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Smart Growth and Localism: A Theoretical Analysis

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Abstract: This article explores the concept of smart growth, which promotes development in central city districts in an effort to reduce urban sprawl. Specifically, this feature discusses how smart growth is accomplished at all levels of the government, and contrasts top-down versus bottom-up land use control. In the past, local land use initiatives have been mostly unsuccessful at solving larger regional problems. Fears exist among scholars and politicians that federal or state land use legislation will fail to meet the specific individual needs of local governments. However, through the use of state created incentives and other programs, communities in New York are beginning to successfully cooperate and develop in a more responsible and sustainable manner.

In three previous columns, I have written about the growth management technique referred to as smart growth. I mentioned that most discussions on the subject in New York assume that local governments must play the predominate role in determining how to balance land use and conservation. In academic circles this is described as *localism*. This approach suggests that responsible growth patterns can be achieved by enlightened local action, which may be guided and assisted by incentives, information, and technical assistance provided by higher levels of government. Localism is sometimes called the *bottom-up approach* to land use decision-making and is contrasted to the *top-down*, or command and control, approach evident in federal pollution prevention and clean up regimes where the federal and state governments set standards, prescribe outcomes, and require compliance.

Those who argue that the New York State legislature should adopt a top-down approach to land use planning and regulation do so, in part, because they perceive a need to coordinate the often disconnected and discordant land use decisions of local governments. The danger in this observation is that it may target local control as the problem to be cured, rather than the base on which to build an intermunicipal process, that is responsive to regional needs.

Massachusetts Senator Tip O'Neil once quipped, "all politics are local." For advocates of a prescriptive state or regional strategy in a strong home rule state,

O'Neil's political reality means that designing any solution to the "problem" of municipal independence runs the risk of engendering overwhelming political opposition. Times may have changed, but the history of top down approaches in New York leans in the O'Neil direction. When a state-wide land use planning act was submitted to the state legislature in 1970, it not only failed to reach the floor, but the agency that proposed it was disbanded by the legislature shortly thereafter. Two years later, the state Urban Development Corporation was stripped of its power to override town and village zoning after it announced a proposal to build subsidized housing in nine communities in Westchester County.

The challenge for advocates of a top-down approach to land use planning and control is to identify effective state or regional processes that respect the critical role that local governments play in land use decision-making. To be politically palatable, these solutions must not be perceived as methods of imposing a state or regional body's will on local governments, but as means of communicating effectively about regional and local needs, balancing those interests, and arriving at mutually beneficial decisions over time.

There is a significant body of thought that recommends a serious consideration of localism, or state-assisted localism, as a viable approach to smart growth.

Diffusion of Innovation

From the field of rural sociology we have been given the theory of the diffusion of innovation. Everett M. Rogers, in his 1963 book on the subject, instructs us that "Diffusion is the process by which an innovation is communicated through certain channels over time among the members of a social system." Innovations can be the adoption of a farming practice – the use of a new hybrid seed adopted by individual farmers – or a practice, such as the use of traditional neighborhood district zoning – adopted by a unit of government, a town or village. Rogers explains how the process of diffusion within the community takes place. He notes that certain types of leaders hear, evaluate, test, adjust and implement an idea. Rogers explains that there is a hierarchy of opinion leaders within communities, led by *early adopters*, he calls them, who are broadly respected, practical, and sufficiently innovative to try new ideas that withstand their evaluation. "Most individuals," Rogers writes, "evaluate an innovation, not on the basis of scientific research by experts, but through the subjective evaluations of near-peers who have adopted the innovation. These near-peers thus serve as social models, whose innovation behavior tends to be imitated by others in their system." So, if urban planners can point to a traditional neighborhood development zoning ordinance adopted in a similar community, the political and practical utility of the idea is more persuasive to leaders in a new locality.

Complex Adaptive Systems

A newer theory on the behavior of *complex adaptive systems* has emerged that updates diffusion theory. Dr. Murray Gell-Mann in his book "The Quark and the

Jaguar” strongly endorses the bottom-up approach to decision-making in resource matters. Dr. Gell-Mann, the recipient of the Nobel Prize in Physics in 1969, has been described by the New York Times as “the man who knows everything.” He explains the theory of complex adaptive systems in these words:

“from the behavior of organisms in an ecosystem to the evolution of human societies, each one is a *complex adaptive system* which acquires information about its environment and its own interaction with that environment, identifying regularities in that information, condensing those regularities into a model, and acting in the real world based on that model.”

“Perhaps the most important lesson to be learned from contemporary experience is ...the importance of bottom-up as opposed to top-down initiatives. If local people are deeply involved in a process, if they help to organize it, and if they have a perceived stake, then the process often has a better chance of success than if imposed by a distant bureaucracy...”

Regionalism

Dr. Gell-Mann’s “lesson” may be reinforced by the history of regionalism in the land use field. If localities are complex adaptive systems, there is little evidence that their behavior, or decision-making, in the land use field has been influenced positively by regional or state mandates. John Kincaid, the former Executive Director of the Advisory Commission on Intergovernmental Relations addressed this subject in a 1993 article in the *Pace Law Review* which surveyed the multiple inefficiencies of decision making by the nation’s 87,000 units of local government. In search of a solution, he reviewed the history of consolidation and management experiments. He concluded that such efforts, including regional land use or transportation planning, had enjoyed very limited success nationally, primarily because of local resistance.

