University of Pennsylvania
ScholarlyCommons

Senior Seminar Papers | Urban Studies Program

4-15-2011

How to Implement an Urban Growth Area without Really Requiring (It): Evaluating the Effectiveness of Voluntary Urban Growth Areas

Frank Weber
University of Pennslyvania

Suggested Citation:
Weber, Frank. "How to Implement an Urban Growth Area without Really Requiring (It): Evaluating the Effectiveness of Voluntary Urban Growth Areas" University of Pennsylvania, Urban Studies Program. 2011.

This paper is posted at ScholarlyCommons. http://repository.upenn.edu/senior_seminar/15
For more information, please contact repository@pobox.upenn.edu.

How to Implement an Urban Growth Area without Really Requiring (It): Evaluating the Effectiveness of Voluntary Urban Growth Areas

Abstract
Lancaster County, Pennsylvania uses urban growth areas (UGAs) to prevent the loss of its productive farmland to suburban sprawl. In contrast to other areas that have implemented UGAs, the county government cannot force its municipalities to adopt UGAs, since Pennsylvania reserves all land use regulatory power for its individual municipalities. This paper will explore whether UGAs can be instituted effectively in such a regulatory scheme or whether successful UGA programs require local governments to cede regulatory power to county and state governments. Through interviews with municipal and regional officials and the review of planning and zoning documents, I find that UGAs are effective in the absence of state and county mandates because the county and its municipalities are both interested in achieving the two main goals of UGAs – limiting development in prime agricultural areas and locating denser development within their boundaries. As a result, state or county governments considering the use of UGAs to slow suburban sprawl should note that there are multiple ways to implement such programs.

Disciplines
Social and Behavioral Sciences | Urban Studies and Planning

Comments
Suggested Citation:
Weber, Frank. "How to Implement an Urban Growth Area without Really Requiring (It): Evaluating the Effectiveness of Voluntary Urban Growth Areas" University of Pennsylvania, Urban Studies Program. 2011.

This thesis or dissertation is available at ScholarlyCommons: http://repository.upenn.edu/senior_seminar/15

Frank Weber
April 15, 2011
Final Manuscript Draft

How to Implement an Urban Growth Area without Really Requiring (It): Evaluating the Effectiveness of Voluntary Urban Growth Areas in Lancaster County, Pennsylvania

Abstract

Lancaster County, Pennsylvania uses urban growth areas (UGAs) to prevent the loss of its productive farmland to suburban sprawl. In contrast to other areas that have implemented UGAs, the county government cannot force its municipalities to adopt UGAs, since Pennsylvania reserves all land use regulatory power for its individual municipalities. This paper will explore whether UGAs can be instituted effectively in such a regulatory scheme or whether successful UGA programs require local governments to cede regulatory power to county and state governments. Through interviews with municipal and regional officials and the review of planning and zoning documents, I find that UGAs are effective in the absence of state and county mandates because the county and its municipalities are both interested in achieving the two main goals of UGAs – limiting development in prime agricultural areas and locating denser development within their boundaries. As a result, state or county governments considering the use of UGAs to slow suburban sprawl should note that there are multiple ways to implement such programs.

I. Introduction

Lancaster County, Pennsylvania has been threatened with the loss of its prime agricultural land due to sprawling, low density development over the past 50 years. In response, the Lancaster County Planning Commission (LCPC) has incorporated urban growth areas (UGAs) into its comprehensive plan as tools to slow the loss of productive farmland to suburban sprawl. In contrast to other areas – the state of Oregon, for example – that have implemented UGAs, the county government cannot force its municipalities to adopt UGAs, since the Commonwealth reserves all land use regulatory power for its individual municipalities.

Since Pennsylvania's legislative framework will not be amended in the foreseeable future, this paper will investigate whether UGAs can be implemented effectively when they are voluntary. First, this paper will explore why and how the LCPC introduced UGAs to the county's municipalities. Next, a review of literature will detail how Lancaster County and Oregon differ with respect to the implementation of UGAs and what commentators believe the effects of these two differing approaches are.

In order to address the dispute in the literature, I have conducted interviews with municipal officials and reviewed planning and zoning documents in two municipalities that have adopted UGAs. In addition, I spoke with officials from regional entities that administer growth management and farmland preservation programs.

I find that UGAs in Lancaster County succeed in the absence of state or county mandates because the county and its municipalities are both interested in achieving the two primary goals of UGAs – limiting development in prime agricultural areas and locating denser development within their boundaries. This alignment of interests is influenced by respected regional entities that administer growth management and farmland protection programs.

This paper does not argue that a prospective jurisdiction considering the implementation of a UGA program should use one structure – mandatory or voluntary – over the other. Rather, it shows that there are multiple ways to implement effective UGAs, and that prospective jurisdictions should consider the merits and flaws of mandatory or voluntary UGAs in selecting the choice that best suits their needs.

II. Urban Growth Areas in Lancaster County

County Profile

Lancaster County, Pennsylvania lies nearly 50 miles to the west of Philadelphia, bordered by Chester County to the east, Berks County to the northeast, Dauphin and Lebanon Counties to the northwest, York County to the west, and Cecil County (Maryland) to the south.

