A STUDY OF ALTERNATIVE LAND USE REGULATIONS AND THEIR POTENTIAL APPLICATIONS TO A TRADITIONAL EUCLIDIAN ZONING SCHEME

A CREATIVE PROJECT
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1) Traditional Euclidian zoning and its accompanying components have proven ineffective as a comprehensive means of land use regulation for the following reasons:

   • It is based on a faulty premise
   • It makes insufficient concession for environmental protection
   • It lacks flexibility

2) Alternative means of land use regulation exist which can give communities the tools they need to overcome the shortcomings of their traditional ordinances.

3) Many communities have implemented these alternatives, and therefore, there is much to be learned from their experiences.

4) Rural LaGrange County, Indiana has experienced difficulty with its traditional Euclidian zoning scheme, and is further handicapped by limited planning resources. Most communities that have implemented alternative means of land use regulation have abandoned their traditional zoning ordinances, choosing instead to start with a clean slate. This study will suggest that the effectiveness of land use regulation in LaGrange County, and other similar areas, can be improved by supplementing existing regulations with alternative tools and techniques.
DEFINITIONS OF TERMS

Alternative Land Use Techniques
All systems of land use regulation other than traditional Euclidian zoning, including, but not limited to; performance standards, performance zoning, overlay zoning, and citizen review of development proposals.

Carrying Capacity
The amount of a certain type of development which a given site is capable of sustaining without creating unnecessary strain on existing natural or man-made systems.

Flexibility
Used in this study to describe both a higher degree of freedom given to citizens to choose the land uses which best serve their values, goals and priorities, and an increased level of choice given to developers in meeting specified standards or requirements for their proposed developments.

Implementation
Used in this study to describe the processes involved in administering and evaluating a land use regulation strategy.
LaGrange County Critical Area Protection Committee
A committee composed of citizens and local officials, which meets on a monthly or bi-monthly basis to geographically identify and prioritize "critical areas" within the county which have occurred as a result of misguided growth and development, identify factors contributing to the problems, and advise decision making bodies as to possible responses to each situation.

Land Use Regulation Strategy
A system of regulatory tools and processes which work together to restrict development in inappropriate areas and facilitate development where it may be sustained.

Performance Standard
A standard, as opposed to a specification, which identifies a minimum level of "performance" to be met with respect to a specific, quantifiable variable, such as noise, vibration, etc.

Performance Zoning
The name given to a set of performance standards which work together to comprehensively regulate development in a given jurisdiction, often administered by a point system.
Strategy Development

Used in this study to describe the process of selecting and packaging appropriate land use regulation tools and techniques.

Supplemental Regulations

Land use regulations which are added to an existing land use regulation scheme.

Traditional Euclidian Zoning

The name given to a system of land use regulation which divides the land under a community’s jurisdiction into zones or districts by use, with a different set of conditions to be met within each district classification. The term “Euclidian” comes from the name of the village of Euclid, Ohio, which was the first community to develop and use this approach some sixty years ago.
PART 1

INTRODUCTION TO THE PROBLEM

For years, traditional Euclidian zoning has been used as the primary tool by which municipalities and local governments regulate development, and although it has been successful in offering a degree of protection against incompatible land uses, it has also had its drawbacks as. A seemingly necessary intervention at the time of its inception, the concept of zoning has been increasingly questioned since that time. The Standard State Zoning Enabling Act of 1922 provided the basic model for almost all of our country’s land use regulations to date, and it was the passage of this act which helped establish the much forlorned principle that the interests of private property owners must yield to the interests of the public (Haar, 1989).

Today, especially in rural areas of this country, there is still an attitude held by landowners that "no goddamn pinstriper is gonna tell me what to do with my land!". It is unfortunate that we as a society never developed the ethic of land stewardship as practiced by the Native Americans, but instead turned to one belonging to our ancient German and Saxon ancestry which told us to conquer and possess the land as our own. Furthermore, literary works from influential writers dating from the early stages of our country's settlement, such as Thomas Jefferson's political writings and John Locke's "Theory of Property" have done little to promote the ideal ethic of land stewardship (Hargrove, 1980).

Traditional zoning has repeatedly proven itself inefficient in terms of
protecting specific resources and avoiding conflicts amongst individual property owners and between property owners and local governments over time, as the land and its value and ownership are too dynamic. A traditional zoning ordinance denies this dynamic nature of the land, and too often circumstances arise which force local officials or board members to make land use decisions which may or may not be in the best interest of adjacent property owners or the community as a whole.

The fundamental problem is that a traditional zoning ordinance offers no concrete mechanism for decision makers to use when faced with someone seeking a variance, rezoning, or a site plan approval for what might be called a non-traditional development. The dilemma for the community is that if the request is granted and an exception from the ordinance is made, there may be unforeseen negative impacts due to that change which will cause many more conflicts in the future; and if the request is not granted because the proposal does not conform to some minor specification in the ordinance, the community denies itself any of the potentially positive impacts which that foregone development might have brought.

It is reasonable to expect that many community decision makers consider this dilemma when faced with these requests, but the fact remains that their traditional ordinances give them little help, and their final decision will be limited by their ability to consider only the impacts which appear to have an obvious degree of certainty. It is this dilemma, centered around the inflexibility of the traditional Euclidian zoning ordinance, which has caused many local governments to lose control of their development patterns, and thus, control of
the character, efficiency and livability of their communities as a whole, as well as
the respect and trust of community residents. These failures of traditional
Euclidian zoning "have made nonsense of town planning" (Branch, 1986), and
indicate the need to explore other methods of land use regulation when writing
and revising ordinances.

RELEVANCE AND IMPORTANCE OF THE STUDY

Like so many other local governments which have utilized traditional
Euclidian zoning ordinances as their primary tool for regulating growth and
development, LaGrange County, Indiana is slowly losing control. Their static
regulations, written twenty years ago, have failed to keep pace with the
dynamic forces which change ownership, value, use and character of the
land over time.

If this assertion accurately describes the universal fate of the traditional
Euclidian zoning ordinance, the question becomes: why don't more communities
make use of alternative techniques? Presumably there are those communities
which have experienced only a limited number of problems with their traditional
ordinances (or at least a limited amount of controversy) and therefore have no
interest in the alternatives, while other communities retain their conventional
schemes because they feel they lack the personnel, money, or information
necessary to try something different. This mentality may be based on the notion
that it is necessary to "start over" if a new system is to be utilized. This study,
however, will attempt to prove that this approach may not always be
necessary.

The goal of this creative project is to identify some of the common failures of traditional Euclidian zoning, look at the alternatives to this type of land use regulation, and then determine which specific aspects of the alternatives may be integrated into the existing, traditional Euclidian zoning scheme of LaGrange County, in order to avoid or lessen the impacts of those identified, common failures. The relevance of this study is that, if this supplemental approach appears to be possible in LaGrange County, then it may be possible for other communities to make similar improvements to their system of land use regulation, while avoiding both costly problems associated with their existing, traditional ordinances, and the great expense of time and money necessary to completely rewrite them. This study may serve as a fact-filled handbook for communities wishing to explore that possibility.

**METHODOLOGY**

Many communities have experimented with different types of alternative land use regulation strategies, and this study makes the assumption that there is much to be learned from their combined experience in actually working with these non-traditional approaches. The actual ordinances and regulation processes of several of these communities will be explored in this creative project as a method of determining potential applications of alternative land use regulation strategies in LaGrange County, Indiana. This study will attempt to answer the following questions: what can be learned? What are the key
factors that appear to lead to the successful implementation of these alternative techniques?

One of the first steps in this process will involve the selection of those case studies in which the community has implemented alternative land use regulation strategies in response to problems similar to those which exist in LaGrange County. By choosing the case studies according to function, it may become easier to make clear and logical conclusions about the feasibility of those alternatives in LaGrange County. In short, to insure the validity of this approach, we must decide whether or not the case studies chosen have used alternative land use regulation strategies to regulate what we would be attempting to regulate in LaGrange County. Furthermore, we must determine the degree to which the goals of the regulations in the case studies approximate the goals of any proposed regulations in LaGrange County.

If no such similar case studies can be found, it would suggest that something vital to the successful implementation of these strategies may be missing in LaGrange County, and these factors could be sought out. Similarly, if case studies can be found which closely approximate the conditions in LaGrange County, it will become possible to point to specific variables, or combinations of variables, that appear to be common among successful strategies. Therefore, if those factors exist, or can be made to exist in LaGrange County, then it would be reasonable to assume that a similar strategy could be adapted to work in LaGrange County, Indiana. The data required to answer the above questions will come from an interpretation of the ordinances themselves, a review of published critiques of the ordinances
where available, as well as a series of telephone interviews with local officials who have had some degree of experience in actually working with the ordinances being studied.

After determining what alternative strategies may be appropriate and adaptable, a plan for the assembly of these strategies will be developed. This will likely take the form of a series of recommendations made in order to move towards the realization of LaGrange County's land use goals. Due to the complexity of such an ambition, an approach will be taken which seeks to build on existing regulations, rather than start over. This relates to the importance and relevance of the study, in that, "starting over" is often associated with large expenditures of money, time, and other planning resources, which may not be necessary to meet a given set of land use goals.

INTRODUCTION TO THE REMAINDER OF THE STUDY

As previously stated, the goal for this study is to determine what alternative land use regulations may be implemented in LaGrange County, Indiana, in order to lessen or avoid many of the negative impacts associated with their traditional Euclidian zoning scheme.

The remainder of this study will be composed of three parts. Part Two will assemble background information on the failures of traditional Euclidian zoning, the alternatives to this type of land use regulation, and the conditions in LaGrange County, Indiana which suggest the need for an improved means of regulation. Several communities that have experimented with different types of non-
traditional regulation strategies will be studied in Part Three, in order to create a data base of sorts, by which other communities may determine which, if any, of the alternatives approaches may provide the appropriate means for achieving their specific set of land use goals.

Part Four of this study will return the focus to LaGrange County, Indiana by applying what was learned from the descriptive analysis of the case studies. Given an understanding of the problems facing the county, a summary of land use goals and priorities, and a data base describing the performance of several different types of alternative land use regulation strategies with respect to variable community conditions, we may begin to postulate what is appropriate for LaGrange County. Is it, in fact, possible to supplement its existing zoning scheme with alternative land use regulation tools in order to avoid or lessen land use problems, or is there a more fundamental obstruction? If it is possible, what are the steps needed to move forward? These are the questions that will be addressed in the final part of this study.
PART 2

THE FAILURES OF TRADITIONAL EUCLIDIAN ZONING

As alluded to in the introduction, the controversy surrounding zoning is not new. Challenged from the start, zoning effectively restricted the private property owner's ability to do as he pleased with his land. By 1926, however, "the U.S. Supreme Court had put to rest all doubt that zoning enactments which restricted an individual's right to develop private property were a constitutional exercise of a community's police power" (Kendig, 1980):

*With the great increase and concentration of population, problems have developed, and constantly are developing, which require, and will continue to require, additional restrictions in respect of the use and occupation of private lands in urban communities... While the meaning of constitutional guaranties never varies, the scope of their application must expand or contract to meet the new and different conditions which are constantly coming within the field of their operation. In a changing world, it is impossible that it would be otherwise.*

-Village of Euclid v. Ambler Realty Company, 272 U.S 365 (1926)

In upholding the validity of an ordinance which divided the small village of Euclid, Ohio into districts for the purpose of regulating use, lot size, area, and bulk differently in different parts of the municipality, the Supreme Court was upholding
a similar constitutional right for every community in America. The door was opened, and sixty years later, Euclidian zoning, the resulting name given to this approach to land use regulation, is still the convention.

And so, if the Supreme Court's decision in *Euclid v Ambler* put to rest the notion that collective public interests outweigh those of individual property owners where land use regulation is concerned, why is there still so much controversy centered on zoning? Given the important assumption that the underlying goal of zoning--imposed order of development in some form--is still worthy of pursuing, as I for one feel it is, logic tells us that the answer to this question lies in one or two realms of possibility. Either police powers which supposedly give communities the right to regulate development within the boundaries of their municipalities have been exercised to the point where many feel they have been abused and are creating negative externalities; or due to the dynamic nature of the land and corresponding variables--ownership, use, value, and proximity to other lands--traditional zoning has simply died of old age, proving itself insufficient as an effective tool of regulation. In the following chapter, I will not attempt to prove which, if either, of the above supposition is the correct one, rather, I will look to explore the problems associated with traditional Euclidian zoning as asserted by opponents on both sides of the issue.

