than 5 acres follow a conservation design (Whatcom County Planning & Development Services 2020).

BOISE RIVER SYSTEM OVERLAY DISTRICT

The City of Boise implemented an overlay district to protect riverfront areas from development that would degrade natural habitat. The standards for development within this district are meant to mitigate impacts of development by imposing stricter landscaping, setback, and vegetation removal standards, as well as allowing the city to limit construction to certain periods of time (City of Boise 2020).

APPLICATION TO KOOTENAI COUNTY

Kootenai County currently has two overlay zones, and is considering implementation of a third. One existing overlay zone regulates development on the Coeur d'Alene Airport/Pappy Boyington Field property, while the other regulates access along the Highway 41 corridor, which is now in the process of being converted to an expressway of four-plus lanes. The overlay zone under consideration would regulate development along the "Huetter Corridor," where a six-lane freeway is proposed to connect Interstate 90 near Huetter Road to U.S. Highway 95 near State Highway 53. This is particularly critical with the recent announcement that the farmland in this area is set to see residential development over the next several years.

As stated above, overlay zones are also often used as a means of protecting sensitive watersheds. The County currently has a designated shoreline management area that restricts site-specific development in the

immediate vicinity of the shoreline (25' in slope distance landward of the ordinary high water mark). However, the shorelines of Kootenai County's numerous lakes are already significantly developed, and the current shoreline management area does not control the level of growth around the lakes of Kootenai County. A Shoreline Overlay Zoning District, incorporating the existing shoreline management area and all land with the current Shoreline land use designation in the Comprehensive Plan, could reduce the intensity and/or volume of development in close proximity to the sensitive lake ecosystems.

Within this overlay, the County could adopt more stringent standards, such as a limitation on structure size, a wider shoreline management area and/or a maximum number of building permits issued annually. This would facilitate growth management and preservation of lake ecosystems.

2. CONSERVATION/CLUSTER DESIGNS

Conservation design subdivisions preserve natural land while encouraging compact development. Conservation designs, typically used in residential development, require the preservation of a certain amount of land within the development as open space, ensuring that natural resources remain undisturbed and preventing lot sizes in excess of what would be required to accommodate development. Although Kootenai County currently allows for conservation design subdivisions (Article 6.6. of the Land Use and Development Code), they are only required in limited circumstances (Kootenai County). The benefits of clustered development are numerous. By using land more efficiently, conservation designs preserve natural resources, reduce the amount of infrastructure needed to serve the development, and provide open space for neighborhood residents (Robinson et al. 2005). They can also be a tool for growth management, by ensuring that a percentage of each development is set aside for preservation as open space. Although the benefits of conservation design for growth management are typically realized at the scale of the development, rather than on a regional scale, they can be used in conjunction with other growth management tools to prevent suburban sprawl and concentrate residential growth into functional clusters.

EXAMPLE

CITY OF WOODSTOCK, ILLINOIS

Although conservation design standards are common at the city and county level, the City of Woodstock provides an example of using this tool to mandate certain growth patterns in sensitive areas. Conservation design standards are linked directly to the comprehensive plan, in that any subdivision occurring on land designated by the comprehensive plan as a conservation area is required to adhere to the conservation design standards (City of Woodstock, 2010).

APPLICATION TO KOOTENAI COUNTY

Conservation design subdivisions are rare, comprising only a small portion of all subdivisions processed and approved by Kootenai County. Presently, the only circumstances in which a conservation design subdivision may be required is when a major subdivision involves lots of less than five (5) acres and natural slopes that equal or exceed 35%, and even in such a case the applicant may choose to pursue a Planned Unit Development instead of a conservation subdivision. Requiring conservation/cluster designs for all major subdivisions could help accomplish growth management goals by ensuring that subdivisions in rural

unincorporated Kootenai County are compact and preserve natural open space to the greatest extent practicable. Based on the current requirements of Article 6.6 of the Kootenai County Land Use and Development Code, Section 8.6.603, at least 20% of the land area within each conservation design subdivision must be conserved (Kootenai County). A code amendment could raise this to, for example, 30 or 40 percent. Requiring conservation design subdivisions that preserve approximately one-third of the land as native vegetation and encourage clustering of lots could reduce the sprawling development pattern characterizing many residential subdivisions in Kootenai County.

