The Evolution of American Nongovernmental Land Use Planning Organizations

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Over the last few decades of the 20th century, the processes associated with governmental regulation of the use and development of privately held land in the United States have undergone dramatic changes. Where formerly most land use decisions were undocumented, informal understandings involving only the landowner and a local government official, many are now made in quasi-judicial settings with notice to potentially affected parties, opportunities to call expert witnesses and to cross-examine opposing witnesses, written findings and conclusions, and the ability to appeal the decision to a higher body.

Parallel to these developments have been the growth and evolution of nongovernmental organizations involved in issues surrounding land use planning and development. As the side effects of post-WWII rapid growth emerged in many metropolitan areas, citizens and community leaders began to express concerns about growth-related environmental and community impacts. Ultimately, those concerns coalesced, resulting in ad hoc groups, usually focused on a particular controversy in a community.

Ad hoc community groups are still very much present in today’s land development processes. However, more permanent organizations have also emerged that provide a broader scope on growth-related issues and a more lasting presence on the land conservation and development scene. Over time, these organizations have accumulated many skills and added many roles to their repertoire. However, nearly all of these groups begin with the role of the watchdog: the political outsider carrying the mantle of public interest and working to enforce an ideal perceived to be lacking in the normal machineries of government and the market. Indeed, many of these groups retain the watchdog role as their exclusive, or primary, role in public dialogue.
The Structure of Land Use Decision Making

To understand the importance of this role, it is useful to reflect first on the institutional structure of day-to-day land use decision making in virtually all local jurisdictions in the United States. When a local government makes a decision about the use of privately owned land, it is usually put in the position of attempting to balance the interests of an individual with the health and welfare of the whole community. Thus, the decision maker acts in the traditional role of a judge, defining the rights and responsibilities of interests that are often in competition with one another.

Were this the only role the decision maker had to play, land use decision making would be much easier than it is. The reality is substantially more complicated: Before taking on the role of judge, most land use decision makers have acted as quasi-legislators, articulating the broad interests of the community by formulating and adopting a land use plan and/or zoning ordinance. In many cases, these same decision makers are then compelled to act as advocates in defense and maintenance of the interests reflected in the plan and ordinance. Hence, in most situations, land use decision makers are called upon to play three roles: the definor of public interests, the advocate for those interests, and the arbiter between those interests and the interests of the individual landowner.

The difficulty—and absurdity—of expecting a single body to play these three roles, virtually simultaneously, is illustrated by an analogy to the American criminal justice system. That system depends on the integration of four well defined tasks. First, a legislature must consider the broad interests of society and adopt statutes that define what conduct is illegal. It is then a prosecutor’s job to vigorously protect those societal interests by indicting those accused of illegal activity. The accused are expected to zealously defend themselves, advocating for their own interests. Finally, it is the judge (sometimes with the help of a jury) who arbitrates between the positions of the prosecutor and the defendant.

In criminal law, each role is played by an individual or entity that is constitutionally required to maintain distance, even isolation, from those playing other parts. In the land use arena, however, decision makers are expected to be almost schizophrenic, concurrently taking on the positions of legislators, prosecutors, and judges. It is small wonder that there is such general dissatisfaction with the outcomes of many land use proceedings.

If the objective of a land use planning system is to define a broad community vision, establish measures to implement that vision, and ensure that the vision is achieved in some fashion, land use decision making bodies cannot be expected to carry the entire burden of all the different roles needed to achieve a successful outcome. There must be additional players active in the process. This is where nongovernmental land use organizations can, and do, play a role.

The Prosecutorial Role

Land use groups range in size and focus from volunteer neighborhood groups to statewide organizations with full-time professional staffs. Collectively, land use organizations work both in the standard-setting and decision-making parts of the land use system. Borrowing again from criminal law, these groups work to assist in the legislative and prosecutorial functions of the land use process by helping to define community standards and
by advocating for the maintenance of those standards in land use permit proceedings.2

The most traditional role for land use organizations is that of prosecutor—being an advocate for the protection of community standards in the context of an application for a particular land use permit. This is perhaps the most immediately important role for land use groups because it is here that the inherent conflicts of interest created by the three responsibilities of land use decision makers are most present. It is also here that most land use systems are the weakest. This is because it is at this point that the vision of a land use plan is focused down to an individual landowner. It is where the general becomes the specific. It is also where implementation occurs (or does not occur, in many cases).