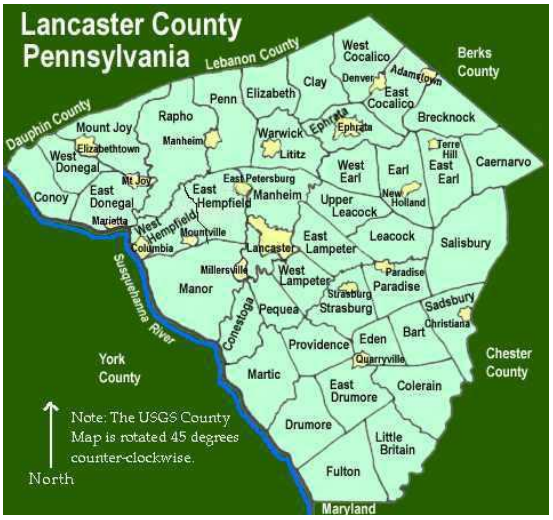

Figure 1

Founded as a farming community in 1729, Lancaster County's agricultural prowess has been affected by residential, commercial, and industrial growth that has spread outward from the Philadelphia metropolitan region.

Pennsylvania experienced a tepid population growth of 3% in the 1990s, while Lancaster County's grew by 11% during the same period.[1] Jaffe attributes the residential appeal of the county to its proximity to major cities, its suitability for "bedroom" communities to retirees, and availability of cheap land.[2] Regardless of the exact cause, the residential growth has been occurring at low densities and at the expense of the

[1] T. Daniels, interview, 10/13/2010
[2] Jaffe (2005) at 150
Figure 1 courtesy of http://www.usgwarchives.org/maps/pa/county/lancas/usgs/

county's agricultural land. In the 1990s, for every one percent of population growth, two percent of the county's lands were consumed for urban or suburban development.[3]

Development that takes place in the county's rural locations carries serious implications. First, suburban sprawl increases traffic congestion; puts pressure on the county, its municipalities, and school districts to provide services for scattered development located outside of growth areas; and leads to insufficient densities within growth area to support needed infrastructure, such as roads, utilities, and transit.[4]

The loss of farmland adds an equally important set of implications. The county's warm temperatures, long growing season, and substantial rainfall "make [it] the most productive non-irrigated farming ground in the United States."[5] Not surprisingly, 70 percent of its land is in agricultural use today.[6] Farm production accounted for $3.2 billion of the county's economic output in 2001 (11% of county total) and currently accounts for 7% of its employment.[7]

The consumption of farmland for urban and suburban purposes poses a more serious detriment to the county's and municipalities' taxpayers than if the land were open space.[8] Open space owned by the public, including parks, trails, greenways, and public recreation, commands funding from the government. Privately held open space, including vacant or undeveloped lots, contributes very little in tax revenues. Productive farmland, on the other hand, is privately owned and contributes greatly to the local tax base, while requiring little in public expenditures compared to commercial, industrial, and residential lands.[9]

---

[3] T. Daniels, interview, 10/13/2010
[4] Lancaster County Planning Commission (2006) at 2-27
[5] Daniels (1997)
[6] Lancaster Chamber of Commerce and Industry (2010)
[7] *Id.*
[8] Daniels (1997) at 12
[9] American Farmland Trust (1997)

In addition to preserving productive farmland, the county has sought to attract development. Recently, county and local governments have attracted an increasingly diversified economy into its urban and suburban areas. Its growing health care and stable manufacturing sectors employ 14.1 percent and 18.0 present of the county's employees, respectively.[10] The Lancaster County Convention Center (LCCC) touts the county as an ideal setting for agro-tourism and family activities, which also includes "a surprisingly sophisticated urban center, featuring art galleries, fine dining, upscale shopping, and historical landmarks."[11]

Motivation for Urban Growth Areas

The LCPC released its first growth management plan in 1993 in order to achieve the county's two major goals: preserving farmland and attracting development. The primary tool for directing urban and suburban growth away from agricultural areas and into areas that can support development was the adoption of UGAs by the county's urban and suburban municipalities.[12]

An urban growth area encompasses the urban core of a municipality and its surrounding lands, such that it includes sufficient land for the development of housing units, employment opportunities, and public facilities consistent with 25-year population projections, without constraining the price of land in the market.[13] Inside the boundary, land is reserved for urban and suburban development uses, and outside of the boundary, land is reserved agricultural, natural resource, or very low density residential uses.

The municipalities' initial reception to UGAs was far from overwhelming, as only 3 UGAs spanning a total of 6 municipalities were included in 1993 county comprehensive plan. Township boards of directors and interest groups – including developers and preservationists –

---

[10] Pennsylvania Department of Labor & Industry (2010)
[11] See http://www.lancasterconventioncenter.com/
[12] M. Frey, interview, 11/8/2010
[13] Lancaster County Planning Commission (2006) at 3-5

became more comfortable with UGAs after the LCPC educated them about benefits of UGAs and how to implement them.[14]

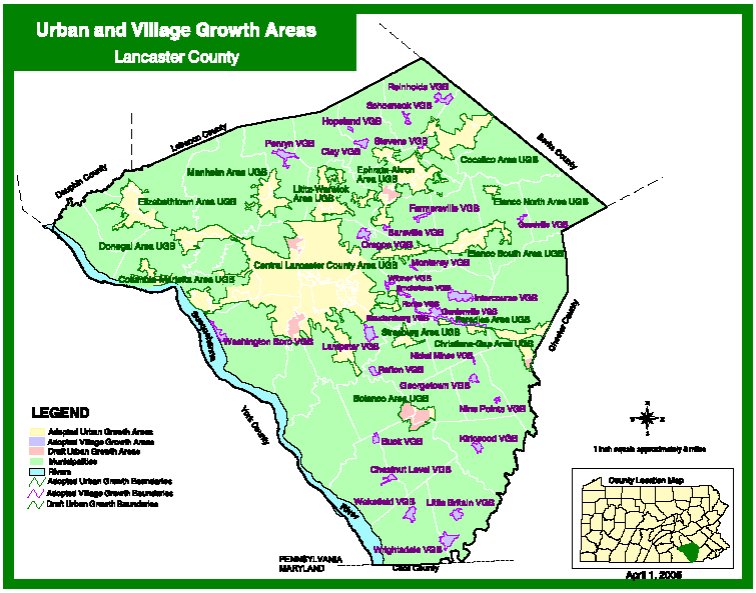

Figure 2

The LCPC's current growth management program has become more nuanced to better address growth trends in the various types of municipalities in the county, but the chief implementation tool remains the same. The LCPC has introduced a Village Growth Area, a tool that is better suited for the county's rural municipalities, in its 1997 growth management plan.