Figure 3: Wetlands along State Highway 3

3. TRANSFERS OF DEVELOPMENT RIGHTS

A transfer of development rights (TDR) is a voluntary tool to not just encourage but also incentivize growth in certain areas instead of others. It allows property owners in 'sending' areas, areas designated for less development, to sell their development rights to 'receiving' areas, areas designated for denser development. Programs can be set up within a jurisdiction or across multiple jurisdictions, such as sending from parcels in unincorporated areas of a county to receiving sites in a city. Programs can require owners and/or developers to buy directly from the sending owners or it can be facilitated through a jurisdiction. In some programs, senders can sell the rights to a TDR bank, allowing developers to purchase rights from multiple projects in one transaction. TDRs are most effective when paired with zoning regulations that incentivize them and in areas that have both markets for denser development and areas with unused development rights (American Planning Association, 2018).

EXAMPLES

KING COUNTY, WASHINGTON

King County partners with multiple cities for a TDR program with a bank. The county, located in Western Washington, includes both dense cities like Seattle and vast resource and natural lands, including a large

portion of the Cascade Mountain Range. Development rights are usually used for adding height, dwelling units, and/or square footage to buildings (often towers), but can also be used for uses like increasing the size of accessory dwelling units in certain areas. The program protected over 144,500 acres of rural/resource land from 1998 to 2019 by transferring the rights for over 2,800 dwelling units to urban areas (King County, 2019).

SARASOTA COUNTY, FLORIDA

Sarasota County's TDR program has gone through several iterations since being initially developed in 1982. The current iteration was developed after a study projected the need for 110,000 new dwelling units in the county (Walls & McConnell, 2007). Transferred development rights can be used to facilitate the development of new towns and villages to meet this housing demand. The number of rights allowed to be transferred from sending sites is based on the resource value and likelihood of development, in order to incentivize protecting the most environmentally-sensitive land (Sarasota County, 2016). Transfers are overseen through a planning process.

APPLICATION TO KOOTENAI COUNTY

Large portions of Kootenai County are developed to a lower intensity than zoning allows. Fully developing these areas would require much more infrastructure than is present, not only harming the environment but detracting from rural character. However, with current growth in the county, subdividing land is an attractive financial option for many landowners. A TDR program would allow landowners in rural areas to receive monetary value for their development rights without actually dividing their land.

4. URBAN GROWTH AREAS/AREAS OF CITY IMPACT

Urban Growth Areas, sometimes referred to as Urban Growth Boundaries, are adopted by counties and cities as part of their long-range planning process. An Urban Growth Area (UGA) is an area where urban growth is encouraged and outside of which growth can occur only if it is not urban in nature (MSRC, 2020). UGAs can be a tool to protect resource lands from urban sprawl, encourage the efficient use of land, and facilitate the gradual expansion of public facilities and services. Unincorporated land within the UGA may be developed to urban densities through intergovernmental agreements between cities and counties.

UGAs are designed to accommodate population growth projected to occur over a specified time period, typically the next 10-20 years. UGAs may include a reasonable land market supply factor and should permit a range of urban densities and uses (MSRC, 2020). Land outside of the urban growth boundary may also be identified as urban reserve, lands suitable for accommodating urban development over a period greater than 20 years, or rural reserve, lands that include high value working farms and forests or have important natural features like rivers, wetlands, buttes and floodplains (MSRC, 2020).

Potential uses of UGAs include:

- Allowing various levels of urban densities and land uses within areas set aside for growth.
- Identifying areas for long-term urban expansion and rural preservation.
- Creating a process for the gradual expansion of municipal services within the unincorporated area.

EXAMPLES

WASHINGTON STATE

Washington State's Growth Management Act (GMA) requires counties with a high rate of population growth to define urban growth areas to accommodate for population growth over a 20-year period. Under the GMA, the state Office of Financial Management develops population projections for each county. Counties are mandated to determine, in consultation with cities, where that growth should be directed to occur as part of their long-range planning processes (MSRC, 2020).

OREGON

Since 1973, Oregon state law requires is that every city establish an Urban Growth Boundary (UGB) to designate where a city expects to grow over a 20-year period. Restrictions in areas outside of a UGB protect farm and forest resource land and prohibit urban development (Department of Land Conservation and Development, 2020). A UGB can be modified or expanded through a joint effort involving the city and county, and in coordination with special districts that provide important services in the urban area (Department of Land Conservation and Development, 2020).

