

COMMUNITY GROWTH MANAGEMENT

Influencing the Sequence of Development

Growth means many things to many people. In one sense, it simply means more people in a place than there were before. But such a simple definition ignores the fact that growth has become a public political issue . . . The search for ways to increase the financial security and well-being of all Oregonians while not sacrificing the other values is exceedingly complex and difficult.¹

Citizens in Oregon are increasingly concerned about the effects of growth. Growth, particularly economic growth, can bring benefits to a community such as higher incomes and increased economic, social, and cultural opportunities. But economic growth and the rapid population growth it often encourages can also bring problems. A number of undesirable features of the urban landscape have been associated with rapid community growth:

- loss of "small town" atmosphere;
- urban sprawl;
- increased congestion;
- loss of open spaces and surrounding rural lands;
- loss or resource potential such as farmland and forestland;
- reduction in air and water quality;
- overburdened public facilities;
- rising taxes to pay for expanded public facilities and services;
- inadequacy of local governmental structure to cope with increased problems.

One of the goals of comprehensive community planning is to secure the benefits of growth while

Prepared by Rebecca Roberts, research assistant, and Philip L. Jackson, Extension land resource management specialist, Department of Geography, Oregon State University. This study was partially supported with funds from Title V of the Rural Development Act of 1972. The authors acknowledge the assistance of James Mattis and Donald Johnson, University of Oregon Bureau of Governmental Research and Service; Richard Beck, Marvin Gloege, Thomas Maresch, William Rompa, and Bruce Weber, Oregon State University; and Roz Shirack, LCDC.

Community Development

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minimizing associated problems. Economic planning and land-use planning are both aimed at achieving this goal. Among the land-use planning tools are growth management techniques, which seek to reduce the costs of growth by affecting the timing, amount, geographic pattern, or public cost of population growth.

This circular examines one aspect of community growth management—control over the timing of development. Control over the timing of development can have two quite separate objectives: control over the sequence in which areas in a community are developed (the topic in this circular); and control over the overall rate of development (covered in “Influencing the Rate of Population Growth,” also in the Community Management series).

This circular focuses on sequencing, or the use of techniques to influence the geographic pattern of growth over time. The goals of sequencing policies are discussed, as well as several growth management techniques, their potential strengths,

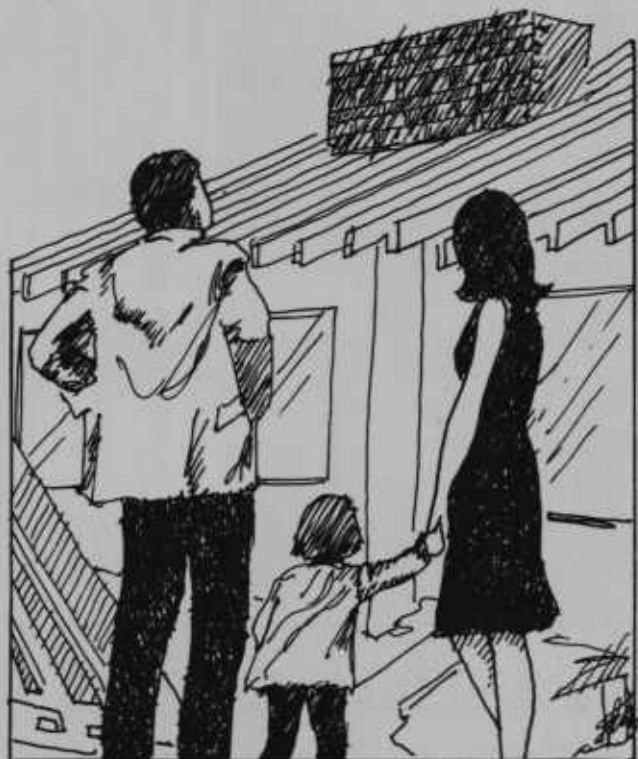
and potential problems. Next is an examination of issues that a community considering sequencing must resolve, and finally, a description of the legal limitations on the powers of communities to sequence development.