Within UGAs, the LCPC intends for 85 percent of new dwelling units to be built and residential density to reach 7.5 units per acre. Since UGA targets are too high for rural areas, the LCPC intends for the residential density to reach 2.5 units per acre and all development to occur in locations served by sewer and water lines within VGAs.

To date, 13 UGAs have been adopted by 39 municipalities, and 31 VGAs have been adopted by 33 municipalities. The county comprehensive plan has increased in prestige as well. The LCPC won the 2009 Award for Overall Excellence in Smart Growth from the United States Environmental Protection Agency for the latest version of its comprehensive plan.

---

[14] *Id.* at 2-12

Figure 2 courtesy of LCPC website at http://www.co.lancaster.pa.us/planning/lib/planning/lcpcphotos/mapgallery/countyugb.pdf

Pennsylvania Land Use Regulation

Before considering the literature and results of this study, it is important to detail the powers that various levels of government in Pennsylvania have in regulating land use.

Governmental intervention in the use of private property gained its legality less than 100 years ago. The Supreme Court held in *Village of Euclid v. Ambler Realty Co.*[15] that the ability of the government to regulate land use through a zoning ordinance is a valid exercise of the state's police power. The Tenth Amendment to the Constitution allows state governments to use their police power to prescribe legislation that protects the "public health, safety, welfare, and morals."[16] The power to regulate land is reserved for the state, which grants the power to zone to its individual municipalities.[17] Passing along regulatory power to local governments stems from the principle that local governments are best able to determine how to regulate their own lands.

In recent decades this traditional local control model of land use regulation has been altered in some states. The effects of sprawling development provided an impetus for granting more regulatory power to state and county governments. This push towards empowering county and state governments implies that local governments cannot adequately address the problems associated with sprawl.

The Commonwealth of Pennsylvania sticks largely to the local control model of land use regulation, with few exceptions. Pennsylvania grants its municipalities the power to zone through its Municipalities Planning Code (MPC).[18] In addition, the MPC prescribes various powers to the commonwealth and counties, although these lack any real regulatory power. The Commonwealth places requirements on all zoning ordinances, but their ambiguity limits the

---

[15] 272 U.S. 365 (1926)
[16] Daniels (1999) at 78
[17] Mandelker (2008) at 220
[18] Pennsylvania Municipal Planning Code (cited hereafter as "PA M.P.C.")

effect of the requirements.[19] For example, the MPC states that "zoning ordinances shall protect prime agricultural land,"[20] but provides no further guidance.

The MPC stipulates that a county government has the power to zone when a municipality within its jurisdiction fails to enact a zoning ordinance.[21] However, as soon as a municipality enacts an ordinance, the previously binding county ordinance is repealed. The MPC allows a county government to regulate land use directly, but only when a local government fails to do so for itself.

The most significant power given to county governments is the advisory power over planning and zoning amendments. The MPC requires that "any proposed action" of a municipality is subject to review by its county planning agency.[22] While municipalities are not legally bound to accept any recommendations, the process allows county planning agencies to comment on the land use decisions that are made within their jurisdictions.

III. Literature Review

Any discussion of urban growth areas invites a comparison to the way in which the state of Oregon uses them. The scholarly attention paid to Oregon stems not only from the novelty of the UGB[23] concept, but the way in which UGBs are implemented.

UGBs in Oregon are instituted through a regulatory scheme that deviates from the local control model of land use regulation. In 1973, the state passed a bill aimed at decreasing rate of development occurring on its prime farmland and natural resource areas.[24] The law requires

---

[19] Carter (2007) at 1030-1031

[20] PA M.P.C. §603(g)

[21] PA M.P.C. §602

[22] PA M.P.C. §304 Proposed actions include "the adoption, amendment, or repeal of a comprehensive plan the adoption, amendment or repeal of any comprehensive plan, official map, subdivision or land ordinance, zoning ordinance or provisions for planned residential development."

[23] Note that the state of Oregon uses urban growth boundaries (UGBs) as opposed to UGAs.

[24] Codified into Oregon State Law as Oregon Revised Statute (ORS) 197.

local governments to draft comprehensive plans that fulfill statewide planning goals established by a state administrative body.[25] Goal 14 mandates local governments to establish UGBs, within which there must be sufficient land for the development of housing, employment opportunities, and public facilities consistent with 20-year population projections.[26] After a local government's plan has been acknowledged as being consistent with statewide goals, it must implement its comprehensive plan through its zoning ordinance.[27] Because UGBs are subject to review to ensure that they reflect the language of Goal 14, a local government can only expand its UGA when it shows that future growth of its region necessitates the use of more land.

It is also important to note that Oregon's regulatory scheme also applies to the implementation of local comprehensive plans. Since UGBs are planning instruments, which do not impose any legal restrictions on lands inside or outside the boundary, municipalities in Oregon need to implement them through their zoning ordinances to achieve approval from the state.

In contrast, UGAs in Lancaster County are voluntary and, municipalities are not required to implement them in accordance with any state or county regulations. A municipality in the county may choose not to adopt a UGA, or, even if it does, no regulatory body ensures that a UGA implementation fulfills its intent. In the absence of any requirements, it is possible for a given UGA to become an inconsequential line on a map when a municipality's zoning ordinance fails to implement its intent.