The translation of general policy into specific action is always the most difficult part of any public policy process. It is relatively easy to reach agreement on non-specific principles, even among a wide set of interests. It is a much more formidable task to apply those principles in an individual case. Add to this the fact that in many land use contexts, decision makers and land use applicants are known to each other and may share business, personal, or family connections.

On top of this is the general human tendency to want to be liked. Few people enjoy making others unhappy by telling them what they may not do. While this reluctance is understandable, in the land use context it can spell doom for the implementation of a land use plan or ordinance. Saying “yes” to every land use applicant that comes along may help make or keep friends with applicants in the short term, but in the long term the whole community loses. For a land use system to work, there must occasionally be losers at the permit level for the community to win in the long run. Otherwise, the health and welfare of all the members of the whole would be sacrificed for the benefit of a few individuals.

Properly functioning land use organizations help guard against this outcome by being advocates for the broader community vision. In this sense, they assist the decision maker by partially taking over the role of prosecutor, arguing zealously to maintain public welfare. By doing so, land use groups create political cover, providing the decision maker with a constituency for the public interest in deciding the outcome of permit battles. This works to support decision makers by framing a particular debate, providing a balance to the claims and interests of individual permit applicants.

It is perhaps an understatement to say that this support is not always outwardly appreciated by decision makers. Especially since the “support” sometimes takes the form of a lawsuit, or the threat of a lawsuit, to enforce provisions of the plan, code, enabling legislation, or implementing regulations. This form of “tough love,” however, plays a significant role in keeping the decision-making process tied to the community standards embodied in the local plan or code or in relevant state planning laws. Just as the Equal Access to Justice Act enables citizens to act as “private attorneys general” in enforcing federal laws, the potential for citizens to safeguard their community’s planning regime through the courts provides an important check in the planning process.

None of this should be understood as a vilification of land use applicants or decision makers. It is not the job of applicants to place the interests of society before their own. That is the job of the collective interests we call government. But government cannot be expected to complete that job in isolation. For government to do its job properly, there must be a constituency that promotes broader societal interests. Working to create such a constituency is the most important function that nongovernmental organizations can provide.

Nor should this description be understood as a glorification of land use organizations. Certainly, there are nongovernmental groups operating in the land use arena that clothe themselves with the mantle of public interest, but are in fact operating out of the self-interests of the group’s individual members. Single-issue neighborhood groups organized solely, or primarily, to oppose a particular development are the places where this seems to occur most commonly.

These instances aside, however, land use organizations can and do play another important role by educating the public about important land use issues and focusing public interest in a constructive fashion. In this way, land use groups act as a public information conduit that functions in both directions. First, they can bring attention to an issue of public importance that government cannot advertise, such as the importance of passing a bond measure for open space acquisition, or publicize issues that government would rather not receive attention, such as plans to construct a new freeway through a community. Second, they can help citizens focus on issues of real community importance, acting as a filter for public comment and helping concerned citizens understand the implications of land use applications from a broader community perspective.

Land Use Think Tanks?

Apart from the quasi-judicial arena, land use organizations are becoming increasingly involved in the more policy-oriented work of formulating community vision. As typically happens, land use activists get involved in response to a controversy over a particular land
use application. If they remain involved in land use issues beyond the time frame of that dispute, many activists realize that in the long run it is the standards enshrined in the local land use plan or zoning ordinance that make the real difference in outcomes.

An outgrowth of this broader policy function is an emerging new role for land use organizations—that of land use think tank. While there are a few organizations, such as New York’s Regional Plan Association and the Urban Land Institute, that have long-standing research operations, most organizations have not had the resources to take on such a role. This, however, is beginning to change. Land use groups are now beginning to undertake research activities and publish studies concerning imminent public policy issues.