BALANCING URBAN GROWTH AREAS AND HOUSING

One of the criticisms sometimes leveled at urban growth areas (UGAs) is that they unbalance market forces and result in shortages of housing inventory and much higher housing prices. By examining two of the most well-known examples of urban growth areas, King County, Washington and Portland, Oregon, however, we see that it is possible to balance a restriction on development and keeping a vibrant housing sector.

UGAs typically require enough developable land that would ensure adequate housing supply for a set number of years. In both Oregon and Washington that number is 20 years, and periodically the amount of land set aside may change in order to satisfy that requirement (Mathur, pg. 2). The effect of this is that land within certain UGAs like those found in King County is guaranteed to be developed, and in many cases will have access to better infrastructure, while parcels outside it do not have the same certainty (Mathur, pg. 9).

The assumption is that this will result in higher land prices due to a supply constraint of available parcels as well as the assurance of available services. From these higher land prices and by extension higher housing prices should naturally develop (Mathur, pg. 9). However, statistical analysis of both the King County UGA and Portland UGB do not show this to necessarily be the case. Both studies found that after accounting for other variables likely to affect housing prices like area median household income, housing density, and commuting time (Mathur, pg. 9-10; Jun, pg. 240-241), there was not a statistically significant relationship found between a parcels presence in the UGA and its price (Mathur, pg. 18-19) (Jun, pg. 241).

While these studies do not have statistical evidence for what specific policies allow for housing prices to remain unchanged due to the UGA, the one done on King County suggests that a focus on high density development and infrastructure investment may be a key reason for this (Mathur, pg. 18).

DIFFERENCES BETWEEN URBAN GROWTH AREAS AND AREAS OF CITY IMPACT

Unlike the states of Washington and Oregon, the State of Idaho has not authorized the adoption of UGAs or UGBs as a tool of growth management. However, Idaho law does require counties and the cities in each county to enter into intergovernmental agreements known as area of city impact (ACI) agreements (Idaho Code § 67-6526). Cities cannot annex adjacent property unless an ACI agreement is in place. These agreements can be used to apply special development standards tailored to the needs of individual cities within the unincorporated areas surrounding each city, applying city plans and ordinances, county plans and ordinances, or any mutually agreed-upon plans and/or ordinances.

However, the purposes for which an ACI agreement can be executed are not exclusive to regulation of development near city limits. Cities and counties are required to consider trade areas and geographic factors (such as watersheds, steep slopes, wetlands, etc.), along with those areas which can be reasonably expected to be annexed into the city in the future. Beyond these minimum statutory requirements, though, Idaho law leaves the negotiation of each ACI agreement to the county and each city located in that county.

APPLICATION TO KOOTENAI COUNTY

Kootenai County, which regulates land use in the unincorporated area of Kootenai County, has adopted a series of ACI agreements with each of Kootenai County's incorporated cities with the exception of Fernan and State Line. The adopted ACI Agreements are an example of an approach to growth management that the County is already using. In some cases, these agreements apply special development standards tailored to the needs of individual cities within the unincorporated areas surrounding each city. For example, within the exclusive tiers of the Coordinated Area of City Impact, surrounding the cities of Hayden, Post Falls, and Rathdrum, subdivisions are only allowed if the development is served by municipal sewer extending through the property in anticipation of subsequent development. In other cases, the ACI agreement simply provides that County plans and development standards apply within the ACI.

Although the ACIs have been a useful means of growth management, many of the current agreements are outdated. For example, the County Coordinated Area of City Impact Agreement between the County and the cities of Post Falls, Hayden and Rathdrum was signed on September 15, 2004, and the geographic boundaries of the ACI, as well as the exclusive tiers and shared tier provided for in the ACI agreement, were fixed at that time. Since the initial adoption of this agreement, aside from an ACI boundary amendment adopted on November 3, 2005, none of the parties have made a joint effort to revise the Agreement or the ACI boundaries, including the balance between the exclusive and shared tiers, to reflect the rapid growth and changing jurisdictional boundaries in Kootenai County.

Due to significant annexations by these cities (and the city of Coeur d'Alene, which has its own ACI agreement with the County), the geographic areas of these ACIs, as well as the Kootenai County Comprehensive Plan designations of Border and Transitional, which specifically relate to ACIs and were delineated in 2010 based on then-existing city limits, are no longer representative of projected growth. These incremental annexations have caused city limits to reach, or nearly reach, the boundaries of the reserved growth areas set forth in the current ACI agreements. As a result, many of the previously agreed-to buffer areas which are necessary to plan for future growth of these cities have disappeared.