The differences between Oregon and Lancaster County stem from the process by which UGAs are implemented, not their substantive intent. Both planning tools seek to limit sprawling

---

[25] 197 ORS §197.005(2-3). Currently, there are nineteen statewide planning goals, including restrictions on lands zoned for agriculture and forestry, economic development, housing, transportation, public facilities and services, and energy conservation among others.

[26] Oregon Administrative Rule (OAR) 660-015-0000(14)

[27] 197 ORS §197.005(5)

development outside of boundaries and to encourage development within boundaries. The relevant debate here is how the process of implementation of influences the effectiveness of each program.

The absence of regulatory authority granted to higher levels of government informs Rachel Jaffe's belief that Lancaster County's UGAs cannot effectively limit sprawl. The county's UGA scheme, when compared to the one in Oregon, has a distinct "Achilles heel – the fact that municipalities' compliance with urban growth boundaries is voluntary in Pennsylvania."[28] For Jaffe, any strides made through a system in which UGAs are voluntary could be undermined by the election of pro-growth candidates, who may fail to implement policies that enforce the intent of UGAs.

The core assumption behind Jaffe's perspective is that a successful growth management program cannot be adequately administered without granting regulatory power to state or county governments. She ascribes to the view that, "necessary growth management strategies – which are inherently regional – cannot be designated by only one or a couple of locales at the municipal level."[29] Sprawl causes problems that span municipal borders, and, therefore, solutions can only come from policies enacted by larger levels of government. In other words, a state that grants absolute regulatory authority to its individual municipalities will not be able to implement a UGA program effectively.

Tom Daniels, however, takes a contrary position. He notes that "the many municipal, township, and even county governments that make up a region must either consolidate politically into a regional government or else closely coordinate their planning for transportation, solid

[28] Jaffe (2005) at 144
[29] *Id*.

waste, water, air quality, wildlife habitat, farmland protection, and economic development."[30] For Daniels, state or county mandates are not a necessity; cooperation among levels of government may be able to serve the same ends.

The hallmark of a successful growth management strategy is its ability to affect the land use decisions made at the smallest levels of government. Lancaster County is a unique test case due to its commitment to growth management in a state whose regulatory scheme does not allow the Commonwealth or its counties to impose land use regulations on municipalities.

IV. Methodology

This paper seeks to determine whether UGAs can be effectively implemented in a state that cannot force municipalities to adopt them through mandates from higher levels of government. I chose Warwick and West Hempfield Townships for in depth study based on my own research and recommendations from contacts in the University of Pennsylvania's Department of City and Regional Planning.

In Warwick Township, I interviewed Mr. Daniel Zimmerman, township manager, and Mr. Tony Robalik, township zoning officer. I had a telephone interview with Mr. Edward Hinkle, the planning and zoning officer for West Hempfield Township. I also spoke with employees from three regional entities – the Lancaster County Planning Commission, Agricultural Preserve Board, and Lancaster County Farmland Trust – that support and administer growth management and farmland protection programs. In addition to my interviews, I studied planning documents, zoning ordinances, and other public documents published by the county.

V. Analysis

In spite of its legal limitations with respect to land use regulation, Lancaster County's growth management program uses UGAs as its main tool to prevent sprawl on the county's

[30] Daniels (1999) at 268

pristine farmland. The lack of mandates from higher levels of government invites an investigation into whether voluntary UGAs can function as effectively as mandated UGAs.

An "effective" UGA is one that fulfills its two fundamental goals – to encourage denser development within its boundary and to limit development outside the boundary. The most common way to achieve this purpose is to zone for higher density inside the boundary and lower density outside the boundary. We will see that other growth management tools, including transfer of development right (TDR) and purchase of development right (PDR) programs, can also play a role in achieving the intent of a UGA.

Conversely, an "ineffective" UGA is one that acts simply as a line on a map, but does nothing to enforce the goals of the UGA. For example, a municipality adopts a UGA, but continues to allow for development outside of the boundary by not implementing policies that enforce with the intent of a UGA. In this case, the UGA has no effect on the location or density of development.

This section will consider the experiences of Warwick and West Hempfield Townships to investigate why they have adopted UGAs and whether they have used their UGAs to achieve the targets set forth by the LCPC which call for 85 percent of all new dwelling units to be located within UGAs and residential densities reach 7.5 units per acre.

Case Study 1: Warwick Township

Warwick Township adopted its UGA in 1993, the seminal year of the UGA program. In the preceding years, the township was issuing 250 building permits per year primarily for low density residential projects, making it the third fastest growing township in the county.[31] Township Manager Daniel Zimmerman felt that existing residents should not subsidize suburban growth through increased taxes. The growth resulted in higher taxes due to increased impact on

[31] D. Zimmerman, interview, 10/27/2010

the school district and the obligation of the township to provide sewer and infrastructure improvements to new sprawling communities. The taxpayers were willing to pay for the public service costs associated with maintenance of their own lands, but otherwise "growth should pay for growth."[32] In other words, developers should pay for necessary capital improvements and offset school district burdens with their own resources.

The adoption of its UGA gave the township a tool to contain the development that had increased the residents' local tax burden. Immediately after prescribing the initial growth area, which included areas served by public infrastructure, the township acted on one of the main purposes of adopting a UGA – to discourage development outside the boundary. It downzoned about 80 percent of the land outside of its UGA from the denser Rural Estate (RE) district to the significantly more restrictive Agricultural Zone (A) district.[33] At first, landowners were wary about the rezonings because of the subsequent decrease in their property values. However, the township was able to convince its landowners that limiting density outside the UGA through rezonings would eliminate the forms of development that increase to the local tax burden.