One example is 1000 Friends of Oregon’s (1997) LUTRAQ (land use, transportation, air quality) project in the Portland, Oregon, metropolitan area. The project, which was conceived in response to a proposed new suburban freeway, was preceded by 2 years of litigation. After the litigation had run its course, more or less in 1000 Friends’ favor, organization leaders realized that ultimate victory on the ground required something much more than favorable judicial opinions. To really extinguish the freeway, a new alternative needed to be crafted that was responsive to the forces underlying the freeway proposal. It was no longer sufficient to be opposed to something; to achieve success, the organization needed to be in favor of a positive alternative. The resulting multiyear project used the talents of numerous consultants—including Calchore Associates, Parsons Brinckerhoff, and Cambridge Systematics—working with representatives of local and state government and the public to define and promote an alternative land use plan that focused much of the expected future development for the area into pedestrian-oriented neighborhoods along the region’s light rail system. Nearly 10 years after the first lawsuit on the issue, this strategy proved largely responsible for the freeway’s demise.

Another example is a project by the Environmental Law and Policy Center (1998) to develop and test alternatives to a planned extension of the Illinois Tollway System into a relatively undeveloped section of the Chicago suburbs. The project, titled Crossroads, harnessed the expertise of consultants and academicians to independently assess the tollway authority’s claims concerning the extension. Using their own set of travel forecasting models, the project team determined that the region would achieve greater traffic relief by improving existing local roads and abandoning the tollway proposal. The team also found that the tollway would actually increase traffic congestion because it would draw 60,000 additional residents to the area. In response to the Crossroads study and attendant public concerns with the project, the tollway authority has elected to rethink the proposal, initiating an $8 million study to assess whether the extension is really needed.

The Chesapeake Bay Foundation, Environmental Defense Fund, and the Coalition for Smarter Growth (1996) jointly produced A Network of Livable Communities, a report predicting how the Washington, DC, metropolitan area might look and function if future growth were accommodated in transit-oriented development patterns. Like LUTRAQ, the Network report suggests that growth could be better accommodated by encouraging the use of innovative transportation and community designs across the region than by freeway expansion.

In the San Francisco Bay area, citizen activists dissatisfied with the norm, highway-based transportation planning process produced their own regional transportation plan to compete with the officially sanctioned plan (Davies, 1998). Organized as the Regional Alliance for Transit (RAFT), the citizens developed Land Use and Transportation: Envisioning Regional Sustainability, a plan combining land use changes, pricing reform, and a shift of funds from new freeway construction to public transit.

Over a decade ago, voters in the Traverse City, Michigan, area rejected a proposal for constructing a highway bypass. The Grand Traverse County Road Commission has, nevertheless, spent over $1 million since then studying the bypass and is still proposing its a solution to the region’s traffic problems. In response, a coalition of citizen groups led by the Michigan Land Use Institute has come together to create its own alternative to the highway (Davies, 1998). The alternative includes changes to local zoning ordinances to focus future land uses in the region’s historic core and to implement new design standards for crosswalks, roads, and bridges. It also promotes expansion of the public transportation system and improvements to bicycle and pedestrian systems.

In Virginia, Rural Route 50 passes through a number of historic sites and villages, and supports agriculture, tourism, and local businesses. In 1994, the Virginia Department of Transportation proposed two bypasses to the scenic roadway. With the threat of encouraging sprawl from the Washington, DC, metropolitan area, just 25 miles to the northeast, local residents developed an alternate plan, focusing on traffic calming along the original highway (Carlson et al., 1995). The plan emphasizes the maintenance of historic values, while balancing aesthetic and safety goals. While the final outcome of the debate over the proposed bypasses is still uncertain, the example set by the communities along Route 50 in finding alternative solutions to more road construction is a compelling one.

In each of these instances, nongovernmental orga-
nizations have taken on a role traditionally exercised by government—that of studying pending public policy issues, assessing alternative strategies for addressing those issues, and crafting a plan that will best serve the interests of the public. These efforts, however, should not be seen as merely duplicating the efforts of government. In each of these cases, the land use organization was addressing issues and defining alternatives that government could not, or would not, explore. In the LUTRAQ study, for example, political sensitivities and inertia blocked state and local governments from taking a leading role in defining land use-based options to the proposed freeway. It was only with the leadership of a nongovernmental organization that such options could be developed and considered. In this way, land use groups are now providing research on issues and topics that have to date been ignored or avoided because of a variety of political barriers.