**A Faulty Premise?**

One of the most disturbing arguments to develop against zoning calls into question its very premise—that development can be regulated through a pre-determined, highly detailed set of rules. A few planners recognized this potential
fallacy early. In his 1938 book, *The Culture of Cities*, Lewis Mumford stated:

All such "plans" are inefficient and embarrassing when they are carried out; they are at their best when they are still on the drawing board. Too often, as in so many beautiful city planning and zoning schemes in the United States, they are piously docketed in the appropriate file, and something radically different is done from day to day by the powers that be. Planning, in the sense of making idle pictures and diagrams, of covering all the tough knots of reality with coats of aesthetic paint, of making the wish a substitute for thought, has justly earned the derision of hard-headed, intelligent people. Similarly, attempts to impose a limited order of reality upon the future actions of men are often more mischievous in their fake order than the purely empirical provision for the day's needs would be.

Taken as unbelievable skepticism at the time when Mumford wrote and practiced, the notion seems more probable today. Philadelphia land use attorney Jan Krasnowiecki put it this way in her 1986 article, "The Fallacy of the End-State System of Land Use Control":

In essence, zoning says to the local legislative body that it must sit down one fine day, think of what it wants the community to look like in the end, lay down all the rules that would permit such development to occur, and then let the development occur without any further exercise of
judgement or discretion. This end-state, self-administering concept of land use control is so unrealistic that one wonders how it came to be embraced in the first place.

What makes this concept unrealistic, according to Krasnowiecki, is its blatant contradiction to the political ideology at the local level. First, it is argued, that most large-scale development is bound to upset a great percentage of residents in close proximity to its proposed location. The only possible exception to this assumption would occur in an area which was largely undeveloped, but because the settlement of most cities and towns predates zoning, it is logical to assume that zoning is more often imposed on an area which is already built-up. So why would elected officials zone for that controversy ahead of time, when it could be incurred on a case by case basis as developers actually come forward with real proposals?

Secondly, it is argued that zoning is unworkable because it necessitates that local officials make decisions about the future, even though they have no control over the timing of individual proposals. When does the future occur? Although it is necessary for a community with zoning to follow a comprehensive plan, which may give an indication of the ideal phasing of different types of development, it is the zoning ordinance which ultimately dictates what may be built where, not the comprehensive plan. It is difficult enough for public officials to decide if a development proposal is in the public's interest at the present time, and nearly impossible to determine if it will be in the future.

Krasnowiecki makes several other arguments in her article, all centered on
the political realities which effectively block a community’s ability to make 
steadfast decisions about its future, as the end-state premise of zoning says it 
may. Instead, it is asserted that local governments find themselves simply zoning 
most of their vacant land in such a way that nothing except perhaps single-family 
detached housing, can be developed without a change in the zoning. By taking 
this approach, local governments are able to regain control of their 
development patterns by considering proposals on a case by case basis, as only 
they have the power to grant a variance or rezone a piece of property. As a 
result, the zoning ordinance as a tool for land use regulation becomes pointless, 
with evidence found in “the numerous examples of variances and exemptions 
which can be found in any city” (Goldberg and Howard, 1980).

It is my opinion that many of the arguments which have been made against 
zoning have stemmed from this approach which has been taken by many local 
governments in an attempt to avoid a kind of political suicide. Furthermore, 
these arguments are commonly made without address to what may be the 
fundamental problem—the apparent perversion of the zoning concept on the 
part of local officials which has been described above. Let us examine a few of 
these tangent arguments.

Windfalls and Wipeouts

The basis of these accusations is that the police powers which the Supreme 
Court says communities possess are largely undefined. What one court finds 
unconstitutional in one community’s jurisdiction may be found constitutional in a 
municipality with a different set of circumstances. Additionally, the U.S.
Constitution was written in such a way that it is open to different forms of interpretations by different individuals within the justice system. The same objectiveness, or lack thereof, presumably exists at the local level where decision makers pass judgement on individual requests for rezonings and variances.

I have already discussed the possibility that zoning is administered—or more accurately, not administered—for political reasons, so why are we not to assume that similar motivation is carried out in the granting of variances, rezonings and special exceptions? Many feel that the relative ease in which these requests may be granted leads to situations in which "the personal predilections of the supervisors or the affluence or political power of the applicant has a greater part in determining rezoning applications than the suitability of the land for a particular use from an overall community point of view" (Melious, 1987). So, with no written mechanism in place to guide developers in their proposals and local officials in their decision making, an applicant will be denied or approved based on the impression they make with the decision makers—gaining a "windfall" or suffering a "wipeout."

Inequity and the Status Quo

The argument follows that if local officials legally utilize a system of land use regulation which allows them final word in the case by case development of their jurisdiction, then they may discriminate at will beneath the guise of legal police power. A 1986 report conducted by President Reagan's Commission on housing noted that:
Government regulations can unnecessarily restrict housing choices by limiting locations where construction can occur, by driving up the cost of housing and thereby placing new housing beyond the financial reach of increasing numbers of people, and by arbitrarily placing absolute limits on the amount and type of housing built. Location limitations may arise from such land use policies as zoning which either prohibits housing development in certain areas or directs growth away from some areas and into others. Prohibitions on multifamily housing and mobile homes restrict the choices available to consumers, as do requirements that multifamily housing include units with only a few bedrooms.

The question becomes whether certain enactments of this police power are really in the public's best interest, or just fronts put up to disguise a 'hidden agenda'. By using any number of apparently legitimate justifications it becomes possible for communities, or whom ever is incumbent within the community, to effectively zone out whatever "undesirables" they happen to be fearful of, making it nearly impossible for those certain facilities or socio-economic groups to locate or even relocate. "The irony here is complete when impermissible hidden agenda motives are wrapped, as they so often are, in the mantle of protecting the environment, preserving open space, historic preservation, or maintaining the character of the community" (Delogu 1986).

I am not suggesting that all municipalities who have embraced zoning as the primary means of land use regulation are guilty of this type of discrimination, but the volume and variety of adverse case law which evidences this type of
regulatory abuse "cannot be ignored and should not be understated" (Delogu, 1986). I am, rather, pointing out that it has been determined by the courts to be exclusionary (Southern Burlington County NAACP v Township of Mount Laurel 336, 1975), and assert that what or who is excluded does not often represent a legitimate threat to the public's best interest. After all, how and when was that best interest determined? One could argue that it was largely determined by zoning ordinances which reflect market decisions and community values of the time it was written. Have these elements really stopped evolving, or has the zoning ordinance worked to unnecessarily impede progress and maintain the status quo?

The Zoning Convention: A Square Peg?

Another argument which is commonly made against zoning suggests that it often assumes that rural or suburban areas have the same values and goals of urban places. Zoning made its first appearance in large, urban areas within the United States in the early twenties—areas which were already highly developed. Since that time, zoning has been imposed on much of our country's rural land as well, which makes the assumption that it can be made to work under a completely different set of conditions than it was originally designed for. As Dennis Gordon, former director of Hardin County Kentucky's Planning and Development Commission and author of its Development Guidance System puts it, "much like the proverbial square peg in the round hole, zoning's emphasis on urban issues and values often hasn't meshed with rural values and settings, even in areas undergoing intense development pressure" (Gordon 1984). Let us
examine a few of these predominantly rural problems.

**Environmental Protection**

In his 1980 APA publication, *Performance Zoning*, Lane Kendig expresses the need for alternative methods of land use control, especially in rural areas. In his introduction he notes:

Although the history of Euclidian zoning in America spans more than six decades, its promise as an effective land use measure has not been fulfilled. Zoning has failed to protect the environment forests have been felled, floodplains and marshes have been filled (often with serious flooding consequences), and agricultural land has been destroyed. While public opinion often casts developers in the villain’s role, the truth is that zoning has failed to prohibit such activities and often encourages them.

Zoning can promote environmental degradation in a number of ways. In the broadest sense, the lines we draw on zoning maps may or may not take into account variables on the landscape which may be adversely impacted by certain types of development, and even if certain environmental variables are considered, it is nearly impossible to predict what the impacts of development will be without knowing a great deal of detailed information about the specifics of each individual proposal.

Our traditional Euclidian zoning ordinances alone are not designed to seek
out these specifics, rather, they concern themselves with a few specific criteria such as soil characteristics and flood plain designations which ultimately deem land as suitable or unsuitable for development. Although there are often mechanisms in place outside of the ordinance itself, such as the process of site plan approval and/or state environmental quality acts which can serve as a sort of "safety valve" against some environmentally insensitive development, the absence of strict, enforceable standards is still the norm (Mellous, 1987).

So, once again, if a community is at all concerned with minimizing negative environmental impacts associated with development, the members of the local decision making body may choose to assume the risky role of fortune teller; using their own limited understanding of the probability for potential environmental problems in order to zone for their avoidance ahead of time, or more likely, as Krasnowiecki would argue, simply let zoning play into their hands by zoning for the status quo; dealing with any controversy over potentially negative environmental impacts as they develop on a case by case basis.

**Flexibility The Missing Link?**

A common argument coming from the developer's point of view, is that traditional Euclidian zoning is too inflexible, in the sense that strict regulations commonly found in such ordinances unnecessarily restrict their choices. Locational restrictions, which are the very foundation of euclidian zoning, limit their choices in the broadest sense, but other provisions regulating bulk height density, setbacks and other design and engineering aspects are often equally criticized. One author likened these regulations to a "mathematical girdle" into
which an architect must slip his building" (Baker, 1978). Another described the situation as follows:

A zoning ordinance's prescribed solutions to common design or engineering problems may be more expensive than alternatives made possible by particular site characteristics. For instance, an ordinance may call for paved gutters for drainage. In relatively level areas, however, grassed swales allow for maximum absorption of storm water runoff on site and may be cheaper. Applying for special exceptions, variances or zoning changes to avoid inflexible standards is frequently cumbersome, especially for small projects, where such maneuvering can be burdensome for local property owners (Stokes, 1989).

The inflexible nature of zoning is also criticized by residents and planners alike, on the basis that "a rigid division of uses cannot account for the variety of tastes and demands that exist in our communities" (Goldberg and Horwood, 1980). Again, the case is made that while values are changing, zoning does little or nothing to accommodate them.

From a regulatory perspective, it is simply impossible to write a traditional ordinance that takes into account all of the variables that are involved or could become involved, in creating or avoiding externalities in the future. The character, ownership, value and development patterns of the land change too rapidly. And so, developers are forced to adhere to static regulations governing as many aspects of their development as planners can reasonably, or more
often unreasonably, determine.

The situation is complicated by the previously discussed ad-hoc nature of the appeals process, in that, if a developer does decide to go through the complex and awkward proceedings in search of a variance, special exception, or rezoning, the burden of proof rests with him or her alone. He or she will gain a "windfall" or suffer a "wipeout" depending on their degree of persuasiveness. On the other side of the table, decision makers find themselves in the familiar role of making steadfast decisions based on limited information, as their traditional ordinances offer them no mechanism for justification of their decision. For these reasons, critics assert that a more flexible system of land use regulation and administration of those regulations is needed.

Does "Horse" Make "Sense"?

A few of the most popular arguments as to why traditional, euclidian zoning has become a less-than-ideal model for land use regulation have been presented in the preceding paragraphs. This should not, however, be taken as a comprehensive list of problems. As previously stated, zoning affects different players in the land use regulation game in different ways, and I have attempted to identify what appear to be the fundamental problems upon which conflict commonly rests.

Zoning has failed because it has not and cannot keep pace with the dynamic forces of our society. The future simply cannot be predicted to the detail which traditional zoning assumes that it can. If it could, then we would all be living in healthy, efficient, rational environments. Instead, zoning has necessitated that we, as a society, cling to values and priorities of the past.
Local officials are all too aware of this failure, as they struggle to write ordinances which supposedly embody the values of their citizenry, and then are forced to make exceptions to them as these values change. These exceptions, in turn, lead to more conflict, as the actual development which occurs often drastically changes the character of an area and leads to a complete abandonment of principles set forth in the ordinance. Additionally, it has been suggested that this opportunity for legislative manipulation and negotiation is often misused for political purposes.

Other problems are centered around the development pressure often incurred by the application of zoning to areas which are more sparsely populated than urban centers. Rural and suburban areas have adopted ordinances designed primarily with urban values and settings in mind, and are therefore becoming urbanized themselves—an end that may or may not be in tune with the desires of local residents and community officials. Additionally, the increasing number of environmental problems associated with certain types of development in these areas have brought forth a renewed concern for the protection of environmental resources. Existing, traditional Euclidian ordinances may not provide for those concerns.

As a result of its evolution in America, zoning, as practiced, "has become more of a problem than a solution for managing community development" (Porter, 1988). Traditional zoning has become the proverbial horse in the barn which the farmer is fond of, but is too old to work. The question facing the farmer is: does he keep pumping life into it, hoping that by some miracle it will regain some of its former productivity, or does he shoot it and put an end to the
misery? Scholars, planners and other professionals alike have made arguments in support of both approaches, but does our solution really need to be that drastic? There must be middle ground.