A variety of techniques can be used to control either the sequence of growth or the rate of growth. In fact, devices such as zoning, subdivision, and annexation controls have been in use for many years for purposes unrelated to controlling the timing of development. In most instances, these techniques are applied in different ways when the intent is to sequence development rather than the rate of development. However, because the techniques used to achieve these differing objectives are so similar, a community attempting to control the sequence of development may, unintentionally, affect the overall rate of development. It is important for a community to be aware of this possibility—and of the issues and problems raised by an attempt to control the rate of growth.

Goals

Communities attempting to sequence growth are usually seeking one or more of the following goals:

- assurance that adequate public facilities—such as streets, sewers, water, schools—are available to new development by encouraging growth in areas with adequate facilities and discouraging it elsewhere;
- control over property tax rates by encouraging efficient use of existing facilities, and by encouraging growth in areas and at densities that are least expensive to service;
- control of urban sprawl and its problems by encouraging infilling and compact development close to present community boundaries;
- protection of open spaces and resource lands such as farmland by reducing urban sprawl and preserving undeveloped land, either temporarily or permanently;
- preservation of the character of the community by controlling the geographic pattern of growth;
- reduction of land speculation by specifying in advance when and where development is to be encouraged or discouraged.²



Sequencing Techniques

A number of techniques are available to implement sequencing policies:

- urban growth boundaries;
- controlled extension of public facilities:
 - capital improvement programming
 - urban service boundaries
 - adequate public facilities ordinances;
- zoning controls;
- annexation policies;
- subdivision controls.

Urban growth boundaries

An urban growth boundary is a line on a map surrounding a community, separating urban and urbanizable land from rural land. It encloses existing built-up land and includes enough additional land to meet predicted urban needs for a number of years into the future. Land outside the boundary is to be actively protected from urban development. An urban growth boundary is therefore an explicit sequencing policy.

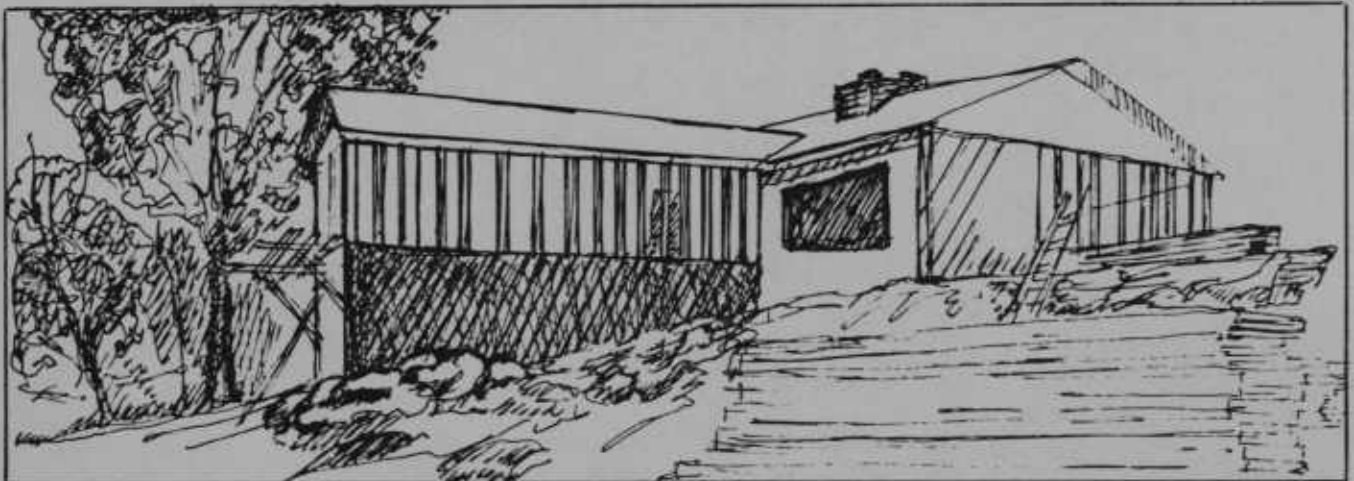
An urban growth boundary by itself does not ensure that development will occur only within the boundary; it is not self-implementing. It is, rather, a statement of policy, giving notice that other land-use decisions—such as annexation, rezoning, subdivision, and utility extension decisions—are going to be made in such a way as to encourage development to occur within the boundary.