Without the updating of the ACIs that are meant to coordinate urban expansion, there is less certainty about how the cities will grow in the future. Although a city with an ACI agreement in place can annex outside of its ACI (Idaho Code §§ 50-222, 67-6526), the exclusion of properties located near city limits from an ACI can still render them underutilized and undesirable for urban development because cities normally do not annex land outside their ACIs and do not provide municipal services to properties located outside city limits; annexation is required before such services may be provided.

In addition, as stated above, the Kootenai County Comprehensive Plan's land use designations have not been updated to reflect the incremental but steady growth pursued by the cities through annexations. Specifically, some areas in the County have Transitional designations adjacent to the city limits, but the Border designation is the one actually intended to separate city limits from Transitional areas. This results from the areas designated as Border having been annexed without a concurrent shifting of the Comprehensive Plan designations to keep pace with the expansion of each city. This creates problems because the Transitional and Border designations have different goals and policies based on relative proximity to the city limits, but they no longer correspond with ACI boundaries in many areas.

In order to promote healthy and sustainable growth, ACI Agreements and Comprehensive Plan designations should be updated to provide incentives for new development to occur in the urban core and to provide disincentives for development that would create more low intensity sprawl in the unincorporated area of the County. Without an update of the ACI Agreements and their geographic boundaries, Kootenai County's existing growth management efforts may fall short of the goal of promoting responsible urban expansion.

Allowing development at urban densities within (or even near) an ACI is highly problematic because a city will not provide services it provides (most notably, sewer services) until that city can make those services available in those areas and the property is annexed into the city. In addition, current Panhandle Health District (PHD) rules do not allow for such development to utilize septic tanks for sewage disposal over the Rathdrum Prairie Aquifer. Moreover, PHD's non-domestic wastewater disposal requirements severely limit the commercial and industrial development which can occur over the Rathdrum Prairie Aquifer.

Developments that have occurred at urban densities near, but outside of, city limits are typically bypassed by cities as they grow outward, leaving unincorporated "islands" surrounded by development within the city. To avoid the poor planning of the past and to help preserve the quality of the water in the Rathdrum Prairie Aquifer, planning in both the Border and Transitional designations, whether or not they are currently within an ACI, should be a joint effort between Kootenai County and each city. City comprehensive plans often already include areas within the city's ACI and other areas into which the city may expand in the reasonably foreseeable future (typically, a 20- to 25-year window).

County planning, and ultimately zoning, in these areas should complement the cities' comprehensive plans by facilitating the ability of each city to annex property as it is being developed. This is most easily accomplished by prohibiting or restricting the subdivision of property within ACIs or, alternatively, property within the Border or Transitional designations. Examples could include rezoning of property to Agricultural, or adoption of an overlay zone in which the minimum lot size for new subdivisions is ten or more acres as opposed to the current five acres. Other restrictions on the use of property within these areas beyond those which generally apply in the underlying zone may also be considered.

5. OPEN SPACE PROGRAMS

In communities where development pressures are rising, the economic viability of agricultural uses often cannot compete with the rising costs of land. As a result, farmers and families that have held on to land for generations are under considerable pressure to sell their land to developers or subdivide it themselves into residential development sites.

One of the ways that communities have responded to this issue is to implement a local tax that is then used for the purchase (at fair market value) of land that is environmentally sensitive or important for agricultural production or other reasons. The purchases can be either fee simple, or may take the form of a conservation easement which essentially removes the development rights from the land but allows the current owner to maintain ownership. Once purchased, the open space land can then be leased back to farmers, made available to the public for park and recreation purposes, or otherwise preserved for the benefit of the public.

There are also economic reasons to consider creating an open space program:

- Home values tend to increase faster around parks and protected open space than comparable homes in other settings.
- New businesses prefer to locate in communities with parks and quality environments.
- Tourism is one of Kootenai County's top industries. The preservation of open space, landscapes, parks and forests lends itself to the continued growth of this sector of the economy.
- When it comes to attracting new industries, business owners consider quality of life as equal to and sometimes more important than purely business-related factors.
- Businesses which move to an area because of tax incentives are prone to leave once the incentives expire. Businesses drawn to an area because of its quality of life remain long term residents and taxpayers.