The following section of this study is intended to provide an introduction to three alternative concepts which have been used to fill many of the voids left behind by traditional Euclidian zoning. This is not an exhaustive list, and I am in no way presupposing the success, or even applicability, of these concepts to LaGrange County. A more intuitive look at the actual application of these and similar alternative approaches will be taken in part three. Rather, they are presented as an indication of the types of alternative tools which may be available to the community which looks to find middle ground with its existing ordinance.

**OVERVIEW OF SELECTED ALTERNATIVE LAND USE REGULATION TECHNIQUES**

In this section, I will present the fundamental concepts behind three broad schemes which may be used to varying degrees, alone or in conjunction, to avoid or lessen the problems associated with euclidian zoning discussed previously. I do not suggest that these schemes are necessarily the best alternatives or additions to the traditional Euclidian zoning ordinance, as many others certainly exist. They are presented, rather, as a probable starting point for communities which seek to minimize specific problems associated with their existing ordinances, rather than develop a new means of land use regulation from scratch.
Performance Systems

Performance systems attempt to mitigate many of the problems associated with traditional zoning by providing a means of dealing with the specific impacts incurred by any one particular development. In its broadest form, a performance system of land use regulation does away with individual land use classifications so that, in theory, any type of development could occur anywhere within a community's jurisdiction. So, instead of lines drawn on a zoning map, the individual site constraints present on any piece of property determine the what and how of development. In effect, a performance system forces planners and often citizens, to ask what it is, specifically, that is undesirable about a particular development.

For example, if a factory is planning to locate on a particular site within a community which utilizes performance standards, it will be required to meet a specified, minimum level of performance with respect to a wide variety of predetermined variables such as, but not limited to, traffic generation, noise, odor, light, stormwater runoff, loss of vegetation or wildlife habitat, groundwater, slope, or visual impact (Porter, 1988). When evaluated by a point system, a development is awarded points based on its sensitivity to these variables, which may be weighted or simply given a minimum level of performance to be met for each, such that a specified, total minimum number of points must be obtained in order for the development to be approved.

A performance system of land use regulation can put an end to accusations of regulatory abuse and the institutionalizing of errors on the part of local government, because it gives decision makers not only a means of avoiding
future problems based on land use decisions, but written justification for those decisions as well. When properly written, a performance-based ordinance can take much of the guess work out of planning. The following hypothetical situation is offered by Samuel Stokes in his book, *Saving America's Countryside*:

When a traditional zoning ordinance is in effect, a large parcel of land that is zoned residential, for example, may be rezoned commercial at the petition of a developer planning to build a large, well-designed shopping mall that will bring new jobs and tax-revenue. If the developer later decides not to build, the land usually remains zoned commercial. Depending on the way the ordinance is written, the community may find that the land receives piecemeal commercial development, with each establishment having a separate access to the highway and with other unanticipated and unwanted impacts (1989).

Such a situation could be avoided in a community utilizing a performance system of land use regulation, because property is never rezoned. Instead, its development potential is evaluated each time specific proposals are brought forward.

In a simpler form, performance standards can offer an increased degree of flexibility with respect to detailed specifics within regulations such as building codes and subdivision ordinances. Douglas Porter alludes to this opportunity in *Flexible Zoning*:
...at the most basic level, a "primitive" standard might specify that adjoining buildings be separated by a firewall. A "specification-standard (in the context of zoning also called a" prescriptive" standard) would also specify suitable materials and dimensions of a satisfactory firewall. A performance standard, on the other hand, might specify that the surfaces between adjoining buildings must be capable of withstanding a certain temperature for a certain length of time. The performance standard would result in buildings with fireproof adjoining walls, but the methods of construction and the materials used would be left unspecified, allowing room for innovation and technological change (1988).

According to Lane Kendig, author of Performance zoning (1980) and one of the first performance-based zoning ordinances in the United States for Bucks County Pennsylvania, the performance-based zoning ordinance has gone through three stages of evolution; the third and current stage, as described above, entailing the abolishment of zoning districts altogether. It seems, however, that the concept as applied in the earlier stages of its development --where performance standards were used more sparingly and applied to existing ordinances--may still be the better initial approach for those communities which are short on planning resources.

**Overlay Zoning**

Unlike performance zoning, overlay zoning is often used in conjunction with an existing ordinance. Although cases in which it is utilized as the sole means of
regulation were not uncovered in the literature, the approach would make for an interesting experiment, as it would result in a sort of "here and there" zoning; placing restrictions in designated areas only. The result of such an experiment might be nearly as amusing as the ongoing experiment of traditional Euclidian zoning. Stokes succinctly defined the concept of overlay zoning in the following way:

Overlay zoning does not affect the density or use regulations present under existing zoning; rather, it is superimposed over a community's various zones, creating an additional set of restrictions to be met when the special resources protected by the overlay would be affected by a proposed change.

Overlay zoning responds to the problems of traditional zoning, previously described in this chapter, in that it is necessitated by an unforeseen externality or resource which was not provided for in the existing ordinance. The flexibility of this approach comes from freedom communities have to identify the specific resources to be protected in terms of geographic area. What it fails to address, however, is the possibility for continued regulatory abuse, in the sense that the possibility remains for communities to use the power to create restrictions in overlay zones, like euclidian zones, for exclusionary purposes.

Increased Citizen Participation

Given the previously discussed accusations of "regulatory abuse" and the
elusive nature of the public's "best interest", why are generous provisions for
citizen participation in the decision making process which could give residents a
direct and timely means of expressing their opinions and concerns still absent in
many of our communities? The answer to this question may lie in the problem of
zoning's faulty premise.

I have already established the possibility that zoning may be misused by
local officials because it asks them to make specific predictions of values and
concerns in the future -- something that they cannot do without immediate
conflict and opposition. Krasnowiecki has supported this assertion, and gone
one step further by suggesting that as a result, an approach has been taken,
facilitated by an appeals process, which forces nearly every development
proposal (with the possible exception of single-family residential) to seek a
re zoning, variance or special exception. In this way, local officials are able to
make decisions concerning land use and development on a case by case basis
with respect to current conditions. The case then could be made that local
officials may be reluctant to allow for more avenues for citizen participation
because it might amount to a reduction in the power which they have
traditionally held over development within their jurisdictions. The question then
becomes; to what degree should citizen participation be encouraged?

Although there are certain, token, means for input built into the traditional
ordinance in the form of review boards and public hearings, these mechanisms
may often be utilized "after the fact". The public hearing is a common
requirement in the approval process under many zoning schemes, but it often
occurs well into the development of the proposal, and if a lot of time and money
has already been expended by the developer for land acquisition or site design, members of the decision making body may be more easily pressured into approval, with limited consideration given to the concerns of citizens in attendance at the hearing (Parker, 1992).

The frustration felt by residents as a result of the notion of "not being heard" can lead to additional claims of regulatory abuse on the part of local officials, and add to a general mistrust of all planning and zoning activities as well; in that, "a plan perceived to have been imposed on a community, whether by an overzealous planning commission, an outside consultant or a clique within the community, is doomed from the start" (Stokes, 1989). The argument follows that citizens need to be involved as early in the process as possible.

This goal of more and earlier citizen participation may be accomplished in a number of ways, from the creation of neighborhood advisory committees which may have varying degrees of authority over zoning decisions made in and around their particular neighborhood, to citizen committees which meet with developers early in an attempt to minimize specific negative impacts. The benefits of the later approach are that developers may tend to be more cooperative since they have not yet spent large sums of money for property or site design, while citizens also tend to be more open-minded, as they are not being confronted with flashy drawings which often represent hopeless finality (Gordon, 1984).

Other potential benefits of increased citizen participation include the money a community may save if it can avoid hiring a planning consultant, a more satisfied citizenry because their specific interests have been addressed early
enough to make a difference, and the educational value which such a process lends to citizens who become more aware of planning principles and processes.

The final section in Part 2 is offered as an introduction as to how the fundamental problems associated with traditional Euclidian zoning have specifically impacted LaGrange County, Indiana. Later, in Part 4, I will explore the options as to how the above alternatives may be used to combat the specific problems which have surfaced in LaGrange County.

LAGRANGE COUNTY BACKGROUND

Like so many other local governments, LaGrange County has looked to zoning to control its destiny. The county is located in a largely rural area of Northeastern Indiana, approximately fifty miles north of Fort Wayne and sixty miles east of South Bend—two important Hoosier metropolitan regions. The county’s resources are unique. The landscape is dotted with many small, natural lakes and covered with a blanket of thick, rich topsoil left by glaciers at the end of the last ice age. Approximately one-third of the county’s 30,000 residents are Amish people whose presence
add a richness of cultural diversity to the county's small towns, agricultural fields and thoroughfares. These assets, however, are slowly revealing their corresponding liabilities. Every day, it seems the county faces new development pressures as a result of its unspoiled character and charm. This development pressure represents the primary threat to the orderly growth and development in the county, as decision-makers are given little to go by from their zoning ordinance.

Tourism is having many mixed effects on LaGrange County. Twice a week, thousands of cars bring thousands of people to the huge flea market at the small farming town of Shipshewana. The impact is nothing less than incredible, as weary shoppers and bargain hunters place an uneven strain on local services. Although the county is feeling this development pressure as a whole, it is felt most severely in and around Shipshewana itself, which is located on a ten mile strip of Indiana State Road 5, between U.S. 20 to the south and State Road 120 to the north. If people and developers were free to do as they pleased in Shipshewana, S.R. 5 would likely rival any other strip development in the United States, and perhaps the only thing that has stopped this scenario from taking place has been the careful consideration of the county planner, the LaGrange County Plan Commission and the Board of Zoning Appeals. However, with a twenty year old zoning ordinance and a radically different set of circumstances since the time it was adopted, these decision makers are finding it ever more difficult to retain control of the orderly and responsible growth and development of Shipshewana; and the county's other small towns are not far behind. As tax money is spent to increase the
scope and range of services and utilities, there are simply no mechanisms built into the ordinance which ensure that the decisions made are the correct ones.

Lake development is another current concern in LaGrange County. Given the county’s relative location to Ft. Wayne, South Bend and other larger communities, the threat of LaGrange County becoming a cluster of bedroom communities or week-end lake cottages is very real. Residents express a concern that the lakes are already overcrowded and point to studies conducted by the county’s health department which suggest that many may already be polluted by malfunctioning septic systems and agricultural runoff to the point of being unsafe (Grant, 1992). Like the externality of the development of the flea market at Shipshewana, the county’s traditional zoning ordinance failed to consider the natural holding capacity of the lakes (expressed in density of surrounding residential development and intensity of other surrounding land uses), and a negative externality in the form of pollution was allowed to occur. And so, the county became faced with the reality of going back, at a great expense of money and other resources, to amend a problem which could have been avoided twenty years ago.

In order to preserve and protect the water quality of the lakes, the county has recently formed a county-wide sewer district. Although there will certainly be other benefits throughout the county from such a project, the primary objective is protection for the lakes. The prospect of public sewers, however, forced the county to address yet another problem associated with their ordinance.

The twenty year old zoning ordinance specifies larger minimum lot sizes in all
districts in areas not served by public sewers, and greatly reduced minimum lot sizes in areas which are served by public sewers. So, according to the law of the land, the day public sewers are turned on around LaGrange County's lakes, the minimum lot size in a lake-residential zone would have dropped from 20,000 square feet to 6,000 square feet, allowing for over triple the density of development. This is absolutely contrary to what the residents wanted for the area in which they lived. The citizens were confused and outraged to the point where a series of public meetings had to be held, taking valuable time and human resources, before most of them were finally convinced that the county was merely reacting to a provision which had been in the zoning ordinance for twenty years and was not proposing the 6,000 square foot minimum through any new amendment. A few weeks later in a public hearing on the issue, the county finally yielded to the residents unanimous support for amending the ordinance to retain the 20,000 square foot minimum in a lake-residential zone with sewers, but at a substantial risk. There are similar provisions in the ordinance which apply to all districts concerning minimum lot sizes with respect to the construction of public sewers, not just the lake-residential district. So now the county has put itself in the position where it must concede to the concerns of residents in other districts if they want to raise their minimum lot size when sewers reach those areas, or else face a potential multitude of lawsuits filed by residents alleging discrimination. And what about the couple who was aware of the provision in the ordinance and purchased a platted lot of less than 20,000 square feet in a lake-residential district twenty years ago? They fully expected that someday public sewers would be constructed; they have
been paying taxes on the property the whole time; public sewers are finally going in when the county comes and tells them that they cannot build their retirement home. There are certainly grounds for potentially ugly legal proceedings in this scenario, which would likely cost the county some money.