In Oregon, the statewide goals and Land Conservation and Development Commission (LCDC) policies require cities and counties to cooperate in establishing an urban growth boundary, to

adopt consistent comprehensive plans for unincorporated land within the boundary, and to enter into a joint management agreement, which specifies responsibilities for implementation of the plan within the boundary. Decisionmakers must consider the following factors in establishing the urban growth boundary:

- need for buildable land to accommodate projected urban expansion;
- suitability of land for urban development;
- orderly and economic provision of services;
- retention of agricultural land in agricultural uses;
- compatibility of proposed urban uses with nearby agricultural land.

People frequently wonder how an urban growth boundary will affect the price of land. The effect may vary from city to city depending on individual circumstances, but it is very probable that a boundary could affect both the price of land and the price of serviced lots where the supply of available land is limited. A study of the Salem, Oregon, urban growth boundary found that, as of 1976, the boundary had not significantly affected the price of land; the study found that the land price was much more affected by availability of services.³ On the other hand, a study of Brooklyn Park, Minnesota, showed that segmenting the city into “developable” and “undevelopable” portions resulted in land prices 2½ times higher in the developable portion than in the undevelopable portion, after all other influences, including accessibility and service availability, had been accounted for.⁴



A boundary could affect the price of raw land without affecting the price of serviced lots to the consumer. An effective urban growth boundary will influence the probability that a parcel will receive services and be converted to urban uses. Such a change in probabilities should affect the price of raw land, but it does not mean that the supply and price of serviced lots to the consumer will necessarily change.

Extension of public facilities

Extension of sewer and water lines and construction of streets and highways influences the location and rate of development. The extent to which service extension can control development is not clear from research; however, most observers believe it does have an impact.⁵ Controls over the extension of services, then, can be used to influence the locale and sequencing of development.

The LCDC statewide goals encourage use of this tool; the public facilities and services goal states that "urban and rural development shall be guided and supported by types and levels of urban and rural public facilities." And according to the urbanization goal, "The type, location, and phasing of public facilities and services are factors which should be utilized to direct urban expansion."

Extension of services can be used to direct development when and where it is desired. Urban services are necessary to most high-density urban development, and so available services tend to draw construction. Of course, many factors enter into the decision to develop land, such as the demand for housing, the physical and social characteristics of the land and neighborhood, the willingness of landowners to sell at a given price, the

value of land in agricultural use, and the availability of services. If other factors inhibit development, provision of services may not be able to counter their effect.

Decisions not to extend public services can also be used as a means to postpone or discourage development in a particular area. The success of such decisions will depend on how inhibiting the lack of services is. When on-site facilities such as septic tanks and wells are adequate, development may continue at low densities. Such low-density development may make it difficult to extend services at a later time when high-density development is desired.

Successful use of service extension policy to discourage development in certain areas will also depend on the ability of individual communities to control extension. There is a potential conflict between jurisdictions; counties and cities have the planning responsibilities, but they do not always control the service providers. Special service districts also provide water and sewer services; they operate to serve the needs of the voters *within their boundaries*—not the community as a whole. Counties, or boundary commissions such as those that serve the Portland, Salem, and Eugene areas—can prohibit the formation of a new special district or the annexation of new land to existing districts.

The ability of a county to prohibit extension of services within existing districts is less clear. Counties are responsible under the law for coordinating the planning actions of all governmental bodies, including special districts, into an integrated comprehensive plan for the entire county." Special districts are required to plan in accordance with the statewide goals and to enter into a cooperative agreement with the county to



coordinate planning.⁷ However, conflicts may still occur between a county and a special district that are irreconcilable through cooperative coordination. These conflicts are resolved through objections to the county comprehensive plan at the time of LCDC plan acknowledgement or by appeal to the Land Use Board of Appeals.