In that same law review issue, Doug Porter, the President of the Growth Management Institute, examined the experience of the nine states that had then adopted state-wide growth management statutes, noting that most of them were still embryonic and had not yet provided order to the chaos of local land use control. Recent studies of the effectiveness of state mandated planning in five states indicate that the results are highly variable. (Deyle & Smith, *APA Journal*, Autumn ’98.) The jury is still very much out on the much discussed Maryland Smart Growth Spending Act where the tension between localism and state driven planning objectives is high.

Professor Harvey Jacobs at the University of Wisconsin, noting the paucity of examples of effective and responsible regionalism, argues for responsible localism, noting that localism, however anarchic it seems, “has rhyme and reason to it, even in the late twentieth century.” This view is reflected in the growing success of the Hudson River Greenway Communities Council, a classic, bottom-up approach to regional land use planning. The Council, formed nearly ten years ago, relies on incentives to secure participation on the part of the 242 local governments within its jurisdiction. At its

current rate of progress, over half of these localities will have joined this regional compact by the end of 2001.

Federalism:

Is there any sign that smart growth patterns of development can be effected by national legislation or programming? We must be impressed by the success of command and control laws in reducing environmental pollution and effecting the cleanup of harmful substances. It is significant to note, however, that most environmental statutes have a clause stating that they are not intended to diminish the power of state and local governments to control land use.

Thirty years ago, Congress made one clear-headed attempt to create a comprehensive and politically realistic approach to land use planning. In the early 1970s, Senator Henry M. Jackson, who is credited with the passage of the National Environmental Policy Act, also proposed a National Land Use Planning Act. His insight regarding this issue was profound.

Senator Jackson was frustrated by the conflicts and confusion concerning land development and conservation programs at the national, state, and local level. He talked often of the radically conflicting intergovernmental policies in the Florida everglades where one level of government was attempting to create a park, another altering the landscape for flood control, and the third moving to build an airport.

The National Land Use Planning Act, which ultimately failed by 11 votes, would have created a bottom-up system of local, regional, state and federal land use plans, through which these levels of government could communicate and coordinate, all based on local input. This Act failed, in part, because of hyper sensitivity to the possibility that the national government might preempt state and local land use control. The conclusion is that our federal approach to land use matters is a devolved one, highly deferential to state and local control. This is the de facto national policy in the land use field. The 10th Amendment reserves to the states all powers not delegated to the federal government and we have determined that land use control is a matter primarily within the control of the states and their local units of government.

How to Achieve Responsible Localism

Smart growth is a theoretical cousin of sustainable development. Attorney Daniel Sitarz, in his book on Agenda 21, writes, "irrefutable evidence has mounted that there is an intricate interdependence of both the world's economy and the world's ecology....The development of the Earth to provide a basic level of comfort for all humanity and the protection of the global environment are two sides of the single coin of human survival."

The environmental and the development communities are compelled by the logic of sustainable development to focus clearly on both growth and conservation. If, today,

sprawl is the problem we address, smart growth is our current prescription for cure. At the local level, what smart growth theories require is intermunicipal planning that establishes discrete compact growth areas and significant conservation corridors and landscapes. So we work, at the local level, to create compatible areas for compact growth, and areas for landscape conservation, linked to adjacent or similar areas in nearby communities.

This is a minimalist's prescription for smart growth: areas identified for growth, areas identified for conservation, and plans to implement both. In areas for compact growth, we are currently looking at ideas coming from neo-traditional design and new urbanism. An example is the traditional neighborhood district zone which includes design related "regulations" that allow local boards to create traditionally designed neighborhoods. This can help create compact development areas which is one side of the coin of sustainable development.

New techniques such as conservation overlay zoning and critical environmental area designation are being used to supplement zoning provisions to provide significant protection to important local landscapes. Conservation biologists are pushing us further, by recently documenting the horrors of landscape fragmentation and urging lawyers and biologists to develop additional regulatory mechanisms that will prevent the fragmentation of large landscapes by land development. This works on the other side of that coin.

If we are committed to localism, how can the State of New York accelerate the rate at which local governments adopt these balanced blueprints for smart growth and insure that regional interests are considered? The first step may be to make this bottom-up approach the overt policy of the state and then to use its funding and other authority to implement that policy. Beginning this year, the Quality Community Program is making funding available on a priority basis to local governments involved in intermunicipal efforts to encourage economic development and resource conservation. This small beginning has already encouraged numerous municipalities to develop joint land use programs.

As the success of this program is demonstrated, a much larger share of the state's discretionary dollars can be tied to intermunicipal efforts to meet regional smart growth needs. The state's funding protocol can routinely make it clear that money for infrastructure development, open space acquisition, and community development is more likely to be received if local governments, working together, have designated priority areas for development and for conservation. In addition, state, regional, and county agencies can speed this process by providing technical assistance, data, and regional demographic information to cooperating localities. New legislation is needed to allow tax-base sharing among municipalities and effective means of mediating disputes over regional impact projects.

These steps can form a new policy of guided localism leading to responsible regionalism. This approach proceeds from the assumption that local actions can be

regionally responsible and, quite apart from being the problem to be solved, are integral to the solution of achieving balanced growth and environmental conservation in New York.