EXAMPLES

SPOKANE COUNTY, WASHINGTON

The Conservation Futures Program was initiated by the Washington State Legislature in the early 1970's and implemented in Spokane County in 1994. This is a tax based land conservation program that allows the county to purchase land and preserve it as open space. In 2015, the program levied $4.67 per $100,000 and increased the amount to $6.25 per $100,000 in 2016 and up to $9 for a home assessed at $150,000. The Conservation Futures program has successfully acquired 9,145 acres as of July 2020. A portion of revenue generated is dedicated to maintaining and protecting the acquired land. In 2005, the portion allocated towards maintenance was 15%, and now it is 25% as of 2020. The goal of this program is to preserve and protect natural open space. The land will not be developed, only maintained.

DAKOTA COUNTY, MINNESOTA

The Minnesota Agricultural Land Preservation Program provides tools and resources to farmers to preserve agriculture land throughout the State of Minnesota. The resources include but are not limited to: Tax incentives, education initiatives for fostering awareness of land preservation, financial assistance, Minnesota Farmlink (connects prospective farmers with retiring farmers), a farmer resource website and technical

assistance for issues related to urban areas, immigrants, zoning or any other issues that may come up. Some specific examples of this program in action are as follows:

A. Metropolitan Agriculture Preserve Program: This program protects agricultural land by offering an opportunity for land owners to agree to continue to farm agricultural land for eight years. The farm land under the Agricultural preserve program is assessed at values of land outside of the metropolitan area, thus reducing property taxes.

B. Open Spaces: The open spaces program in Minnesota provides an option to property owners to apply for deferment of assessment and taxes payable for open spaces on their property whose value has increased due to potential residential or commercial land requirement pressures on the market. The eligibility for this program is limited to land that is designated for recreational activities.

C. Green Spaces: The Green Spaces program is similar to the previously mentioned programs in that it provides an opportunity for the land owners to apply for their property to be assessed at the agricultural value of the property that is independent of the surrounding development. This is done by the assessments of property outside of the rapidly growing Metropolitan area. These programs provide incentives to property owners to maintain open space, agricultural space, and recreation areas rather than selling and developing.

BOULDER COUNTY, COLORADO

The idea of a county open space program was initiated in the mid-1960s by Boulder County citizens who were interested in parks and recreation needs of the unincorporated area and in "preserving open space land in the face of rapid county development" (Boulder County Comprehensive Plan, 1978, History of Open Space Program). In 1967, the Board of County Commissioners appointed an "official" citizens group, the Parks and Open Space Advisory Committee, to help formulate a plan for preserving open space. This was at a time when Boulder County's 741 square miles were home to a population of fewer than 130,000 people. (The current population is estimated to exceed 326,000.) The Boulder County Parks and Open Space Department was formally designated as of January 1, 1975, initially overseeing several properties amounting to approximately 85 acres.

Turning the vision into reality evolved over some time. The first two attempts to pass a county-wide open space sales tax failed in 1978 and 1988. In 1993 the first open space sales and use tax passed: 0.25% for 15 years. Since then, several additional tax resolutions have extended or passed new sales taxes, along with significant bonding authority to accelerate open space purchases. As of 2017 the open space sales and use tax stands at 0.6% (Boulder County Planning Commission, 2017).

The county currently owns or manages 105,386 acres of open space land. Of this, 65,897 acres are in fee simple ownership, and 39,489 acres are in conservation easements (Department, 2020).

APPLICATION TO KOOTENAI COUNTY

Idaho law prohibits the imposition of any local option sales tax except as specifically authorized, and then only in certain "resort cities" by a 60 percent majority vote (Idaho Code § 50-1043 *et seq*.). Therefore, the County could not adopt a tax-based open space acquisition program. Similarly, Idaho law does not provide

for tax incentives for the specific purpose of providing open space, though it does provide for a partial exemption from property taxation for any property within the statutory definition of being "actively devoted to agriculture" (Idaho Code § 63-604), and also provides for a partial exemption from property taxation for any qualifying property devoted to forestry (Title 63, Chapter 17, Idaho Code). Land used to protect wildlife and wildlife habitat is also exempt from property taxation (Idaho Code § 63-605).