Three specific sequencing tools involving extension of facilities are capital improvements programming, urban service boundaries, and adequate public facilities ordinances.

Capital improvements programming is a formalized planning and budgeting process for extending urban services and facilities. A capital improvements program usually consists of a capital budget for an initial period allocating funds for specific projects, plus a capital improvements plan for an additional number of years. The program indicates when and where capital projects will be undertaken and the probable source of funds. A capital improvements program is reviewed and updated regularly to permit the program to adjust to changing conditions, problems, and priorities.

If extension of services is being used as a sequencing tool, the capital improvements program alerts all concerned as to the intended location of growth. It can give advance notice to landowners, developers, and citizens of direction and timing of proposed service extensions.

Capital improvements programming is encouraged by the LCDC guidelines, but it is not required by the goals. The goals only require a capital improvements strategy that indicates whether proposed facilities are designed to support rural or urban densities, where facilities are to be located, when services are to be provided, who will provide the services, and how services will be financed. An actual date of provision of services or an actual commitment of funds is not required, because funding of future projects is usually uncertain.

There are two major limitations on the use of capital improvements programming as a sequencing device. First, responsibility for provision of facilities and services is often fragmented among many governmental bodies. Coordination among these bodies in the formulation of a comprehensive capital program is difficult. Second, the future availability of funds and therefore the ability of the community to carry out the program is usually dependent on uncertain passage of bond issues and future decisions by local, state, and federal governments.

An *urban service boundary* is a line drawn on a map around a city that indicates land that will receive urban services, particularly sewer and



water, in the very near future. It separates areas of high development priority from areas where growth is to be delayed for a time. Where both an urban growth boundary and an urban service boundary exist, the service boundary is equal to or inside the growth boundary. The service boundary may be extended gradually over time towards the urban growth boundary. An urban service area is therefore a means to sequence growth within an urban growth boundary.

An *adequate public facilities* ordinance is an explicit sequencing tool that limits growth to those areas where services have been extended. The capital improvements program indicates where and when development is to occur.

One of the first adequate public facilities ordinances was passed by the township of Ramapo, New York. The township developed a capital improvements program indicating where services would be provided during the next 18 years. The ordinance requires a parcel to have a certain level of services available before a special permit for residential development is granted. The adequacy of services is measured by a rating scale which grants points for available sewer, drainage, street, park, and fire house facilities. A land parcel must have 15 points on the rating scale to receive the special permit. In order to reduce the burden imposed on individual landowners, the ordinance provides for a variance procedure. It also allows landowners to apply for a reduction in appraisal and allows a developer to provide the required services.

Ramapo's experience points out some of the problems of an adequate public facilities ordinance. The township was unable to meet the schedule of construction it outlined in its capital improvements program. The township did not control all the funding agencies and for a variety of reasons including weather emergencies, it was unable to commit the funds or obtain the financial assistance required by the plan. The ordinance provided that a proposed development be credited with the points for facilities and services that should have been available according to the capital improvements program. Failure to provide the scheduled services did not limit the ability of the ordinance to sequence development, but it did mean that one of the goals of the ordinance—to ensure adequate services for all new development—was not attained.



Zoning

Two zoning techniques, large lot zoning and agricultural zoning, may serve to discourage development in an area until the community is ready for it to develop. In effect, such zoning creates "holding zones."

Large lot zoning requires a minimum lot size ranging from one or two acres to tens of acres. Supposedly, large urban lots are more expensive and therefore discourage development until the community is ready to rezone for higher density use. Because small lot zoning often encourages immediate development, large lot zoning can be a valuable tool in a sequencing effort.

The experience of most communities, however, is that large lot zoning is not effective as the sole means of controlling the sequence of development for a number of reasons. First, it is difficult for planning bodies to resist pressure to rezone or grant variances for individual parcels.