Nor should these study efforts be interpreted as an abandonment of the more traditional advocacy methods used by nongovernmental groups. For example, the Environmental Law and Policy Center, the sponsor of the Crossroads study, is also one of the parties that sued the Illinois Tollway Authority for another proposed new highway, unrelated to the facility analyzed in Crossroads. The resulting court decision required the Authority to produce different population and employment forecasts for each alternative studied in the environmental impact statement for the road, setting a precedent that has the potential of revolutionizing transportation planning processes. Hence, the study function of nongovernmental organizations should be seen as an addition to, not a replacement for, more adversarial techniques.

Moreover, even within the study function, there is a significant difference between the research being conducted by land use groups and the more traditional functions of a policy think tank. While research may be a new area for most land use groups, the intent is usually not to transform an advocacy-based organization into a Brookings Institution, but to provide a basis for more sophisticated and effective local advocacy. 1000 Friends of Oregon did not undertake the LUTRAQ study merely to assess the impacts of transit-oriented development on automobile dependency; the organization wanted to force the cancellation of a specific highway project. In each case, the topic and manner of the research is almost always directed with advocacy and implementation in mind.

**A Whole Greater than the Sum**

Another new role for land use groups is that of organizer and participant in coalition building activities with nongovernmental organizations outside the realm of land use. As the challenge of managing growth in urban areas becomes increasingly complex and urgent, land use groups are recognizing that their efforts alone are usually not sufficient to achieve the policy reform necessary to meet those challenges. This has led several organizations to begin the work of making common cause with groups and institutions that have not normally been involved in land use and growth management debates.

A leading example of this is Portland, Oregon’s, Coalition for a Livable Future, a group that began several years ago with a series of meetings hosted by 1000 Friends of Oregon and now has its own office and paid staff. The Coalition brings together groups as disparate as church organizations, environmental groups, and the Urban League to address emergent growth management issues in the Portland area. The organizations came together with a recognition that while missions among the various groups differ, their agendas overlap in a number of important areas. Issues of job creation and urban revitalization, important to the Urban League, are just the flip side of trying to keep urban development off the greenfields, a primary objective of the farmland protection groups. The interests of transportation organizations in promoting compact, transit-oriented growth patterns dovetailed well with those of environmental groups working to protect riparian areas. Coalition members quickly recognized that through collaboration not only were the individual organizations more successful in achieving their various aims, but they became more sophisticated and comprehensive in their understanding of their missions and the political strategies needed to accomplish them.

Similar regionwide coalitions have been forged in other metropolitan areas (Orfield, 1997). In the Minneapolis/St. Paul region, a coalition of suburban mayors, community development groups, representatives of low-income and minority interests, and good government organizations coalesced into the Regional Fair Housing Coalition, which has collectively sponsored and lobbied for a wide range of regional land use and growth management legislation. A similarly varied coalition led by the Center for Neighborhood Technology successfully pushed the Chicago Transit Authority to reverse its decision to raze the city’s Greenline rapid transit train and to rebuild and renovate the line instead. The group is now working to guide the reconstruction process.

It seems clear that the future of land use organizations lies in this direction. As the field of land use planning continues to encompass an ever widening array of topics, nongovernmental organizations will also need to broaden their perspectives by linking to other groups.
with allied interests. In many cases, the allied organizations will not yet comprehend the link between their respective issues and the planning arena. In those instances, land use groups can serve yet another role—that of educator—by sensitizing sister nongovernmental groups to the ways that their interests are affected by planning. It is likely that with the introduction of these new organizations to the planning field, the constituency for a stronger public interest perspective in planning and implementation will grow.

**Outside Insiders**

And so the record of land use organizations appears to be an evolutionary one. Though there are important exceptions, the collective sweep of history appears to show movement from a focus primarily on permit battles to a broader concern with identifying and protecting larger societal interests. To succeed in this wider realm, many groups are now adding to their traditional adversarial approaches by using sophisticated research tools once reserved for government. They are also reaching out to other, tangentially related nongovernmental organizations in an effort to expand a public-based planning constituency.