In this section, I have presented two specific instances in which LaGrange County’s traditional zoning scheme has gotten them into trouble, and the connection between these instances and the greater problems associated with traditional Euclidian zoning as a whole should be clear. The traditional zoning ordinance of LaGrange County, like other traditional zoning schemes, is based on the faulty premise that one can make steadfast decisions concerning the “appropriate” end-state of a community, without regard to the unforseen, external forces which continually act upon it.

We, as planners, know this and have attempted to re-establish orderly and sensible development patterns through public hearings and development review processes which allow decision-makers to evaluate development proposals and zoning changes on a case-by-case basis. The distinction between what is right and what is wrong, however, remains unclear. Consider, for example, a hypothetical request to LaGrange County’s Plan Commission or Board of Zoning Appeals which involves the rezoning of a piece of property five miles north of Shipshewana from residential to commercial. The developer, in this case, wishes to build a gas station / convenience mart. Land may be available, zoned properly, closer to town, but is much more expensive, and the developer is unwilling to consider it. Nearby residents favor the development because it will save them trips to
town for gas and bread and have only a negligible effect on their property values. The decision-makers determine that the development of the gas station is a win-win situation, and the request for rezoning is granted. A year later, the process repeats itself, and a laundry mat is permitted to locate across the street from the gas station. Nearby residents begin to complain about the increased volume of traffic in front of their homes, but more commercial development is allowed to occur because the character of the area has been changed—first by the convenience mart, and then by the laundry mat. Residents blame the plan commission, even though they initially supported the development of the convenience mart. Five years later, the area develops to the point where sewers and other town services are extended to the site, making it easier for other types of new development to locate at any point along the corridor of newly constructed infrastructure.

Although oversimplified, perhaps, the hypothetical situation I described above illustrates the potential impacts which any one decision made in the zoning appeals process may have on future development. In the final part of this creative project, in which actual applications of alternative land use regulation strategies are suggested, Shipshewana and the S.R. 5 corridor will be focused on as a target area.

Poor decision making and zoning’s faulty premise may also be blamed for the problem of overpopulation of certain lakes in LaGrange County, but with a different twist. The key issue in this case is environmental protection, not sprawl. The “carrying capacities” of these lakes (expressed in terms of density and intensity of surrounding land use) was not a consideration when the ordinance
was written. Development is in place, and we are just now receiving the feedback in the form of water pollution which indicates that it should have been. The condition of the lakes in LaGrange County exemplifies the disregard paid to environmental quality by the traditional zoning ordinance. For this reason, one of the more heavily populated lakes, to be identified in part 4, will also be included as a target area for the application of alternative land use regulations which offer an increased degree of environmental protection.
PART 3

EXPERIENCE IN FIVE COMMUNITIES

The following information was obtained by studying five communities that have had differing degrees of experience with flexible land use regulations. It will be presented in two sections. The first section will provide an overview of the ordinances with respect to their most elemental features which lead to their admissibility to this study. That is, the fundamental differences that distinguish these ordinances from the traditional Euclidian zoning approach will be explained. Section two will present a descriptive analysis of selected demographic, economic, and political factors which exist in the structure of the communities themselves, as well as the goals, objectives, and components of their respective land use regulation strategies. Part of this information has been obtained from the ordinances themselves, as well as from other material which has been published, but much of it was obtained through extensive telephone interviews with selected representatives from each of the municipalities. It is hoped that communities considering the use of one or more of the non-traditional alternatives to land use regulation will be able to learn from the experiences of others, that is; to use this information by matching the conditions which exist in their jurisdictions to conditions and subsequent responses that have been taken elsewhere, in order to more effectively select those regulatory tools which will offer them the benefits they are looking for. The analysis of these case studies will focus less on the procedural aspects of the various ordinances, as much has already been written about many of them,
and explore instead the more subtle factors which seem to have played key roles in their ability to address specific problems and meet established land use goals. Those individuals wishing to learn more about the comprehensive regulatory approaches taken by Hardin County, Kentucky; Bath Township, Michigan; and Buckingham Township, Pennsylvania, as well as many others, are urged to review the 1988 Urban Land Institute publication, *Flexible Zoning: How it Works*. The concluding paragraphs of section two will provide a brief summary of critical issues uncovered by the analysis of these case studies, and will address the following question: Generally, what appear to be the key relationships between strategy development and implementation which yield an effective and efficient system of land use regulation?

**OVERVIEW OF THE CASE STUDIES**

Five communities have been selected for analysis in this creative project. As previously stated, it is hoped that this compilation will serve as a data base, of sorts, for any community studying alternative land use regulation techniques. Because LaGrange County, Indiana is being studied as an example for applications, however, the communities which have been selected for study are somewhat skewed to provide a more equal grounds for comparison. By this, I am implying a predominantly rural orientation; but it should be noted that rural areas, in general, are perhaps more likely to be handicapped by limited planning resources, and are therefore more likely to take interest in this study. An additional set of considerations will need to be made when considering the
implementation of alternative means of land use regulation in a more urban setting.

Given the amount of scholarly research and the relative explosion of alternative tools for land use regulation and growth management which has taken place over the past two decades as a result of the shortcomings of Euclidian zoning, it should not come as a surprise that the ordinances studied here represent a wide spectrum of ideas and approaches which have been packaged in different formats. There are many common threads, but there are also a number of unique variations. The following provides an overview of these five approaches. A more analytical look at individual relationships between existing conditions and corresponding strategies will be taken later in Part Three.

**Buckingham Township, Pennsylvania**

The first of two Bucks County, Pennsylvania townships included in this study, Buckingham Township’s performance-based zoning ordinance reflects the key features of Lane Kendig’s original performance zoning model ordinance which was originated there in 1973. A largely suburban township located just north of Philadelphia, Buckingham Township utilizes what Kendig refers to in his book, *Performance Zoning*, as first-generation performance zoning. It is classified as first-generation because traditional zoning districts have been retained. “Performance standard development”, as it is referred to in the ordinance, is allowed in all districts and serves to offer the developer additional flexibility with respect to the range of possibilities for development. Because the guidelines for performance standard developments are clearly
spelled out by the ordinance, they are not subject to public hearings, but often require a great deal of correspondence with the county planning staff in order to iron out the details. In addition to the criteria for performance standard development, performance standards are also used to preserve open space, minimize nuisances, and maximize the protection of natural resources throughout the county. While the county's ordinance specifies environmental protection standards which determine a site's development capacity, it is the township which determines how stringent the regulations will be.

As pointed out by the Urban Land Institute in *Flexible Zoning: How it Works*, the performance approach in Buckingham Township was intended to provide an alternative means of preserving open space and natural resources other than large-lot zoning, the often exclusionary nature of which was described in Part Two of this study. While the performance provisions found in the ordinance have been successful in producing several cluster subdivisions since the regulations were written, most development has followed the traditional approach (U.L.I., 1988). This may suggest the need for additional incentives in Buckingham Township and elsewhere, if cluster development is indeed the desired outcome.

**Milford Township, Pennsylvania**

Milford Township, located in the more rural, northern part of Bucks County, is also subject to county environmental protection standards which have effectively preserved open space and provided additional protection for natural resources. Like Buckingham and other Bucks County townships, Milford
Township has been afforded the luxury of "growing up", so to speak, with performance zoning. According to township manager, Jeff Vey, "the county is lucky to have residents and developers who understand and appreciate the positive virtues of a performance zoning ordinance. For many of them, it's the only system they have been exposed to" (1993).

Like Buckingham's, Milford's ordinance retains such traditional features as separate zoning districts and sign regulations, while using performance standards to regulate site capacities, as well as building bulk and massing. Performance standards specify maximum impervious surface ratios, minimum site areas, and minimum lot sizes for permitted uses in all districts, as well as open space ratios and maximum densities, expressed in number of dwelling units per acre, in rural, agricultural, residential, and future-commercial districts. Vey says that the effect of the regulations over their history has been to concentrate development where development exists.

**Hardin County, Kentucky**

Hardin County, Kentucky, a predominantly rural county with about 95,000 residents, is located about an hour south of Louisville on Interstate 65. The Development Guidance System was adopted in 1984 as a means of regulating development in unincorporated areas of the county as well as preserving agricultural uses. The Development Guidance System is unique in that it is organized in a single policy framework, that is; land use and subdivision are comprehensively regulated by a single document. The system is further characterized by a three step process for the evaluation of development
proposals, with performance criteria being utilized in the first and third steps.

Because traditional zoning districts do not exist in Hardin County, the first step -- growth guidance assessment -- is designed to evaluate a site's development potential, without regard for use. The growth guidance assessment is composed of two parts; a soils assessment and an amenities assessment. The soils assessment awards points to specific sites which possess soil characteristics which are desireable for development, including good drainage and minimal potential for erosion. Because the preservation of prime cropland is a primary goal of the D.G.S., fewer points are awarded to sites with good agricultural potential. The amenities assessment looks past soils to other physical characteristics which serve to determine a given site's development potential. Considerations made here include a site's relative proximity to public utilities, services, and other concentrations of development, as well as the degree to which it is accessible from the existing transportation network. More points are awarded for sites that closer to these existing services, and some variables, such as proximity to public sewers, are more heavily weighted. After the scores are totaled, a development proposal scoring less than 90 points is denied, those proposals scoring between 90 and 149 are reviewed by the county's Planning and Development Commission which may recommend that it be denied or approved with conditions, while those scoring 150 points or more automatically proceed to the next step -- compatibility assessment.

The compatibility assessment is relatively simple and makes the assumption that the only people who are qualified to make decisions
concerning a proposed development’s compatibility are those neighbors who will live next to it. The process is indeed very similar to the traditional public hearing which has been “informalized”. At this point, the developer is required to meet with neighboring landowners in order to discuss his or her plans for the site, while working with them to address common concerns which may be mitigated through negotiation and creative design solutions. If a consensus is not reached, an optional public hearing may be held in front of the Planning and Development Commission who will listen to both sides and recommend to a special Board of Adjustments that the proposal either be denied or allowed to proceed, often with conditions, to the final step of the process. If the proposal is allowed to proceed, the developer is issued a conditional use permit and has up to three months to submit plans for plan assessment.

According to Tim Asher, AICP, Planning Director of Hardin County, the third and final step of the D.G.S., plan assessment, grew out of the opportunity to include comprehensive subdivision regulations and additional design standards into a new single policy framework (1993). While the concepts of performance are utilized in the plan assessment phase, the standards are still somewhat prescriptive. A series of options are offered, however, for details such as streets, sidewalks, and landscaping, and the process is accompanied by an aggressive sign code. After a conditional use permit has been issued and final plans are submitted, they will be reviewed by the planning staff which determines whether or not they are in accordance with the established standards and any additional conditions which have been attached. The staff
will then make a brief presentation to the Planning and Development Board, which in turn, will either grant or deny final approval.

Hardin County's Development Guidance System has received a great deal of attention since its adoption in 1984, and much has been written to its credit. It's unique three-step process offers developers the opportunity to know what will be expected of them from the start, as all regulations are contained in a single document, as well as a higher degree of flexibility afforded through performance standards governing site design. Additionally, county residents are provided with an input into the process which is not available everywhere, through the informal compatibility meetings which serve as a requirement for the approval of any project other than a single-family home or agricultural use. Therefore, angry crowds at public hearings held well into the approval process are eliminated, because they are forced to become involved and voice their concerns early.

Bath Township, Michigan

Bath is a predominantly rural township, located just outside of Lansing, Michigan, with a population of about 6,000 people. Previously under the jurisdiction of county zoning, in 1981 the Township Board voted to develop its first zoning ordinance in order to bring control closer to home (McElroy, 1985). Like Hardin County, Bath Township was forced to "start from scratch", so to speak, because they had no previous regulations to build upon. Bath Township's ordinance differs from that of Hardin County, however, in that conventional zoning districts do exist, however simplified, and performance measures are used
only in areas where the existing density of development is high or those areas
where high rates of growth are expected in the future.

The Bath Township ordinance was selected for this study for two primary
reasons. Like the Bucks County townships, it represents a case in which
performance standards were not universally applied. They were developed
in order to regulate growth and development, specifically, in what were
identified as being "problem" areas which exhibited high-growth potentials.
Secondly, the performance-based ordinance studied here was somewhat
short-lived, lasting less than ten years (Bozek, 1993). Shortly after the ordinance
was adopted, it too received its share of publicity in the literature. Although
highly revered for its simplicity and increased potential for flexibility, there were
concerns that its workability would be tested when the growth anticipated from
the construction of I-69 through the township actually arrived (McElroy, 1985)
(Porter, 1988). A more detailed account of the forces which lead to the
ordinance's abandonment will be discussed later in Part Three.