Second, large lot zoning may not stop development but just encourage it to occur at lower densities. This circumstance leads to sprawl and makes conversion to more intensive uses at a later date difficult or impossible. Ultimately, large lot zoning may make provision of services to the area inefficient and expensive.

The severity of these problems may depend on the minimum lot size. Relatively small minimum lot sizes up to several acres present the most problems. Several acres in a holding zone may be very close in price to that of a city lot, and high demand for land may encourage rather than discourage development. Areas developed at these densities are almost impossible to convert to higher densities. Minimum lot sizes of 5 to 20 acres or more may create fewer problems because they are easier to convert to higher densities at a later date. Because of the demand for ranchettes close to town, however, owners may be unwilling to sell when the time comes for more intensive development. Extensive subdivision into parcels of this size may still make efficient conversion to urban densities difficult.

Agricultural zoning creates zones that do not permit outright nonfarm housing or other developed uses. It is usually combined with large lot zoning designations in the area. The restrictions on parcel size may help preserve economic farm units, and the prohibition of nonfarm housing may help protect against ranchette development.

Problems still exist, however. It may be almost impossible to distinguish farm housing from nonfarm housing. For example, is a house classified as farm housing or nonfarm housing if it is to be lived in by the owner of the property who farms the land in his spare time? If such a house is classified as farm housing, the prohibition of nonfarm housing may not be very effective in discouraging development. And, pressures to rezone or grant variances to individual properties will still exist.

Both large lot and agricultural zoning are legal in Oregon and are in fact required as one of the means to implement the agricultural goal. Exclusive farm use zoning must be used to help protect farmland. Zoning within an urban growth boundary must be consistent with the ultimate proposed uses of the land—usually some higher density use. To comply with these goals, counties must either zone for the ultimate use, which encourages premature conversion, or zone for a use that will allow conversion at a later date. Such holding zones are frequently large lot or agricultural zones.

Control over rezonings, variances, and subdivisions is necessary for large lot or agricultural zoning to be effective in discouraging development. One of the major problems in using zoning to carry out a land-use plan is that decisions to rezone or grant variances are made on a parcel-by-parcel basis. Granting the approval for a particular parcel may not seem to affect land use very much; however, it does create precedents and encourage pressure to grant other approvals. The sum of all such actions may be the same as if no plan existed. Adequate standards for such approvals are necessary if zoning is to be effective in achieving growth management objectives.

Annexations to cities or special districts

Annexation to a city or special service district frequently signals the conversion of land to urban use. Services and utilities are often extended to the annexed area. Rezoning to a higher density often follows, made possible by the extension of services.

The annexation process requires a number of approvals that allow the public to control annexations. First, the landowners or residents of a pro-

posed annexation usually, but not always, must approve. Second, annexations to cities must be approved either by the city government after a public hearing, by city voters in an election, or by both. Annexations to special districts must be approved by the county and may need district board or voter approval. In areas where boundary commissions exist, the approval of these entities is also required for annexation or for extraterritorial extension of sewer or water service.

In the past, local governments and voters have enjoyed the power to accept or reject annexations for almost any reason. Court case law and recent legislation have added the requirement that a public hearing must be held to determine whether the proposed annexation is consistent with LCDC goals and local comprehensive plans.⁸ A community must reject an annexation unless the evidence shows that adequate public services can be made available and the land is needed for urban use, or unless the annexation is consistent with an acknowledged comprehensive plan.⁹

Annexation controls by themselves may not be successful in preventing development. It is possible for cities and service districts to extend services beyond their boundaries. Landowners outside city boundaries frequently hold their land undeveloped and in large parcels in anticipation of future annexation, because development at the higher urban density usually brings larger profits. If, however, it appears that sequencing policies will prevent annexation of a parcel for a long time, a landowner may decide to develop his property at the low density already permitted for his property. This low-density development may increase sprawl and make later conversion to urban densities difficult.