Figures 3 and 4, Warwick's growth area map and zoning map, respectively, indicate how the township has used its zoning power to enforce the intent of its voluntary UGA.[34] The white areas in Figure 3 – areas where development should not occur – lie outside of Warwick's UGA and correspond to the agriculturally zoned land in the zoning map.[35]

---

[32] *Id.*

[33] See Figure 4, "Warwick Township Zoning Map," for the large expanses of parcels zoned for A that were formerly zoned for RE.

[34] It should be noted that the Warwick's zoning map above includes Lititz Borough, which is wholly surrounded by Warwick Township. The two municipalities plan together, but have separate zones ordinances. As such, the central region of Warwick's zoning map is blank.

[35] The major discrepancy between Figures 3 and 4 is that parcels zoned Rural Estate (RE) lie outside the UGA. These lands are deemed future growth areas because they will be included within the UGA in the next expansion. These are areas are primarily open space, as opposed to productive agricultural land, making

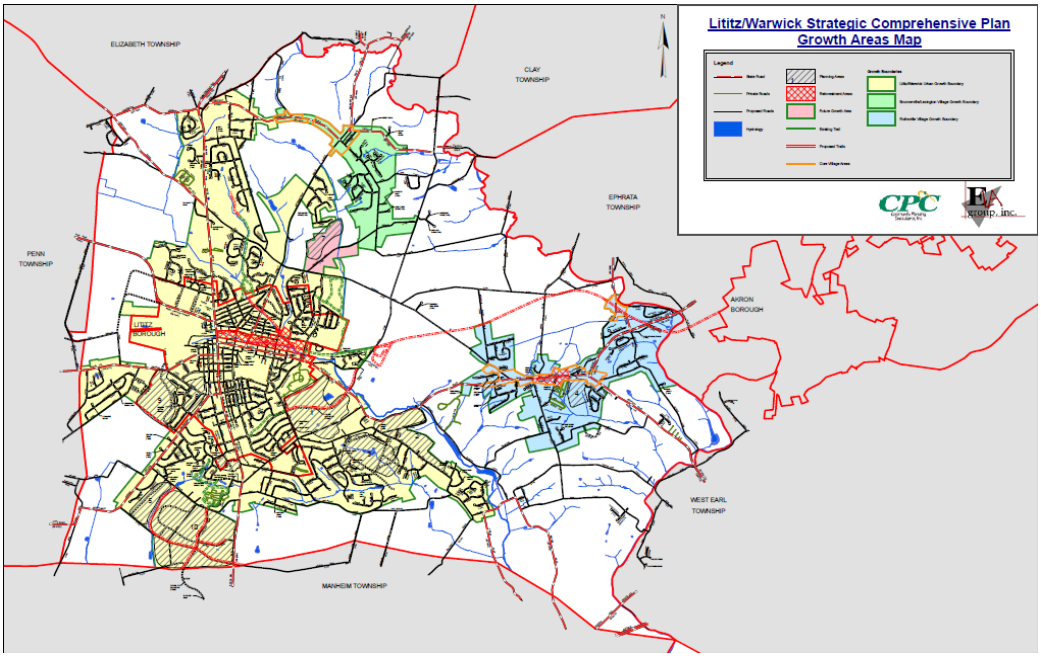

Figure 3

In Pennsylvania's regulatory environment, the township could adopt its UGA, but zone for any type of density without legal repercussions. Yet Warwick, absent any state or county mandates, has voluntarily decided to implement one of major intentions of its UGA – to limit sprawl in agricultural or natural resource lands and areas not served by public infrastructure through its zoning map.

Similarly, the areas within the UGA are zoned for denser development, and Warwick Township has made considerable efforts to reach the 7.5 units per acre density within UGAs. The Warwick-Lititz comprehensive plan details four scenarios in an attempt to reach the target.[36] However, all of the scenarios range from a 4.1 to 6.2 units per acre density maximum. The township has not been able to reach the goal, but its efforts have resulted in higher density

---

them ideal for development in the future. The zoning map reflects the large amount of acreage that has been rezoned from Rural Estate (RE) to agricultural zone (A) since 1993.

Figure 3 courtesy of Warwick Township website, see http://www.warwicktownship.org/warwick/lib/warwick/jsp_maps/growth_areas_map.pdf

[36] Lititz-Warwick Joint Strategic Comprehensive Plan (2006) at PD5 – PD6

development. Township Manager Daniel Zimmerman cites the newly constructed Newport Square project, a residential community which has a density of 5.8 units per acre, as a tangible result of the township's efforts to accommodate higher density.[37] Mr. Zimmerman noted that the most lasting achievement of the project is that it shows that relatively dense development can be attractive to both residents and developers.