The original Bath Township ordinance was characterized by two
traditional zoning districts for rural and low-density residential development
respectively, as well as three performance-oriented districts which regulated
development in existing commercial areas (village core I district), downtown
areas (village core II district), and along major transportation corridors
(development district). While the rural and low-density residential districts differ
very little from those districts present in any traditional Euclidian zoning ordinance,
there are provisions for planned-unit-developments and "performance
subdivisions", which are facilitated by special use permit. The development and
village core districts, however, appear far from ordinary and allow a seemingly endless number of uses permitted by right, provided that a given proposal does not exceed its intended site's capacity. These criteria for determining site capacity specify a quantifiable minimum level of performance to be met with regard to the impacts which a given use will have on specific site characteristics. Compatibility between potentially conflicting uses is provided by stringent landscaping and buffer yard requirements for various classifications of land use.

While the straightforward and simplistic nature of the ordinance was originally intended to make it somewhat self-administering, special use permits, which are similar to the conditional uses and special exceptions found in the traditional Euclidian zoning scheme, required that more than a fair amount of discretion be left in the hands of politicians and other local officials (McElroy, 1985). The "guesswork" described in Parts One and Two of this study, therefore, was not completely eliminated by the Bath Township ordinance.

**Weston, Vermont**

The small town of Weston borders the Green Mountain National Forest in South-Central Vermont. Its zoning ordinance, adopted in 1976, includes seven traditional zoning districts, but is differentiated by the creation of a shoreland-protection overlay district which places additional restrictions on development around Wantastiquet Pond, as well as by very basic performance standards which regulate uses in any district which emit noise, smoke, noxious gases, vibration, or excessive light or glare. Planned residential developments, in which density and setback requirements are traded off for open space or
other social amenities, are offered as conditional uses in rural and residential
districts, with discretion being given to the Plan Commission to determine the
appropriateness of final site design.

According to the town's zoning regulations, the shoreland overlay zone
was established in order to "preserve and enhance high quality waters and to
maintain high standards of quality for permitted development". Uses
permitted within the district are limited to agricultural and forest uses, camps,
home occupations, private recreation facilities, single family housing, and
wildlife refuges, and more stringent regulations apply if these uses choose to
locate within it.

The performance standards outlined in Weston's ordinance are quite
different from the performance criteria used by the other four communities
which have been studied. Instead of regulating use or residential site design,
these standards specify a quantifiable, minimum level of performance to be
met by any use to prevent nuisances. For example, if a neighbor calls town
hall with a complaint about the noise coming from the factory down the street,
a member of the Plan Commission will come out with an inexpensive decibel
meter, take the reading from the property line of the individual who is making
the complaint, and if the reading is above 70 decibels, then the factory is in
violation of the zoning ordinance. Weston's ordinance proves that
performance standards need not be overly complicated or difficult to
enforce.
DESCRIPTIVE ANALYSIS

Land use regulation practices, like communities themselves, may be broken apart, analyzed, and categorized in many different ways, and the relative successes and failures of any given land use regulation strategy may be perceived differently depending on the community's goals and priorities, unforeseen benefits and liabilities, as well as who is asking the questions. While much has already been written concerning the legal status, fiscal impacts, and general ideologies of most of the more-popular land use regulation alternatives, relatively little has surfaced about the specific forces, goals, and priorities present in a community that, first, lead to the consideration and development of a specific alternative strategy, and secondly, dictate how that strategy will be implemented.

While there is certainly much to be learned from the ordinances themselves, as well as from recent readings published in books and journals which have profiled or analyzed them in some way, information can get distorted as it is translated from one source to another. For the purposes of this study, it was determined that interviews with the individuals who actually work with these strategies every day, or who played some role in their development or implementation, would provide the most accurate and relevant information concerning the ins and outs of each strategy's track record and workability. Given a preliminary understanding of each community's regulations, several standard questions were asked during each interview, and include the following:
1) What were the forces which led to your community's consideration of alternative regulations?

2) How would you describe the original goals of the additional regulations?

3) What difficulties were encountered, if any, during implementation?

4) How would you describe the primary successes of the regulations to date?

5) How would you describe the primary failures of the regulations to date?

6) How have the regulations been changed since they were adopted, and are there still changes that should be made?

The answers to these questions often ran together, but in most cases, the individual who was responding had a strong notion as to what those answers were and the content of what was said was clearly understood. It is important to understand that while it was requested that answers be given as objectively as possible, the individuals who were interviewed possess differing degrees of involvement with the development, implementation, revision, and enforcement of the ordinances. The credentials of those individuals interviewed are as follows:

**Tim Asher, AICP: Hardin County, Kentucky**

Tim Asher replaced Dennis Gordon, the principle author of the Development Guidance System, as Planning Director of Hardin County in 1988. Employed by Hardin County as planning staff when the D.G.S. was implemented, Asher has had
nine years experience in working with the system since that time.

**Gary Bozek: Bath Township, Michigan**

Gary Bozek, currently with Delta Township, Michigan, was hired by Bath in 1985, a few years after the Township Board adopted the ordinance. As a three-day-a-week planner/zoning administrator, Bozek was the second of three planners to administer the ordinance.

**Jeff Vey: Milford Township, Pennsylvania**

Jeff Vey is the Manager of Milford Township. He has been on the township payroll for twelve years, and graduated to the managership six years ago. As the manager, Vey serves as the local zoning administrator, as well as a part of the township planning staff which is composed of himself, The Township Roadmaster, and the Township Building Inspector.

**Brad Amenden: Weston, Vermont**

Brad Amenden has served as Chair of the Weston Municipal Plan Commission for the past eight years.

**Buckingham Township, Pennsylvania**

Repeated attempts to conduct a telephone interview with the Township Manager were unsuccessful. George Spotts, a consultant planner for Bucks County, however, was able to offer some insight as to Buckingham Township’s experience with their regulations.
The information on the following pages represents a summary of the responses to the above six questions. It was decided that a format which organizes the responses by question would allow for a more direct means of comparison, and therefore, be superior to one that organizes them by community.

*What were the forces which led to your community’s consideration of alternative regulations?*

Even though the five communities have somewhat different land use priorities and goals, all of the municipalities expressed a lack of faith in traditional Euclidian zoning’s ability to achieve them. For the Bucks County, Pennsylvania townships, the development of the original performance-based zoning model at the county level provided the numerous, smaller levels of government under its jurisdiction with the framework and technical support that they needed to develop similar ordinances of their own. Between the time when Lane Kendig, then Planning Director of Bucks County, developed the concept of performance zoning in the early 70’s as a way of protecting natural resources on a site-by-site basis while allowing for a greater freedom of site design, and 1982, 26 of the 54 Bucks County communities had implemented the approach in one form or another (Frank, 1982). While the near comprehensive development and implementation of performance zoning in the Bucks County Townships may truly be called “revolutionary”, the forces leading to change in Bath Township, Hardin County, and Weston appear to have been much more specific.
In the early 80's, Bath Township, Michigan was confronted with a situation that offered tremendous opportunities for growth and development, as well as the potential liabilities which commonly go along with them. When it was announced that Interstate 69 was to be extended through the township, the Township Board voted to develop its first zoning ordinance in order to exercise sole control over its own development patterns. A consulting firm was hired to draft the ordinance, which the board wanted to be very "simple". They were dissatisfied by the type of development that was encouraged by the county's traditional ordinance, and expressed the desire for something different. What they ended up with was an ordinance which made use of many of Kendig's concepts, as outlined in *Performance Zoning* and put to the test in Bucks County, Pennsylvania.

Unlike Bath Township, which had zoning at the county level, Hardin County had no land use controls at all prior to the *Development Guidance System*. Tim Asher gives a large portion of the credit for getting something done to an executive judge who aggressively lobbied for the establishment of a Planning Commission that would oversee the development and implementation of a land use regulation strategy. The Hardin County Planning and Development Commission was established, and Dennis Gordon was given the directorship. The initial goals of Gordon and the Commission were to develop and implement regulations which would govern development in unincorporated areas of the county, while preserving the rural / agricultural character of the landscape. It was determined that a traditional Euclidian ordinance would neither offer the desired preservation capability, nor be adequately sympathetic to the county's
residents, who had never been exposed to land use regulation. Asher says that a more "sensitive" strategy was needed.

Brad Ameden's explanations as to why the town of Weston's zoning regulations include performance standards and a shoreland overlay zone seem relatively straightforward. In fact, he was surprised that his community's regulations were viewed as anything out of the ordinary and was honest enough to admit that he was unaware that anything had ever been written about them (see Stokes, et. al., *Saving America's Countryside*, 1985). Brad's modesty serves well to illustrate the fact that land use regulations, whether supplemental or written comprehensively, are developed out of necessity. While academics and scholarly writers may pick them apart and study their potential applications elsewhere, to those technicians who work with them at the community level, publicity is secondary to utility. The performance standards present in Weston's ordinance are a result of compliance with Section 4407(7) of the Vermont Planning and Development Act, which sets the standards for every municipality in the state. Enforcement, and the opportunity to enact more stringent standards, are left up to each community.

The shoreland overlay zone around Wantastiquet Pond was developed for several reasons. While flood protection was a consideration (the pond flooded badly on two occasions in the early to mid 70's), there were also community concerns about preserving the unique character of shorelands, created in part by a number of historic mills. A local conservation club which owns a large amount of land around the large pond also played a key role in the formal establishment of the special regulations, as did a regional authority
which submitted plans for the comprehensive clean-up of the West River Basin.

**How would you describe the original goals of the additional regulations?**

In large part, the answers to this question were part of the answers to the first, and a response from Weston, Vermont concerning the goals of their supplemental regulations has been left out of the following discussion because the answer was inherent in their response to question one. To put it simply, there appears to be a very strong relationship between the forces which lead up to the development of alternative land use regulation strategies and the goals which those strategies seek to achieve. This is to be expected.

This relationship is perhaps less evident on the surface in the Bucks County Townships, because Kendig's model was so revolutionary. While it served to promote many strong ideals, it represented different opportunities for the various municipalities which would somehow use it. The form adopted by the more suburban Buckingham Township placed a great deal of emphasis on the preservation of open space and semi-rural character. Jeff Vey of Milford Township expressed similar goals, but put it in slightly different terms. "It has been our goal since the ordinance was developed and implemented, to concentrate development where development exists". This certainly implies a desire to preserve open space. In addition, a simplistic application process which could effectively facilitate responsible development by reducing developer delays was also an important consideration noted by Vey.

The goals of Bath Township, Michigan's ordinance were related to the
opportunity to provide what Bozek referred to as "a higher quality of development". While local officials found that they were getting development which was technically acceptable, it was recognized that the form that it took often left very little to the imagination. It seems they wanted a system of land use regulation that would somehow allow them to build an identity. In addition to addressing character issues, the Township Board decided that the ordinance should be as simple and easy to follow as possible.

As previously stated, the goals of Hardin County's Development Guidance System were to govern development in unincorporated areas of the county, while preserving prime agricultural lands. Beyond these goals, however, the Development Guidance System was to be benign and unthreatening. There were concerns expressed by the young yet wise Planning and Development Commission that drastic resistance could be encountered on behalf of county residents who had never been exposed to complicated land use regulations which place restrictions on their land. Further, concerns were raised about the potential conflict between traditional zoning's emphasis on urban issues, and the rural setting which is Hardin County. These concerns were addressed by the Development Guidance System, through provisions which encourage more and earlier citizen participation in the development approval process.

*What difficulties were encountered, if any, during implementation?*

Unfortunately, this became a difficult question for some of those interviewed to answer, as many of them were not actually employed by the
municipality at the time when the current regulations were implemented. For the Bucks County townships, which implemented forms of Kendig's model performance ordinance shortly after it was developed, the concepts were so new that there was very little feedback available. Development and implementation of individual strategies was largely by trial and error. According to Jeff Vey, "everyone wanted to know if it was legal". As of 1982, nearly a decade after its development, no community in Bucks County that had adopted the entire performance zoning package had been challenged by a developer, and as it turns out, many communities in the county have switched to the performance approach because they had been in court numerous times in order to defend their traditional ordinances (Frank, 1982), (Kendig, 1982).

Tim Asher was employed by Hardin County, Kentucky at the time when their Development Guidance System was being implemented, and remembers well the primary problem the county faced. Commission members had anticipated public confusion over the new system, but were very surprised by residents' apparent knowledge of how zoning works procedurally. "Despite never having traditional zoning in Hardin County, the public sought to understand the DGS in traditional zoning terms", Tim said. "It was a reaction that we never could have predicted". Dennis Gordon supports Tim's comments, and in his 1984 Planning article, "The Power of the Point System", he recalls comments which are typical of almost any zoning-related public hearing. Common questions included the following: "Is this type of development allowed on my site?" "How is the site zoned?" "How will this project affect the zoning of my property?" "If we can't stop this proposal, then why are we here?" The result of these types of reactions to the
system was an aggressive campaign, launched to educate the public about what the DGS was, how it differed from a traditional zoning scheme, and what new role the public were expected to play in the process.