Because of the strict limitations in Idaho law regarding taxation and tax incentives, the implementation of an open space preservation program would be more challenging in Kootenai County than in the examples above, though not impossible. The Board of County Commissioners could budget money toward an acquisition program and maintain acquired property through the County's existing Parks and Waterways Department (though this may also involve additional expenditures for personnel and equipment) or a private land trust (particularly when a conservation easement is acquired). Funding sources may include, without limitation, property taxes from new construction, foregone property taxes, a successful override levy (which would require a ⅔ majority vote for a permanent override or a simple majority for a two-year override), grant funding, or donations, particularly ones that qualify for federal income tax incentives.

Key Takeaways

American planning practice has traditionally relied on zoning and subdivision regulations as the principal means of implementing the Comprehensive Plan. These planning tools can be considered reactive and shortsighted. They only consider development as it is proposed, and are not in themselves capable of taking into account the cumulative effects of individual decisions. Without considering available services (i.e. sewage, roads, schools, water sources, etc.), development patterns can become haphazard, inefficient, and costly to service.

Growth management techniques evolved to add the consideration of development timing to the development review process and to allow planners to ask 'is the proposed development desirable, and in the public interest at this place, and at this point in time?'

Proactive Planning

Growth management is a proactive approach to land use policy that goes beyond traditional land use planning tools such as zoning and project review to advance a more holistic approach to creating sustainable futures. Growth management focuses on the timing, quantity, and spatial distribution of regional development to ensure long-range viability of road infrastructure, preservation of environmental resources, and the creation of socially cohesive neighborhoods.

Figure 4: Site of future condominium building overlooking Lake Coeur d'Alene

A Range of Options

There are many commonly used growth management tools, ranging in scale and scope. Since these tools can be combined, modified, and adapted to the local context, there are numerous options for planners and decision-makers to implement growth management in communities. Growth management can, and must, be tailored to the local political and cultural context in order to ensure that it aligns with the values of residents. Furthermore, while Idaho law plays a significant role in determining what is possible in Kootenai County, the implementation of growth management has a solid legal foundation.

Building on Existing Foundations

Kootenai County can learn from a wide body of practical examples when determining which specific growth management tools, if any, to adopt. As a county government responsible for land use in diverse settings, from suburban to agricultural, Kootenai County growth management would not be identical to that implemented in a city, but it would be just as essential to responsible long-term planning for the region. Many tools already utilized by Kootenai County, such as Areas of City Impact, conservation design subdivisions, and prohibition of subdivision in the Agricultural zone, provide a promising foundation for a comprehensive growth management system for Kootenai County.

Figure 5: Greensferry Water District reservoirs, recently approved for a new booster pump to accommodate increasing demand

Protecting Rights and Enhancing Value

Growth management protects property rights and enhances property values by promoting health, safety, and general welfare, which is the foundation for local land use planning. As development demand continues to rise and Kootenai County increases in population, growth management is more essential than ever as a tool to ensure that community needs, including the need for affordable housing, continue to be met while also preserving the features of Kootenai County that make it such a desirable place to live.

Figure 6: Trail through the forest in a recently approved subdivision near Fernan Lake

Providing a Context for Consistency

The Land Use and Development Code is the primary tool used by County planners to process development requests, but while it is of the utmost importance for that purpose, it is not the only tool or even the most important tool available for long-range growth management planning. The Kootenai County Comprehensive Plan sets forth a vision for the long-range future of the unique communities that our residents call home. Growth management tools can effectively enhance the consistency between plans by providing an additional framework for development processes. By treating growth as a community-wide phenomenon, rather than a parcel-specific activity, a growth management framework can situate development proposals within a context of planning for the needs of County residents as a whole.

Conclusion

Each of these growth management tools can be incorporated into the Land Use and Development Code. The preparation of ordinance language related to any of these methods of growth management would require review of the Kootenai County Comprehensive Plan, staff collaboration with the Planning Commission, and a clear nexus between any new standards and the impacts reasonably expected to result from future development, keeping in mind the goal of responsible, conservative, and sustainable growth management. Implementing growth management techniques is especially necessary in places with high levels of development pressure, a dwindling supply of undeveloped rural land, and sensitive natural resources. Kootenai County fits this profile, causing a need for growth management in order to preserve the value of local environmental resources and high quality of life for the community's residents well into the future.

Figure 7: Site of future condominium building in the Black Rock Planned Unit Development

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