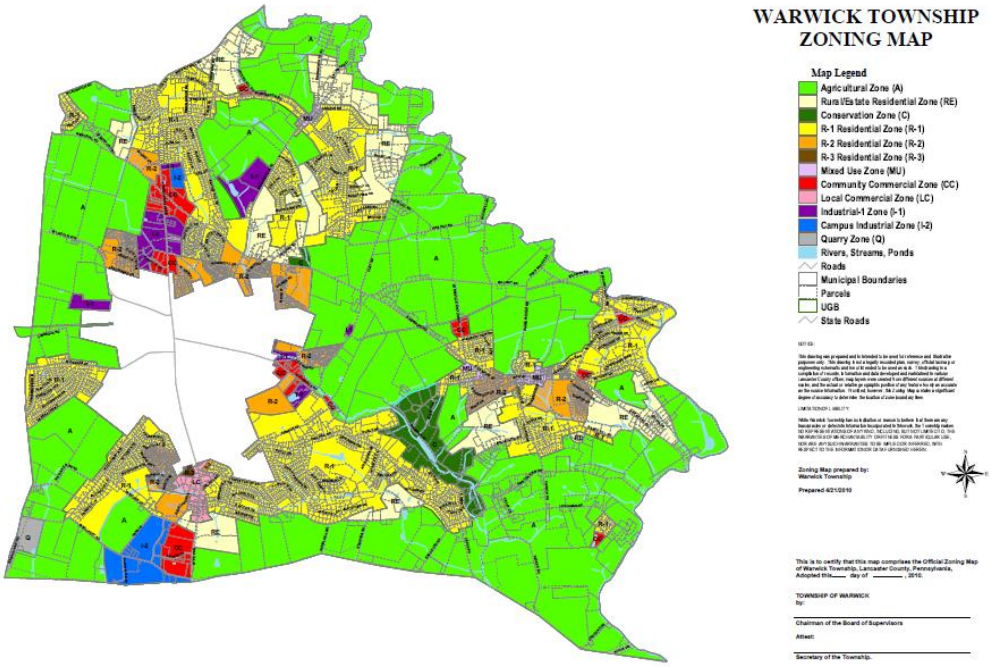

Figure 4

Warwick's TDR program succeeds in directing development away from agricultural lands to areas that can support development. A TDR program allows development rights from the township's farmland to be sold to developers who can use these additional development rights to build beyond various provisions of the township's zoning code.[38] Its sending areas, from which development rights may be removed, comprise all of its agricultural land outside its

[37] Lancaster County Planning Commission (2006) at 4-6 and D. Zimmerman, interview, 10/27/2010

[38] In Warwick Township's campus-industrial zoning district, 10 percent of a lot can be covered with an impermeable surface by right, and each TDR permits a developer add an additional 4000 square feet of impermeable surface.

Figure 4 courtesy of T. Robalik, Warwick Township Zoning Officer. The map is on file with author.

UGA. Its receiving areas, to which development rights may be added, lie inside its UGA. In the township's campus industrial zoning district, a TDR confers a bonus of greater impervious surface than its zoning code allows. The township expanded its TDR receiving areas to confer density bonuses up to 14 units per acre for R-3 districts, for 55 plus year old communities.

Case Study 2: West Hempfield Township

West Hempfield adopted its UGA in 1997 primarily as a tool to preserve farmland, with the promotion of development in areas with existing infrastructure a secondary purpose.[39]

The UGA has served as an effective tool in pursuing this primary goal by including all of its natural resource and prime agricultural land outside its UGA. Within the UGA, any non-agricultural land use and some marginal farmland are included. Similar to Warwick, its future growth areas are primarily open space that lie adjacent to the current UGA.

While West Hempfield has not executed mass a rezoning of its lands like Warwick has, the UGA has operated to further its insistence that only agricultural and natural resource uses will be permitted outside of the UGA. For example, if a landowner or developer seeks a rezoning, the Board of Supervisors first asks whether the land is within the UGA or future growth area. If not, the Board often denies the request on the spot. If it decides to pursue a more rigorous procedural path, it will forward the request to the LCPC and the township planning office for review, but the request is still likely to fail.

The insistence of the township's Board of Supervisors to limit development on lands outside its UGA has allowed it to achieve the first LCPC goal that 85 percent of new dwelling units be constructed within UGAs. However, the density target has not proven to be achievable. In my telephone interview with Edward Hinkle, he explained that the township does not have any urban development and that the density targets are not appropriate for the township.

[39] E. Hinkle, interview, 11/5/2010

Zoning District	Base Density	Open Space Option	TDR Bonus	Max. Density
R-R	0.33/acre (3 acre lot)	0.5/acre (2 acre lot)	N/A	0.5/acre (2 acre lot)
R-1	1.45/acre (30,000 sq. ft. lot)	1.5/acre	1/acre	2.5/acre
R-2	1.74/acre (25,000 sq. ft. lot)	1.75 /acre	1.5 /acre	3.25 /acre
R-3 Single Family	2.18/acre (20,000 sq. ft. lot)	2/acre	2/acre	4/acre
R-3 Multi-Family	N/A	3/acre	3/acre	6/acre

Figure 5

The township's attempts at greater density are reflected in the use of its TDR program. Its sending areas are agricultural and natural resource lands outside its UGA, and its residential districts within its UGA are receiving areas. To increase the use of its TDR program, the township recently decreased the base density in its zoning districts and added a maximum density that can be achieved through purchasing TDRs. Figure 5 indicates the maximum density in the township is 6 units per acre. This approaches the LCPC target, this zoning district accounts for a small percentage of the municipality's land area.

Summary of Findings

Both townships view the UGA as a useful tool but for different reasons. Warwick Township adopted its UGA in response to increased tax burdens associated with suburban growth in its rural lands. Although, the township has not reached the prescribed 7.5 unit per acre density target, it has made steps toward increasing its residential density through its comprehensive plan and establishing a TDR program. West Hempfield Township views the tool as a way to preserve its agricultural and natural resource lands, more so than to increase its residential density.

The LCPC's target for 85 percent of new residential development to occur within UGAs, has been met in both Warwick and West Hempfield Townships.[40] As we have seen, West Hempfield will reject any proposed development that takes place outside its UGA or future

[40] D. Zimmerman, interview, 10/27/2010 and E. Hinkle, interview, 11/5/2010
Figure 5 courtesy of The Brandywine Conservancy (2008) at 25

growth area. Warwick Township has fulfilled this target due to its desire to avoid the increased property taxes associated with growth that takes place outside its UGA.