The lesson to remember here seems to be that anytime something new is unveiled to the public, they are going to be skeptical. Whether it is a result of a simple lack of understanding, or just the threat of something which has never been done before, it is a function of human nature to take a defensive posture. If what is being proposed is needed, however, and has real merit, this mindset may be overcome by increasing the level of understanding. Asher remembers this educational campaign as being absolutely critical to the successful implementation of the new system. Informational articles and advertisements appeared in the newspapers every week; frequent presentations were made to local organizations; and finally, a video presentation was produced which explained the system on a fundamental level, in terms the public could understand, and also outlined the various roles which county officials, developers, and the general public were expected to play. For nearly a year, the tape was shown at the start of every compatibility meeting and public hearing, and copies were made available, free of charge, to anybody who requested one. Today, the investment has apparently paid off, as residents have gained an understanding and feel comfortable in their part-time planning capacities.

*How would you describe the primary successes of the regulations to date?*

This was the first of three questions designed to find out as specifically as
possible the actual impacts that these alternative regulations have had at the community level. They were deliberately phrased in a way that would elicit negative responses as well as positive ones, while also providing insight as to how they have been changed and whether or not there are changes now that still need to be made. While most of the successes described below relate to the previously described goals, in most cases, there have been additional benefits that were not counted on.

According to Tim Asher, Hardin County's Development Guidance System has been successful in the sense that it gets the job done, but more importantly, because the citizens support it. "That's what needed to happen", says Asher. "We knew going into it that citizen support would make or break the DGS. We've done just about everything we could do in letting people know that they were going to play a role in this thing and explaining what that role was supposed to be. Now that they understand it, I think they really do appreciate it -- and share the pride of accomplishment" (1993).

Hardin County certainly appreciates them (its residents) too, and frequently tells them so in messages published along with other planning-related public announcements in the local newspapers as part of their continuing planning education campaign. An impact that the
founders of the DGS were less-sure of, however, was the actual effect that the system has had on development. Asher explains that, "while we were sure that we needed regulations that would govern development county-wide, we were unsure of how the system would affect the overall rate of development" (1993). Even though the second step of the DGS, compatibility assessment, calls for a citizen consensus on every proposal, development has been restricted very little (Porter, 1988). Asher asserts that a developer who has done his homework and is willing to work with the neighbors can go through the entire approval process in as few as six weeks (1993).

The successes of Bath Township's performance-based ordinance were relatively short-lived, and while Gary Bozek may have had relatively few problems administering the ordinance while he was there, he is quick to point out the fact that Bath Township did not realize its anticipated growth explosion until after he had left the township. According to Gary, the ordinance was indeed very simple and no harder to administer than a traditional ordinance (1993). When the ordinance was written, township officials wanted to know what effects the new regulations would have on the number of rezoning requests. In order to answer this question, Mitch Boehm, a consultant planner from the firm hired to draft the ordinance, prepared a series of case studies, based on previous Bath Township rezoning requests filed with the county, that illustrated what would have happened under the proposed performance-based regulations. The studies showed that the number of rezoning requests would be reduced, and experience with the regulations after adoption supported this initial hypothesis (1993). Bozek gives credit for the reduction to the flexible nature of
the regulations. "Instead of giving a developer only one choice in meeting a requirement, a performance system gives them several", he says. "Once the developers realized what channels they needed to go through, they appreciated the increased freedom" (1993).

As already alluded to, Brad Ameden expresses a very utilitarian attitude toward Weston’s zoning regulations. "Those of us who administer the ordinance appreciate the fact that the performance standards mandated by the state are quantifiable. It makes them very enforceable", he says (1993). Although the standards are indeed quantifiable, Ameden admits that enforcement is not something that they have to aggressively pursue. Rather, it is reserved for the time when actual complaints are received. "It really hasn’t been that big of a problem", Brad says. "Most of our violations come from the residential sector and the problem is usually mitigated by a verbal warning. It’s very straightforward" (1993).

While a large part of the justification for the establishment of the overlay zone around Wantastiquet Pond was to limit the threat to public health and safety in the event of flooding, as well as to eliminate those uses from the areas surrounding the pond that may have a detrimental effect on water quality, Brad could not speak to the real successes of the designation. The real effect, according to Ameden, has been to promote the natural character of the shoreline (1993). With the regulations in place, several conservation groups have obtained large portions of the land for their conservancies, and new development has come to a halt. While this is the effect that the town wanted, the development that exists within the zone is actually much milder than what the
regulations would allow. The land is currently somewhat monopolized, and if it is not formally put into some long-term protection status, a change in ownership may bring a drastic change in character in the future. Finally, while the West River Basin Commission is presumably testing the waters of Wantastiquet Pond, Ameden was unable to offer any indication of how water quality may actually be improving as a result of the regulations placed on development.

For the Bucks County townships, the performance-oriented ordinances have resulted in a number of visible benefits. Over twenty years after the ordinances were adopted, they still provide the model for the performance-based approach to land use regulation. In Milford Township, the development which has occurred has effectively preserved specified natural resources through a linked open-space district and innovative site design. Some of the open spaces have been turned over to the county, which maintains them as parks, while the rest is retained and maintained by businesses and neighborhood associations. Recreational facilities in many of these neighborhood and commercial parks are financed through impact fees paid by the developer as a requirement for final approval of their projects. Jeff Vey, the Township Manager, gives much of the credit for system to the township's strict accounting system and line-item budgeting. "Recreation and maintenance funds don't get lost here," he says. "Developers are usually willing to pay us directly for improvements which will make their projects more appealing to those who will live there, because we are very straightforward and have the track-record to back it up. If we ask them for money for a given improvement, they know that it will be done" (1993).
The secondary impact of planning for linked open space has been an increased availability of quality, low-to-moderate income housing. "We make no bones about what our township needs," says Vey. "That's our job. Density bonuses are very attractive to developers in Milford Township, and they can be very effective in getting a developer to give us what we need" (1993). In addition to indirectly providing low and moderate income housing for the community, the higher densities afforded to the developer may be clustered, further increasing the proportion of open space.

How would you describe the primary failures of the regulations to date?

It should be stated that the word "failure" has different meanings. The word is used here to describe the various inadequacies of the regulations in the most practical sense. In many cases these failures represent shortcomings to preconceived expectations or goals; in others, secondary impacts which were relatively unforeseen.

I will start with Bath Township, Michigan, because, as previously mentioned, their performance-based approach to land use regulation was relatively short-lived. It seems that while the Township Board requested that their new package of regulations be simple and easy to administer, it was not simple enough. No one would come right out and say why Bath's ordinance was abandoned, but it seems likely that two factors played key roles.

First of all, while the ordinance was drafted in anticipation of a sudden growth boom in the township due to the completion of I-69, that growth was not
realized until local officials had settled into a pattern of administering the ordinance under slow-growth conditions. In the 1985 Planning article, "You Don't Have to be Big to Like Performance Zoning", Bozek and Richard Crawford, the only two individuals who had administered the ordinance at that time, said that even without a planning staff, they had experienced relatively few difficulties. The situation appears to have changed radically as the growth pressure began to increase. The second, related factor which certainly had an impact on how the ordinance was administered, was the increasing abuse of the special use process which, "put a bit too much power in the hands of the politicians" (McElroy, 1985). Bozek now suggests that the township may have been a little naive in assuming that one person could successfully administer the ordinance on a three-day-a-week basis. A large part of the attractiveness of performance zoning centers on its ability to limit discretionary decision-making on the part of local officials, but as the board was presented with more and more larger development proposals, the number of special use permits issued became greater. There seem to be at least two possible explanations for this occurrence. There may have been a shortage of qualified planning technicians who were needed to facilitate the strict, performance-based approach, and therefore, it was a function of staff size; or, local politicians may have been unhappy with the way development seemed to be restricted by the approval process and may have put pressure on the commission to issue more special use permits. Whatever the case, a growth explosion had a lethal effect on Bath Township's performance-based land use regulations. They were abandoned in the late 80's in favor of a more traditional approach.
Tim Asher of Hardin County, Kentucky identifies one primary shortcoming of the County's Development Guidance System. "We have perceived a lot of abuses of our agricultural exemption", he explains (1993). The abuse that Asher refers to has to do with the fact that there are very few uses that are permitted by right in Hardin County. In fact, there are only two: agricultural and low-density single family housing. Under the DGS, land occupied by a permitted use is exempt from the development review process should it be sold in small tracts for the development of another permitted use. "What we are seeing", says Asher, "is that small parcels of agricultural land are being sold to developers who build a few houses at a time in order to get around going through development review. We don't have the mechanisms in place to regulate this type of development, and in fact our existing system of regulation actually encourages it" (1993). In his response to the final question of the interview, Tim suggests a way in which this problem may be addressed in the future.

The primary failure of Weston, Vermont's supplementary land use regulations has already been alluded to. While the shoreland protection overlay zone has produced a number of visible, social benefits, the degree to which its creation has actually improved the water quality of the pond is somewhat of a mystery. Without some means of evaluation for the regulations, one wonders if such a policy was really necessary. As previously mentioned, changes in property ownership within the overlay zone may have a drastic effect on the water quality, as well as on the natural character of the shore which the community presently enjoys.

In Bucks County, Pennsylvania, there seems to be a bit of confusion over
the different roles played by the county and township in the development review process. Because the county has established environmental protection standards and also serves as a planning consultant to its municipalities, it plays an integral role in the development review process. The question becomes: who actually administers the ordinance? Actually, in Milford Township, it is not administered by the township or the county, but by The Quakertown Area Planning Commission. In effect, the county has its own standards, the township has its local ordinance which embodies the county's standards as well as regulations of its own, and the Quakertown Area Planning Commission is left to make sense of it all by hearing recommendations from the other two planning entities. Jeff Vey feels that the lack of a streamlined application process can lead to some unnecessary developer delays and suggests that there is an opportunity for Milford Township to more efficiently facilitate the application process in the future.

*Have the regulations been changed since they were adopted, and are there changes that still need to be made today?*

This final question was intended to get those individuals who were interviewed to summarize their feelings about the states of their regulations. Because traditional zoning ordinances are often criticized for being overly static, the true alternatives should not be. How do these alternative or supplemental regulation mechanisms respond to changes in community goals and priorities? Have the ordinances themselves actually been
changed over time, or were they written in such a manner that they compensate for these changes somewhat automatically? The answer seems to be a little of both. While land use regulation systems which offer what we have called "increased flexibility" can ideally reduce the amount of discretionary decision making which takes place, it seems to require a conscious effort on the part of local officials to let the ordinance actually administer itself. In short, the level of consideration that goes into the development of the regulations, and the degree to which citizens and local officials have faith in them, will both have substantial effects on the frequency of amendment. It is important to realize, however, that regardless of the detail and quality of planning that goes into the development of an ordinance, there will always be unanticipated circumstances that arise. If they didn't, planning would be easy.

In the case of Bath Township, Michigan, the question of change and adaptation has been answered somewhat after the fact, and by addressing the question of "what have been the primary failures...", we can identify the possibilities as to what might have been done differently. Gary Bozek feels that there were relatively few problems with the standards and regulations themselves, but it was the abuse of the special use permit provisions that led to the abandonment of the ordinance (1993). The lesson to be learned from the Bath case study seems to be that while a well-written performance-based ordinance may be an extremely effective tool for tailoring development to work within an environment bounded by a given set of specific constraints, it is only as effective as community officials are willing to let it be. If you let everyone come in
for a special use permit, the effect is to discredit the system.

In Hardin County, it seems that the Development Guidance System could become even more effective if it were administered in conjunction with a comprehensive plan. Hardin County has no comprehensive plan that spells out overall community objectives, and in many ways the DGS has assumed much of this responsibility. The problem, according to Tim Asher, is that because there is no separate plan, everything must be spelled out in detail in the DGS (1993). Those broad statements of purpose which provide a general understanding of goals and objectives are largely absent, but appear nonetheless as policy in the DGS. "The system has been challenged by developers on a few occasions", Asher says, "and without the legal backbone that a comprehensive plan provides, we've had to concede to some of their requests in order to stay out of court" (1993). As a result of these types of conflicts, the DGS has been amended on several occasions -- each time taking valuable time and planning resources.

In Weston, Vermont, the regulations in place in the shoreland protection overlay zone have not been changed in any way. The question of whether or not this is good or bad is difficult to answer, and is, in itself, a potential liability. The fact that there are no mechanisms in place that can provide this type of feedback suggests the need for some type of regulation evaluation process that would monitor development patterns and impacts to see that it is indeed in tune with local land use goals and priorities. Mechanisms for accomplishing these periodic evaluations will be discussed later in Part Four.

