Growth Management

• Last Week—
  • Moratoria and Interim Freezes (*Naylor*)
  • Tempo Controls and Caps (*Petaluma*)

• Today—
  • Infrastructure Controls and Concurrency Requirements and (*Ramapo*)
  • Urban Growth Boundaries (1000 *Friends of Oregon*)

**Golden v. Planning Board of the Town of Ramapo,**
285 N.E. 2d (N.Y. 1972) p. 496

Infrastructure Controls and Concurrency Requirements

• Comprehensive Plan
• Concurrency
• Special Permit Point System
• As-of-Right Use
• Reduction of Tax Assessments
Ramp at:Infrastructure Controls and Concurrency Requirements Cont’d

• Acceleration
• Vested Rights
• Hardship Variance
• Affordable Housing Program
• Village Incorporation Law
Special Permit Point System

- The subdivision of land for residential purposes was designated a "special use" for which a special use permit was required.
- No special permit could be issued unless the proposed residential development accumulated 15 development points, to be computed on a sliding scale of values assigned to specific improvements under the statute.

1. Sewers

   (a) Public sewers available 5 points
   (b) Package sewer plants 3 points
   (c) County-approved septic system 3 points
   (d) All others 0 points
2. Drainage
Percentage of Required Drainage Capacity Available

(a) 100% or more  
(b) 90% to 99.9% 
(c) 80% to 89.9% 
(d) 65% to 79.9% 
(e) 50% to 64.9% 
(f) Less than 50% 

3. Improved Public Park or Recreation Facility
Including Public School Site

(a) Within ¼ mile  
(b) Within ½ mile 
(c) Within 1 mile 
(d) Further than 1 mile
### Ramapo Cont’d

**Special Permit Point System**

4. State, County, or Town—Major, Secondary, or Collector Roads, Improved with Curbs and Sidewalks

<table>
<thead>
<tr>
<th>Access</th>
<th>Points</th>
</tr>
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<tbody>
<tr>
<td>Direct Access</td>
<td>5</td>
</tr>
<tr>
<td>Within ½ miles</td>
<td>3</td>
</tr>
<tr>
<td>Within 1 mile</td>
<td>1</td>
</tr>
<tr>
<td>Further than 1 mile</td>
<td>0</td>
</tr>
</tbody>
</table>

**5. Firehouses**

<table>
<thead>
<tr>
<th>Distance</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within 1 mile</td>
<td>3</td>
</tr>
<tr>
<td>Within 2 miles</td>
<td>1</td>
</tr>
<tr>
<td>Further than 2 miles</td>
<td>0</td>
</tr>
</tbody>
</table>
Ramapo Cont’d

As-of-Right Use

The owners of land rendered ineligible for subdivision were allowed to develop the *unsubdivided* parcel as-of-right under the current zoning, giving them the ability to utilize their land for a limited economic use (for the *construction of individual housing*, for example).

Ramapo Cont’d

Reduction of Tax Assessments

Owners who could not develop their land for several years were provided a method of obtaining a *reduction in their property tax assessment* from the Development Easement Acquisition Commission.
Ramapo Cont’d

Acceleration

A prospective developer could advance the date of subdivision approval by agreeing to provide services and improvements to bring the proposed plat within the number of development points required to qualify for a special use permit.

Ramapo Cont’d

Vested Rights

Developers were allowed to apply for a special permit vesting their rights to proceed with their development in the future when the required infrastructure and services were in place.
Hardship Variance

Upon application to the town board, the development point requirements could be varied should the board determine that such a modification was consistent with the ongoing development plan.

Affordable Housing Program

The town board balanced the effects of growth control on affordable housing by taking direct action to produce over 800 units of public and subsidized housing.
Rampapo Cont’d

Village Incorporation Law

• The town board adopted a law that prevented incorporation of additional villages within the town unless the town board determined that such incorporation was in the best interests of the town as a whole.

• The provision was later invalidated in Marcus v. Baron.

Urban Growth Boundaries
Urban Growth Boundaries

• Oregon state legislature established 19 Statewide Land Use Planning Goals.

• Oregon’s Land Conservation and Development Commission (LCDC) reviews municipal comprehensive plans for compliance with statewide goals.

1000 Friends of Oregon v. Wasco County Court, 703 P. 2d 207 (Or. 1985), p. 548

The Process

• Once the LCDC “acknowledges” the plan, the municipality no longer must make decisions in compliance with the goals; it just has to follow the plan.

• If the municipality wants to amend the plan, the amendments to the plan are “acknowledged” by operation of law unless an appeal is filed with the LCDC.
**1000 Friends of Oregon Cont’d**

**Goal 14 – The Urbanization Goal**

- Specifies the requirements for conversion from rural land to urban land.
- If a change in an urban growth boundary (separating urbanizable land from rural land) is proposed, the municipality must follow Goal 2 for goal exceptions.
- A goal exception is essentially a variance that allows goal requirements to be waived when for some compelling reason(s), it is “not possible to apply the appropriate goal to specific properties or situations.”

**1000 Friends of Oregon Cont’d**

**Other Issues**

- Pre-incorporation v. post-incorporation
- Determination of compatibility pre-incorporation
- Mere technical distinction or support of the implementation of democratic will?
Growth Management: 
Wise public policy or unwise interference with the market?

Critiques

• Escalation of costs
• Potential exclusionary devices
• Jobs-housing imbalance
• Leapfrogging
• Abuse of “relief valves” – particularly by the wealthy
• Government coercion

Defenses

• Predictability of development patterns
• Preservation of agricultural land and open space
• Reduced sprawl and traffic congestion
• Resources directed back into the city
• Houses were under-priced to begin with
Growth Management: Wise public policy or unwise interference with the market?

Other Contributions to Sprawl

• Reflection of economic prosperity
• Desire for more space – filling a market niche
• Local government’s thirst for tax dollars
• Federally funded highways

Securing a Sufficient Housing Supply

• Exclusionary Zoning – Judicial Invalidation (*Mount Laurel I*) - today
• Statutory Mandates Against Exclusionary Zoning (*BIA of San Diego*) - tomorrow
• Inclusionary Zoning (*Mount Laurel II*) - tomorrow

Exclusionary Devices

• Types of housing
• Income classes
• Over-zoning for industrial use
Mount Laurel I Cont’d

Regional Fair Share

- “Commutershed”
- County and regional planning agencies
- Superseding reason

Mount Laurel I Cont’d

Why Mount Laurel?

- Test case
- Location
- Archetypical developing community
Mount Laurel Today

• Approximately 16,000 residential homes and 1200 businesses

• Population in 1972: 11,500; today more than 38,000

• In 1997 concluded court-ordered plan and purchased a 153-acre parcel that was scheduled to be developed into more than 120 homes

• In 1998 created an Open Space Trust Fund to purchase land as open space and through 2002 has preserved nearly 600 acres