It is important to note that while each township has a primary goal associated with its UGA, each township implements the intent of its UGA through its zoning code. In Warwick, all areas within the boundary are zoned for residential, commercial, and industrial and all land outside the boundary is in the significantly lower density agricultural land district. Similarly, West Hempfield drew its UGA to encircle its marginal farmland and non-agricultural land – areas in which suburban development is appropriate – and to exclude its natural resource and prime agricultural land. Both townships also work with farmland preservation agencies to use TDR programs which allow the development rights of lands outside the UGA to be used for density and impervious surface bonuses on properties within the UGA.

Lessons Learned

The initial reluctance of municipalities to adopt UGAs in 1993 has given way to an environment where 13 UGAs span 39 municipalities. Only one township that the LCPC has targeted for a UGA has refused to adopt one. The lessons learned in Warwick and West Hempfield can be projected upon the urban and suburban municipalities of the county as a whole to explain why Lancaster County's voluntary UGA program has been so successful.[41]

The primary reason is that the interests of the municipalities and county are aligned. In Lancaster County, since most municipalities believe in growth management and farmland preservation as a roadmap for the future well-being for the county, their comprehensive plans and zoning ordinances do not stray too far from the county vision. The case of West Hempfield Township particularly illustrates this perspective. The township has a decent relationship with

[41] Since many of the municipalities in the County are wholly rural, the LCPC has not attempted to sell them on the concept of UGAs. This study has preferred to address its discussion of UGAs in municipalities experiencing urban and suburban growth and will not go in depth about VGAs.

the LCPC, yet does not incorporate its every recommendation into its decision making processes. The township's zoning and planning officer noted that the township itself would pursue greater density, smaller lot sizes, and smaller building setbacks as a way to direct development away from prime farmland in the absence of the LCPC's presence. However, the township's main goal – farmland preservation – has produced a comprehensive plan and zoning ordinance and map that are largely consistent with the county's vision and that depends on regional entities to aid its chief implementation tools, its TDR program and UGA.

In addition to the willingness to accommodate growth management and farmland preservation programs, municipalities also benefit from the presence of regional entities that administer these programs. The LCPC, Agricultural Preserve Board (APB), and Lancaster Farmland Trust (Trust) have the same inherent limitation – they cannot legally mandate any municipalities' land use regulations. However, the lack of regulatory power has not precluded the entities from serving as respected voices for good planning policy in the county. Each entity believes in the core concepts of farmland preservation and directing growth to appropriate areas. The consistency of the message and the persistence with which each entity pursues its specific goals allow the three regional entities to operate as a united front that advocates for growth management and farmland protection.

The LCPC has the best platform on which to act as a good planning advocate, since it legally has the right to review and offer recommendations on any municipal land use decision. Often times, municipalities will invite the LCPC to assist during the formation of their UGAs. The LCPC will assess land for municipalities to determine if a given area would be appropriate for inclusion within a UGA.[42] The LCPC will provide a fact-based approach to its determination, including an analysis of the parcel's surrounding area. Upon developing a report,

[42] Jaffe (2005) at 157

the LCPC will then relay the tests to a municipality and help its residents understand the utility of higher-density zoning for a given lot.[43]

The Lancaster Farmland Trust, which administers PDR[44] and TDR programs, lobbies the municipalities to embrace smart growth policies, which Deputy Director Jeff Swinehart defines as, "Not sacrificing rural for urban sprawl."[45] While Mr. Swinehart added that the Trust pursues this goal through farmland preservation, he noted, "supporting urban growth adds weight to the idea that it is necessary for agricultural preservation."[46] In this regard, the Trust advocates for the concepts of growth management – most notably UGAs – and farmland preservation, although it works only with the latter.

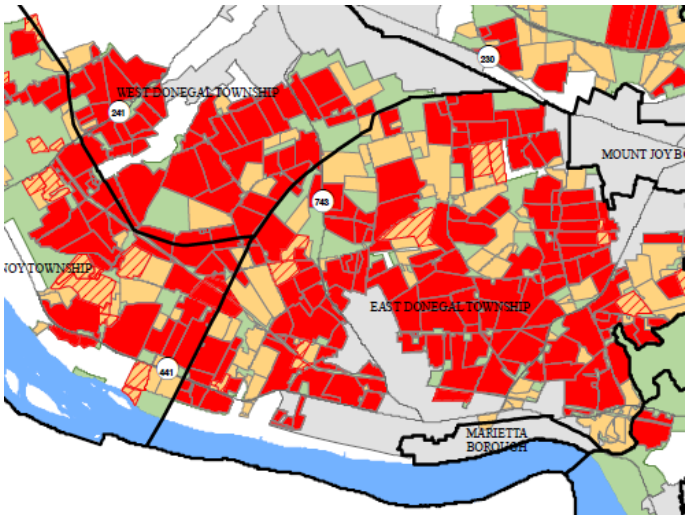

Figure 6

Matt Knepper notes that APB is "well funded and well respected" in the county. Its function is confined to purchasing conservation easements, but it supports the LCPC's growth management strategies in a variety of ways. As a matter of policy, the APB will not preserve a farm within a UGA even if it has met the agency's requirements. In some townships, the APB has literally stopped development due to a wall of preserved farms bordering the UGA. This occasion is rare, yet still indicates how these regional entities work together. For example, East Donegal (see figure 6)

[43] *Id.* at 168

[44] In a PDR program, an agency purchases the development rights from a landowner (in Lancaster, primarily from farm owners). In contrast to a TDR program, the development rights are simply retired, meaning they can no longer be used.

[45] J. Swinehart, interview, 11/8/2010

[46] *Id.*

Figure 6 courtesy of M. Knepper, Director of the Agricultural Preserve Board. The map is on file with the author.

has hedged in its UGA (gray areas on the map) with a wall of preserved farms (red on the map). These development rights have been permanently retired, meaning that the township must use its current developable land more efficiently and densely.