Jeff Vey of Milford Township, Pennsylvania feels that their ordinance, as
well as other Bucks County ordinances, has been amended less frequently than a traditional ordinance would have been. "Unless someone finds a loophole and it appears as if things could get out of hand, there really is no need to amend the thing", he says (1993). The fact that the regulations have been changed very little since they were adopted should suggest two things. First of all, they must have been very well written. The municipalities of Bucks County had a great advantage in this respect, as not only did the county provide an outstanding model for performance-based regulation, but it also provided the technical expertise necessary for ordinance development and implementation. The working relationship between county and municipality continues today in the form of a joint development review process. Secondly, in addition to possessing the technical expertise necessary to administer a performance-based ordinance, township officials and residents alike have faith in their regulations' ability to facilitate growth efficiently and responsibly. "We have always been quick to let a developer know that the ordinance will determine the feasibility of given project on a given site, not us," Vey says. "We are just as quick to let them know, however, that we will do everything in our power to see that every option that they have is explored and that we're here to help them" (1993).

While Vey is generally happy with the effectiveness of the township's system of land use regulation, he suggests that the development review process could be made more efficient by a two-part application (1993). The current system requires that a developer only fill out one form, which is reviewed by three separate planning entities. This requires that there be constant coordination
between the township and county, both of which review the application and make recommendations to the Quakertown Area Planning Commission. A two-part form which differentiates the two separate sets of regulations, according to Vey, would go a long way in reducing the confusion, and sometimes frustration, felt by developers that are unfamiliar with the system (1993).

**SUMMARY OF CRITICAL ISSUES**

The above descriptive analysis of these five communities' alternative land use regulation strategies provides a great deal of information about the subtle, yet important considerations a municipality must make when using flexible, or otherwise non-traditional techniques for regulating development. While we can analyze these specific strategies and make conclusions about what appear to be the key factors that determine how a strategy should be developed and implemented, it is important to remember that the regulations studied here are specific to the areas where they have been applied, and they represent but a handful of strategies that have been developed. Nevertheless, if we seek to understand what future roles these alternative techniques might play in our communities in the future, we must extract all of the useful information we can from one snapshot at a time.

A practical way to summarize the experiences of the communities studied is to break them down into issues that affect strategy development, and issues that affect implementation. While many of these issues clearly came to the surface in some of the telephone interviews, many did not. Those
that did not, represent broader issues and concerns that were identified in the earlier parts of this study. Their relative importances should not be overlooked, and are therefore given further consideration here.

**Issues Affecting Strategy Development**

*The virtues of a comprehensive plan*

The primary issue which should play a key role in determining what alternative techniques may be appropriate for land use regulation in a given area is the degree to which specific land use goals have been established and prioritized, and also, the manner in which this is accomplished. Many communities have attempted to do this in the ordinances themselves, but there are problems associated with this approach. The problem lies in the fact that goals and priorities are translated directly into specific regulations in a zoning ordinance at the time it is written. If those goals and priorities change, as they surely will, the community that has included these statements in its zoning ordinance is forced to go through a legal amendment process if it wishes to change or modify its policies. Because of this, too often the policies remain static. Another problem associated with this approach concerns the perceived legality of land use regulations. Case history suggests that a community whose zoning regulations come under attack by disgruntled citizens and developers will have a much better chance of surviving litigation if those regulations are supported by a well-written comprehensive plan. While a comprehensive plan will not eliminate the periodic need to amend zoning
regulations, it can provide a legal backbone that is readily adaptable to changing community values and priorities.

**The virtues of simplicity**

If we subscribe to the above assumption that land use regulations should relate expressly to established land use goals and priorities, the reasoning follows that we should not try to impose regulations where they are not critically needed. The case of Bath Township, Michigan's failed performance-based regulations suggests that even though a community may develop what appears to be an outwardly simple, comprehensive regulation strategy, if those regulations are applied to a large area or a large number of different zones, it still may be too much of a burden on limited planning resources. A better approach may be to develop supplemental regulations for a specific geographic location, with the intent of seeing what actual impacts will occur. If the regulations seem to be accomplishing their goals, and local officials, residents and developers become familiar with them, the model may be adapted and applied to other areas as the need is perceived.

"Carrying capacity" redefined

Within the context of land use regulations, the phrase "carrying capacity" is relatively new, and has a variety of meanings. In the broadest sense, a site's carrying capacity is defined by the amount and intensity of development which may occur, without placing strain on existing systems. At the community
level, however, narrower interpretations of the phrase are commonly used which more clearly define the systems in question. Regulations are then written which limit the impact that any development may have on given systems, the presence of which may vary from site to site. This is the essence of the concept of performance zoning. Under performance zoning, an individual site's carrying capacity may be calculated with respect to a number of individual variables, but most of these variables may be categorized into two groups: the degree to which fragile environmental systems exist, and the degree to which a site is in proximity to public utilities and services.

Fragile environmental systems may include things such as wetlands, areas of steep slope, wooded areas, areas with poorly drained soils, and lakes and other bodies of water -- to name a few. Proximity to public utilities and services might be determined by relative distances to sewers, municipal water, major roads, electric lines, schools, and police and fire protection. By such a definition, any given site possesses its own unique carrying capacity with respect to its own site characteristics. What is commonly overlooked by communities which use such a system of regulation, however, is that these carrying capacities can change over time. New technologies may occur in construction which allow buildings and other infrastructure to be built in environmentally sensitive areas with negligible impacts. Development, in itself, constantly changes the relative proximity of services and utilities with respect to nearby properties. In the later case, these diminishing distances will automatically increase a site's potential carrying capacity, but in the case of environmental systems, advances in technology cannot. A mechanism is
therefore needed which will allow for periodic re-evaluation of the way a site's carrying capacity is calculated.

In addition to the two common categories of variables that define a site's carrying capacity, the opportunity may exist for one more, which somehow describes the level of development that provides the optimum quality of life for the area's residents. While this concept is new and would certainly challenge any regulatory body seeking to implement it, it seems to cut to the heart of one of the primary goals of planning. Potential strategies for achieving this end will be discussed later in this study.

The virtues of citizen participation

Having already discussed much of this material in Section Two of Part Two of this study, we can move rapidly here. The basis of the argument for citizen participation in the planning process, is that, any "plan" which is perceived by the public as being imposed on them is likely to meet resistance. Another important question to ask is the following: why hire a planning consultant or large planning staff to determine what is best for the residents of a community when you can simply ask and listen? Granted, it is not always that easy, but a number of communities have found ways to do just that. Hardin County, Kentucky, for example, did not come right out and ask for help from its citizenry in order to develop the Development Guidance System. They developed a framework, rather, which gave residents the utmost authority to voice their opinions and concerns, and required developers to somehow deal with them. So while county residents played a minimal role in the development of
the strategy, they have been given the power to largely determine how their lives will be affected by any proposed development.

**Issues Affecting Implementation: The Two E's**

If we define "implementation" as a series of processes which result in the efficient administration of an established land use regulation strategy, two of these implementation processes, often overlooked, appear to be of particular significance. These two processes involve education and evaluation.

**The education process:**

Hardin County, Kentucky was not the only community studied that utilized an educational process in conjunction with its new regulations. The fact is, any community that administers new regulations can expect that a certain percentage of its citizenry will become familiar with those regulations in one way or another. The questions which communities should ask, however, become; to what extent should we go to see that community residents understand the system, and what are the expected benefits of this increased level of understanding? Upon asking these questions, Hardin County determined that the potential benefits would be well worth the costs. The result was an educational campaign of unprecedented proportions which served well in promoting the goals of the Development Guidance System, as well building a spirit of partnership between residents and local officials.
While the term "education", in the context of land use regulations, is frequently used to describe the process of familiarizing the public with new policies and regulations, there is another component of the process as well -- the "internal" education of the planning staff and other local government employees who will administer, evaluate, and enforce the new regulations. People expect local officials to have accurate information about the policies of local government, and can become skeptical very rapidly if they do not. With this in mind, if it is a municipality's goal to educate the public, it is crucial that there be some degree of coordination between local officials so that the information which they provide to the public is clear and consistent.

The evaluation process:

Among all of the strategies examined by this study, formal mechanisms which provide feedback about the overall effectiveness, or performance, of the actual regulations have clearly been absent. While local officials and residents in Weston, Vermont, for example, are currently satisfied with the type of development which has occurred within the town's shoreland protection zone, we have identified and discussed the possibility for future disappointments. Similarly, while The two Bucks County, Pennsylvania townships have witnessed the positive effects of their ordinances in terms of preserving and improving open spaces while also providing a variety of housing types, nothing ensures that the regulations will provide the optimum development patterns in the future of Bucks County, as technologies, character, and needs change. In short, the regulatory models and tools may stay the same, but the
regulations themselves must be periodically evaluated and adjusted accordingly if they are to be truly sensitive to the changing needs of the community. It is not being suggested that the planning process is absent in these communities, but only that there may be a more formal way of obtaining this critical feedback. One potential strategy will be discussed in Part Four of this study, as we return our focus back to LaGrange County, Indiana.
PART 3
LAGRANGE COUNTY RECOMMENDATIONS

STATEMENT OF PURPOSE

The final part of this study has two purposes. First, it is intended to provide LaGrange County, Indiana with a series of realistic steps that may be taken, using supplemental tools and processes, in order to effectively diminish many of the specific, negative impacts which have resulted from its traditional Euclidian zoning scheme. Secondly, Part Four is intended to provide other interested communities with an example of how a selected few of the alternative land use regulation tools and techniques which have been presented in this study may be packaged and used in a way which supplements existing regulations.

CONSTRAINTS? WHAT CONSTRAINTS?

While LaGrange County, Indiana may be handicapped to a degree by limited planning resources, it has earned a reputation for success. Because its resources are so unique, the county has historically adopted equally unique strategies designed to preserve them and promote them responsibly. Part of this creative success seems to be due to the degree to which the county has identified and accepted its relative weaknesses and constraints. Let us consider, for example, the previously mentioned sewer project which is currently underway in LaGrange County, which is the largest sewer project on the boards in the state
of Indiana at this time. The cost of providing the needed service by means of a conventional, centralized wastewater treatment plant was determined to be prohibitive. It was a simple case where the traditional engineering solution could not effectively address the needs of a somewhat decentralized, rural population. In identifying this, the county worked diligently with Bonar and Associates -- their engineering consultant -- and several state agencies, in order to develop a more cost-effective solution. The system utilizes a network of decentralized constructed wetlands to treat effluent from lakefront residential areas, instead of a traditional, centralized treatment facility. Construction is scheduled to begin in June of 1993, and the system will be the first of its kind to operate in the state of Indiana.

The sewer project represents but one example of the creative spirit and leadership at work in LaGrange County. In fact, the Research Triangle Institute of North Carolina recently ranked the county number one among rural counties nationwide, in terms of successful economic development strategies. While economic development is certainly not land use planning, many of the factors that R.T.I. identified and used in determining the rankings appear to be common ingredients of success among both disciplines. Some of the primary factors contributing to success were given as follows:

- Recognizing the problem
- Assessing the strengths and weaknesses of the county and region
- Creating a plan
- Organizing volunteers
• Seeking funding

• Establishing a development commission

• Making a long-term commitment

The presence of these practices in LaGrange County suggests very strong leadership -- leadership which can effectively make up for a lack of planning resources. This type of creativity, with a constant awareness of reality, provides the ideal arena for the application of alternative land use regulations.

FROM IDEATION TO IMPLEMENTATION

The following five steps are offered as a means of addressing the critical issues that were presented in the concluding section of Part Three of this study, within the context of LaGrange County. While these steps may appear outwardly simple, each will require varying degrees of consideration, effort, and time to accomplish. As we all know, nothing is ever accomplished overnight in the field of planning. These steps do, however, when considered together, outline a realistic process which LaGrange County may follow in order to improve the overall effectiveness of its land use regulation strategy. The five steps are outlined below, and will be followed by a detailed discussion of each.

1) Form a "Critical Area Protection Committee" to inventory specific land use goals and priorities.
2) Legally establish land use goals and priorities in the form of a comprehensive plan.

3) Amend the zoning ordinance to include performance criteria which regulate development in two newly established overlay zones.
   • town service zone
   • lake zone

4) Re-evaluate all land use policies and regulations by creating one-year, five-year, and twenty-year goal statements.

5) Develop an aggressive education campaign which informs residents of land use goals and priorities, and seeks to include them in the development of future policy.