Together, these changes have brought a wide array of new tools to land use organizations, allowing them to be more elegant and effective in responding to emerging planning issues. With the new tools comes the need for a wider range of professional expertise among organizational staff. Where formerly such staff was dominated by lawyers and campaigners, there is now need for planners, transportation engineers, and economists to balance and complement the advocacy personnel.

This diversification is leading some land use groups to take on a new role—that of political insider. After years of playing the part of outside agitators—often with relish—the new-found sophistication that many land use groups have acquired has gained them access to the inside of political processes.

The upside of this new role, naturally, is that it provides land use groups with more clout in influencing policy through back channels, often before it emerges into the public realm. It also provides opportunities for collaborative problem solving with governmental and other private parties, in lieu of the more traditional adversarial approach. With the current rise of interest in alternative dispute resolution, this benefit alone speaks strongly for the advantages of collaborative, inside participation.

Of course, insider status can also pose new challenges for land use groups. Primary among them is the danger of having the fundamental ideals and principles of the organization co-opted or compromised to the extent that the group’s original function as a nongovernmental watchdog is undermined. This danger often extends beyond the reality of compromise to the public appearance of capitulation: Whether or not a group has actually traded away its fundamental principles, sometimes the appearance of such is as damaging as the reality. Hence, maintaining a clear understanding, both within governmental circles and in the public’s eye, of the organization’s role as watchdog—not lapdog—can be crucial to the long-term maintenance of the group’s insider function.

In practice, this tension between maintaining fundamental principles while seeking collaborative problem solving seems likely to lead to situations where land use groups oscillate between insider and outsider status. Collaboration is pursued to the extent that it is effective in achieving the organization’s ends without trading away its founding values. When collaboration ceases to be effective, or runs the risk of the appearance or reality of the group’s capitulation, the adversarial outsider role is embraced.

This was certainly the case in the LUTRAQ project. 1000 Friends of Oregon first adopted the classic outsider role when it sued local and regional governments over the proposed freeway. It then accepted a seat at the table for defining and guiding the environmental impact statement for the highway. When that process appeared unlikely to be broad enough to include the type of alternatives the organization felt were necessary, the group went outside to create its own study. The results of that study were then fed back through the environmental impact statement process, thereby making the organization an insider again. Having its alternative selected and the highway defeated, however, required the group to go back outside the process, into alternative public forums. Eventually, the group traversed the insider/outside boundary no fewer than six times in the decade-long course of its work on the issue.

In the end, it seems reasonable to expect that nongovernmental land use organizations will continue their current trends toward building greater technical acumen and creating broader political bases. This progression seems only natural, as concern about growth in American cities and metropolitan areas continues to increase. The fact that many, maybe most, urban/suburban places are expanding their geographic reach at rates several times greater than their rate of population increase indicates that future demands put on land use groups will be substantial. It also illustrates why we need these organizations so much.
NOTES

1. Some of the leading U.S. nongovernmental land use planning organizations are listed below.
   - 1000 Friends of Florida
   - 1000 Friends of Maryland
   - 1000 Friends of Minnesota
   - 1000 Friends of New Mexico
   - 1000 Friends of Oregon
   - 1000 Friends of Washington
   - 1000 Friends of Wisconsin
   - Center for Neighborhood Technology
   - Chesapeake Bay Foundation
   - Coalition for Smarter Growth
   - Coalition for Utah's Future
   - Environmental Law and Policy Center of the Midwest
   - Greenbelt Alliance
   - Michigan Land Use Institute
   - Natural Resources Council of Maine
   - New Jersey Future
   - Pennsylvania Environmental Council
   - Piedmont Environmental Council
   - Regional Plan Association
   - Vermont Natural Resources Council

2. By focusing on community standards rather than individual rights, my definition of "land use organizations" necessarily excludes those groups working primarily to promote property rights. While the former seek to refine, articulate, and defend a vision defined by the community as a whole, the latter tend to advance the interests of individuals, albeit in a group setting.


REFERENCES