The LCPC works on the growth management side of the county vision, but supports the farmland preservation efforts of the APB and Trust. The same can be said about the APB and Trust supporting, and in some cases, reinforcing the growth management concepts of the LCPC. The perspective I encountered in every interview with employees from the three entities was that growth management cannot happen without farmland preservation, or vice versa. Adoption of UGAs has made it easier to identify farms worthy of preservation, and PDR and TDR programs have influenced the selection of lands that are contained within UGAs.

"Effective" UGAs exist in Lancaster County even though they are completely voluntary, both with respect to adoption and implementation. The cases of Warwick and West Hempfield illustrate that UGAs are used to further a goal of the municipality – in Warwick, reining in suburban growth, and in West Hempfield, preserving farmland – which are also goals of the County's growth management program. Both townships implement the intent of their UGAs through zoning for low density outside the boundary and for higher density inside. Although neither meets the prescribed density target of 7.5 units per acre, the LCPC wants to see steps towards greater density, as opposed to rigid conformity with this target.[47]

The aligning of interests is bolstered by the presence of regional agencies that administer growth management and farmland protection programs. The synergy among the regional entities creates an environment in which municipalities' planning and zoning departments cannot ignore the policies that are most consistent with the continued welfare of the county.

[47] M. Frey, interview, 11/8/2010

VI. Conclusion

This study stemmed from the fact that nearly all urban and suburban municipalities in Lancaster County voluntarily adopted UGAs. Further investigation was needed to understand why, in the absence of state or county mandate, any municipality would consider restraining its future growth at the recommendation of its county government.

This question is part of a greater debate about modern land use regulation. Some jurisdictions have responded to suburban sprawl through delegating regulatory power to county and state governments. The act of passing along regulatory power, traditionally reserved for local governments, raises concerns over whether jurisdictions that retain the local control model of land use regulation can address the issue of suburban sprawl.

Indeed, the literature review highlighted a commonly held perspective that growth management programs – which address regional land use trends – cannot be administered by a collection of municipalities. However, another opinion expressed that cooperation between levels of government can produce equally successful growth management programs than those implemented by state and county mandate.

This case study of Lancaster County has shown that the latter opinion can prevail as the current system of cooperation, rather than coercion, produces effective UGAs. Before UGAs, Lancaster County had relatively little success in stemming sprawling development trends in the 1960s to 1980s. Currently, 76 percent of urban and suburban development occurs within its UGAs, and the county is losing 1250 acres of farmland per year, compared to 8000 per year in the 1960s and 3000 per year in 1980s. UGAs in Lancaster County succeed in the absence of state or county mandates because the county and its municipalities are both interested in

achieving the two main goals of UGAs – limiting development in prime agricultural areas and locating denser development within their boundaries.

The illustrative point of this article is not to criticize jurisdictions that grant regulatory power to state or county governments, but to convey to jurisdictions considering the implementation of UGA programs that there is a viable alternative to state or county mandate.

With this perspective in mind, prospective jurisdictions should consider the unique merits and flaws of each structure before choosing one. Mary Frey, an original architect of the UGA program in Lancaster County, explained the LCPC simply needs to "work harder" to convince municipalities to adopt UGAs and enforce their intent through instituting policies. And although in Oregon state agencies do not need to exert as much effort in persuading municipalities to plan and zone in conformance with statewide planning goals, in many states, granting county and state government the power to regulate land use is a political non-starter. Five voter referenda since 1976 have attempted to repeal Oregon's law, two of which have succeeded in altering major provisions of the law.

Oregon's structure tests the political will of a prospective state legislature and its voters, whereas Lancaster County's structure tests the capability of a county's planning commission in encouraging its municipalities to make land use decisions – most notably, the adoption and effective implementation of UGAs – that reflect the county's comprehensive plan. This study has indicated to prospective state and county governments that there is a choice, but each carries its own unique merits and flaws.

VII. Works Cited

American Farmland Trust. (1997). Saving *American Farmland: What Works.*

The Brandywine Conservancy. (2008). *The Lancaster County TDR Practitioner Handbook*. Lancaster, PA.

Carter, Nicole E. (2007). Agriculture, Communities, and Rural Environment Initiative: Can Small Family Farms and Large Agribusiness Live Peacefully in Pennsylvania? *Widener Law Journal* 16, 1023 – 1051.

Cullingworth, Barry and Caves, Roger W. *Planning the USA: Policies, Issues, and Processes*. Routledge, New York, NY: 2003.

Daniels, Tom. (1999). *When City and Country Collide: Managing Growth in the Metropolitan Fringe.* Washington, DC: Island Press.

Jaffe, Rachel D. (2005). Stopping Sprawl in Lancaster County, Pennsylvania: Making the Case for Mandatory Urban Growth Boundaries. *Temple Journal of Science, Technology, and Environmental Law* 24, 143-86.

Lancaster Chamber of Commerce and Industry. (2010). *Farming Facts (4th ed).* Lancaster, PA.

Lancaster County Planning Commission. (2006). *The Comprehensive Plan for Lancaster County, Pennsylvania; Balance, the Growth Management Element*. Lancaster, PA.

Lititz-Warwick Joint Strategic Comprehensive Plan 2006 Update. (2006). Warwick, PA.

Mandelker, Daniel R., et al. (2008). *Planning and Control of Land Development: Cases and Materials,* 7th edition. LexisNexis Law School Publishing.

Pennsylvania Department of Labor & Industry. (2010). *Lancaster County Profile*. Harrisburg, PA.

Pennsylvania Municipal Planning Code. Pennsylvania Law 805.

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