Objectives of the Critical Area Protection Committee:

In lieu of a planning staff, the Critical Area Protection Committee would meet and assign duties and tasks on a monthly basis. The committee might be composed of the county planner, one member each from the plan commission and board of zoning appeals, a county commissioner, and any number of interested citizens. The primary goal of the committee would be to geographically identify areas of the county where development has caused conflict, or may cause conflict in the future. The committee would then be
responsible for formulating and prioritizing land use goals for the entire county.

If an area is designated by the committee as a "critical area", the committee would prepare an official brief. The brief would identify the area of concern, provide a statement of the problem and an overview of the relevant issues, establish firm goals for the correction of the problem, and finally, state whether the problem is a one, five, or twenty-year priority. Any briefs produced by the committee would be presented at a special public meeting, to which only residents of the area in question would be invited, as a means of informing the public of the concern, obtaining feedback as to the appropriateness of the established goals, and addressing any other concerns which may have been overlooked. After the public meeting, the brief would be rewritten to reflect any changes, and the area would be tentatively established as a planning priority area.

Establishment of land use goals and priorities in a separate plan:

While a true comprehensive plan may take years to develop, and a great deal of time and effort to keep it current, its value as a planning tool has already been described and cannot be understated. It is here where we spell out the broad statements of policy which, when taken collectively, will determine where, why, and possibly how actual regulations will be established.

LaGrange County has several options for the development of a comprehensive plan. The planning commission may decide to outline the various components of a plan themselves, hire an additional planner, or it may be decided that an outside consultant would be better prepared for the task. There
are a few considerations to make, however, before deciding who will create the plan.

One of the most important realizations a community must make when seeking to create a comprehensive plan, is that the community is unique; and therefore its plan should be unique. I am not suggesting that the final result must be something which has never been done before. I am merely suggesting that care be taken to see that it is not something that was created for community A, and made to apply to community B. Unfortunately, this notion of a "boiler plate plan" exists, especially in the minds of some consultants, who may crank out several comprehensive plans for various communities every year. A comprehensive plan should represent the opportunity for a community to identify and respond to its own specific resources and constraints in its own way. There need be no convention.

Another consideration a community must make concerns the potential long-term benefits of citizen participation in the preparation of a comprehensive plan. Invite the public to informal work sessions. Present them with the basic ideas. Give them big, juicy pens and big pads of paper, then ask them to draw or write their ideas -- or so one simplified model goes. The point is, a comprehensive plan is created for its residents, so why not let them lend a hand in its development? It is a situation where there is everything to gain and nothing to lose. Even if no final solutions result, the process will still have been worth it, as citizens would walk away with a better understanding of planning issues and processes, as well as with the feeling that they had contributed.

Whichever route is pursued, much of the work may already have been
done. Four years ago, a team of planning students and faculty from Ball State University produced a comprehensive planning study for the county. While such a study is not a comprehensive plan in itself, it contains specific research, facts, and ideas that may be easily adapted for inclusion in such a document. Ironically, two of the proposals included in the study called for constructed wetlands for wastewater treatment, and a performance-based model for land use regulation. By having so much information already compiled in a useful format, the task of preparing an adequate comprehensive plan may become less rigorous; regardless of who actually does the work. Universities are frequently underutilized for planning consultation work and can often provide and package a great amount of useful information for a community at a relatively low cost.

**Performance overlay zones**

Based on the information compiled by this study, it seems that a system of performance standards, applied specifically to established "planning priority areas", can provide LaGrange County with an effective means of dealing with specific land use problems in a manner which supplements existing regulations. The actual performance criteria used should relate directly to the concept of "carrying capacity", as defined in the concluding paragraphs of Part Three of this study and be specific to the types of constraints present in each area. Ideally, these would be the areas identified by the Critical Area Protection Committee, but for the sake of providing an example, let us return to the areas of concern that were discussed in Part Two.
The problems of development sprawl have already been discussed as they apply to Shipshewana and the other small towns of LaGrange County. In developing a regulatory model to control it, however, we must also identify the actual constraints. In other words, it is not enough to say that sprawl is bad and that we are not going to allow it to occur; rather, we must ask the question concerning why it is bad in order to identify specific variables or factors that may be regulated. In the most utilitarian sense, sprawl is bad because it decentralizes development and therefore places an increased strain on public services and utilities which must be provided over a greater distance. In this context, an individual site's carrying capacity might be determined by its proximity to those services. A performance overlay zone may be applied to Shipshewana in order to regulate certain types of commercial or industrial development in the following manner:

<table>
<thead>
<tr>
<th>Variable</th>
<th>Range / Score</th>
<th>Weight</th>
<th>Variable Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>distance to public sewer main</td>
<td>&lt;1000 ft. / 7</td>
<td>3</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>1000-2000 ft. / 5</td>
<td>7</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>2000-5000 ft. / 3</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>&gt;5000 ft. / 1</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>distance to police / fire</td>
<td>&lt;1500 ft. / 7</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>1500-5000 ft. / 5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>5000-15000 ft. / 3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>&gt;15000 ft. / 1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>distance to highway</td>
<td>&lt;100 ft. / 7</td>
<td>2</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>100-500 ft. / 5</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>500-1000 ft. / 3</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>&gt;1000 ft. / 1</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

TOTAL X
Under this simplistic model, a total of 30 points might be required of any given site before it is considered for development. This total score can be figured by determining how far the site is from the given variables; locating the respective distances within the ranges specified; multiplying the score for each variable by its weighting factor; and adding the variable scores. Even if the minimum number of points are scored, however, the proposed development would still be required to conform to existing zoning regulations. This is why it is called an overlay zone; as additional restrictions are being placed on development, above and beyond existing zoning.

A performance overlay zone might also be developed to regulate lake development. Such an overlay zone may determine carrying capacity for individual parcels of land, or for the area around the lake as a whole. If it is used to regulate residential development on a site-by-site basis, the standards might appear as follows:

<table>
<thead>
<tr>
<th>Variable</th>
<th>Range / Score</th>
<th>Weight</th>
<th>Variable Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>wetlands</td>
<td>0 / 7</td>
<td>3</td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>&lt;10% / 3</td>
<td></td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>&gt;10% / 0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>tree cover</td>
<td>&lt;10% / 5</td>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td></td>
<td>10-25% / 3</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>25-50% / 1</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>50-100% / 0</td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>public sewer</td>
<td>yes / 5</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>no / 1</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>setback of dwelling</td>
<td>&gt;100 ft. / 5</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>from high water mark</td>
<td>60-100 / 3</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>45-60 / 2</td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>lot size</td>
<td>&gt;30,000 sq. ft. / 5</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>20,000-30,000 / 3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>12,000-20,000 / 1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>X</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Under this particular model, a given lakefront site might be required to score a minimum of 38 points if it is to be considered for residential development.

The examples provided above show how performance standards may be applied to specific overlay zones, in order to determine where, and under what circumstances, development may be suitable. When well-written and developed, such a model provides local officials with a logical and powerful decision-making tool. It should be emphasized, however, that the specific criteria (or variables) used are only examples. Actual performance criteria should be established as a result of a combination of established planning priorities and citizen input. It gets back to the idea of making the decisions as to what is important and what is worth preserving in the community. These are the ideals that should be clearly expressed in the comprehensive plan. It is also important to remember that any standards or regulations created for an overlay zone must be stated in the zoning ordinance, along with the an explanation of the circumstances which dictate when and where the overlay zone may be applied.

"Sun-down" mechanisms for evaluation and re-evaluation of policy

The need for periodic evaluation of land use policy has surfaced time and time again in this study, and should not vary much from strategy to strategy. The frequency with which evaluation should take place, however, may differ between communities, depending on the rate at which community values, priorities, and character actually change. The dilemma lies in the fact that we cannot possibly know these rates of change unless direct steps are taken to find out.
A process which would facilitate the periodic evaluation of land use regulations in LaGrange County, would involve the creation of one-year, five-year, and twenty-year goal statements. By identifying planning priority areas, setting goals for those areas, and specifying whether each area was a one, five, or twenty-year priority, the official briefs prepared by the Critical Area Protection Committee would have already accomplished much of this task. A compilation of these goals, which would allow them to be more easily translated into policy, would be the only significant task remaining, and could be easily handled by the plan commission or an additional staff planner.

The resulting regulations would then be evaluated when the figurative sun goes down at the end of their respective planning periods -- be it one year, five years, or twenty years. Based on an evaluation of their effectiveness, the regulations would be modified and reinstated, reinstated "as is", or dropped from the new plan completely. If needed, a brief moratorium could be placed on all development in the affected areas while policy evaluation took place.

An important consideration that needs to be made concerns how the various goal statements will be represented in the appropriate documents -- including the comprehensive plan. One potential solution would be to make the creation of one, five, and twenty-year plans the organizing concept behind the county's comprehensive plan. In this manner, the process itself would provide the framework, and the various goal statements would more clearly spell out specific objectives for each of the current planning periods. These objectives would, in turn, be translated as necessary into the zoning ordinance in the form of specific performance standards for each newly-created overlay zone.
As previously discussed in this study, a primary key to the success of performance-based regulations is actually having faith in their ability to do the job they were intended. A practical means of periodic evaluation can go a long way in putting doubts to rest. As conditions change, necessary consideration needs to be given to regulations to see that they keep up with dynamic goals and priorities. The evaluation strategy which has been described in the previous paragraphs will facilitate this level of consideration.

**The educational campaign**

Although presented here as the fifth step in the process of strategy development and implementation, this ordering may be misleading. Education, of residents and county officials alike, should take place at every stage, and may take many forms. Regardless of the means chosen, however, based on the information compiled by this study, a successful educational process seems to have three primary characteristics. It is coordinated, active, and utilizes a variety of media.

A successful planning education campaign is coordinated, because, before local officials are able to educate the public, they must first familiarize themselves with the processes and policies that they will be teaching. As previously alluded to, this coordination — the sharing and clarification of ideas and interpretations of policy— is absolutely critical to the efficient functioning of local government. Frequent in-house workshops which offer local officials the opportunity to learn about the goals and procedural aspects of new regulations and policies, would go a long way in providing the degree of internal education
needed before any formal interaction with the public takes place.

A successful planning education strategy is also active, in the sense that the public is consistently made aware of the circumstances that may lead to new policy, as well as the potential impacts which that new policy may have on their roles as land owners. Hardin County, Kentucky accomplished this through the publication of frequent ads in local newspapers, as well as through the production of a video which clearly stated what the Development Guidance System intended to accomplish, how it intended to accomplish it, and finally, what roles the county, residents, and developers were expected to play. Whatever media are chosen for planning education in LaGrange County, they should be capable to conveying various types of information clearly and frequently.

So what are the appropriate media for planning education? Although there are often time and financial constraints, a general answer is the more the better. Newspaper ads have long been used as the primary means of announcing public meetings and hearings, but such ads are generally placed as a requirement of procedural due process as opposed to a means of providing useful information to a concerned citizenry. In other words, they are required by law. These ads are usually quite inconspicuous and contain information concerning specific zoning matters. A legal description of the site in question usually comprises a large percentage of the actual notice, making it nearly impossible to decipher without the assistance of a qualified land-use attorney and surveyor. A brief planning news section in the local newspaper would focus people's attention on planning matters. Such a section could contain messages and notices in a revised format which could be more easily read and understood.
Planning education articles could also appear periodically in the section, as well as letters from informed residents.

LaGrange County also has the opportunity to follow the example of Hardin County by producing a video presentation which describes planning priorities and processes. Such a video need not be expensive to make, and would allow for further educational opportunities by involving local students in its production. By introducing the virtues of planning into the local schools, the educational process is expanded to include young, developing minds which will grow up with a basic understanding of why we plan.

SUMMARY

LaGrange County, Indiana has already established a reputation for outstanding leadership and the development of successful strategies which are unique to its rural setting. If the notion exists in LaGrange County that "it can't be done", it certainly does not exist in the minds of key local officials. As populations continue to increase throughout the globe, so do development pressures, environmental concerns, and other planning problems. Those communities which are first to realize that they have the power and the resources to affect change -- that it is no longer acceptable to simply say that a given strategy will not work because of certain constraints -- will be the first communities to enjoy cleaner, more-healthy environments, more-efficient uses of revenue, and an overall increased quality of life.
The process which has been described in the final part of this study, was developed as a result of information obtained concerning the commonly expressed inadequacies of traditional Euclidian zoning, the combined experiences of five rural communities which have implemented various types of alternative land use regulation strategies, and finally, the conditions in LaGrange County, Indiana which suggest the need for new policies and supplemental land use regulations. While the process described begins to suggest a model for land use regulation, and even planning as a whole, in LaGrange County, nothing can be accomplished without the reality of a long-term commitment. It is important to realize also, that the steps suggested here are symbolic of the ideas and understanding of only one individual. LaGrange County is a unique place, and possesses an equally unique and diverse social element; an element which should be responsible for determining their own future.
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ADDITIONAL REFERENCES