Control over subdivisions and partitions

A *subdivision* is the division of a parcel into four or more lots; a *partition* is a division into two or three lots. Control over subdivisions and partitions in areas already zoned for higher densities can discourage higher density development before it is desired.

Subdivisions and partitions involving creation of a road must receive local governmental approval. Partitions not involving creation of a road may or may not require approval, depending on the community. As part of the approval process, communities may require that adequate services be available and that the land division not conflict with the sequencing policies of the comprehensive plan.

In communities where partitions that do not involve a road are not subject to governmental approval, landowners may be able to divide their

land into many small parcels, without ever receiving the approval of the community, by repeatedly partitioning their land over a period of years. This problem of circumventing subdivision controls can be solved by making minor partitions subject to governmental approval or by adopting an ordinance that limits the number of times an individual can partition land.

The law prohibits arbitrary denial of permits, however. In many cases, a planning body must hold a quasijudicial hearing before decisions are made, and approval or denial must be based on criteria and standards clearly stated in the ordinance or in regulations. Therefore, the chance that the use of subdivision and partition denials as a sequencing tool will be upheld by the courts will be more likely if the sequencing plan, its relationship to the statewide goals, and the criteria used to make subdivision and partition approval decisions are clearly stated.



Issues

Any community considering controlling the sequence of development will face at least two very important issues. The first issue revolves around the fact that although sequencing may bring substantial benefits to a community, it will also have its costs. Sequencing will limit the

freedom of some landowners to use their property as they wish. Property values are likely to either decrease or rise more slowly in those areas in which development is to be prevented—either temporarily or permanently. Among those who suffer such losses will be people who have planned

and counted on their property value for needed income or security, as well as speculators. The techniques used in sequencing also have the potential of decreasing the total supply of housing. If this occurs the price of housing may increase, creating hardships for low- and moderate-income households.

Those citizens who receive the benefits of a sequencing plan are often not the same people who must bear the costs mentioned above. A major issue in sequencing is therefore how these costs and benefits will be distributed among different segments of the community—and whether this distribution is fair. The benefits to some must be weighed against the burdens imposed on others.

Another important issue to be considered is how specific or general to make a sequencing plan. A specific plan would include detailed criteria or maps making the desired sequence very clear. A general plan would rely on decisionmakers to make development decisions in accordance with general policies. A general policy is more flexible,

allowing the plan to be adjusted to individual circumstances and changing conditions. A general policy may also be more politically feasible; adoption of a plan specifying that certain parcels of land will receive development permissions only after a delay may create strong opposition. On the other hand, decisions made in accordance with a specific plan adopted after a community planning process are less subject to legal challenges claiming arbitrary and unreasonable action. Further, a specific plan gives all parties in the development process—landowners, developers, and consumers—clear advance information on the likelihood of receiving necessary government permissions for development in different areas. This is more likely that their plans will be more consistent with the community plan, thereby avoiding some risks and potential large losses.

Of course, most plans will not be entirely specific or entirely general. A combination of specific and general elements geared to the problems and goals of a community might make up the most satisfactory sequencing plan.

Legal Considerations

Oregon enabling legislation grants broad powers to cities and counties to plan and regulate development. This legislation gives counties the power to enact “zoning, subdivision, and other ordinances . . . to implement the adopted county comprehensive plan.”¹⁰ The city enabling act gives cities the power to “plan and otherwise encourage and regulate the development of land.”¹¹ These delegations of power can be reasonably interpreted to include the power to sequence development.

There are limitations on these powers. Oregon law states that cities and counties must exercise their planning and zoning responsibilities in accordance with the LCDC statewide planning goals.¹² However, the urbanization goal clearly encourages sequencing. Its purpose is “to provide for an orderly and efficient transition from rural to urban land use.” To further this, the goal requires communities to adopt an urban growth boundary—a sequencing device. Land within the boundary is not all to be considered immediately available, but rather available over time according to certain criteria. These criteria include consideration of orderly and economic provision of

adequate public facilities and services; encouragement of development within urban areas before conversion of other land; and consideration of



other LCDC goals that include protection of agricultural land and preservation of open spaces and environmental quality. These provisions in the urbanization goal clearly imply sequencing within the urban growth boundary.

The housing goal, however, provides a major limitation, because sequencing controls may intentionally or unintentionally affect the supply and price of housing. LCDC decisions have made it clear that this goal requires local governments to encourage the availability of housing for all income levels according to its fair share of regional housing needs. The housing goal and urbanization goal are potentially conflicting and will require review at the local and state levels to achieve mutual accommodation.

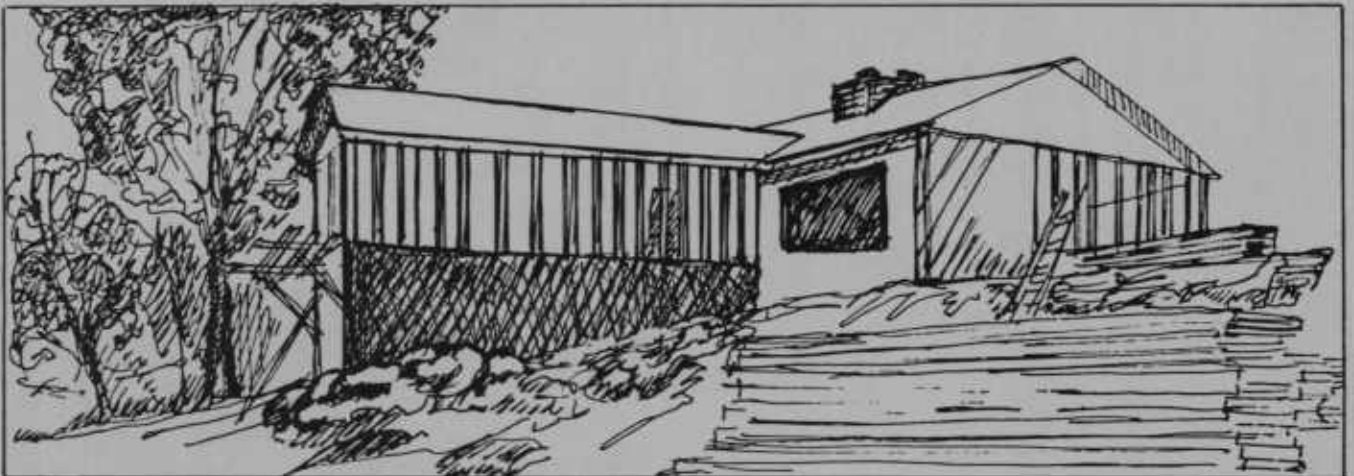
Acceptability of a sequencing system to both the courts and LCDC will be increased by documented research and planning indicating the problem addressed; its importance to the public; how it relates to the comprehensive plan and LCDC goals; the appropriateness of the remedy; and evidence of public involvement and input. Acceptability will also be increased if the comprehensive plan or other public policy statements explicitly include the intention to sequence development, and the criteria or standards by which individual land-use decisions will be made. Vague standards or unstated plans and criteria leave the community open to legal challenges on individual land-use decisions charging arbitrary, unreasonable, or ad hoc and therefore illegal behavior.

Summary

Sequencing, or control over the geographic pattern of growth over time, is one of the ways communities have of managing population growth. Most communities considering a sequencing plan are seeking to ensure adequate public services to new development at reasonable cost, control of urban sprawl, and protection of open spaces and resource lands.

A number of land-use planning techniques are available to communities for controlling the sequence of development. They include urban growth boundaries, controlled extension of public

facilities, and the traditional zoning, annexation, and subdivision controls. Each of the sequencing techniques has advantages and disadvantages. Some are more effective than others at controlling the sequence of development. Some are more acceptable than others, both to the public and to the courts. Each technique presents unique problems in application. Knowledge of the effectiveness, acceptability, and problems of each of the sequencing techniques will help a community select and apply a set of techniques to its own particular situation.



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