

CHAPTER 35

MASTER PLANS: ZONING: AND OUR SEARCH FOR SUSTAINABLE DEVELOPMENT

35. 1. INTRODUCTION

35. 1. 1. Introduction

In this chapter, and our next, we discuss *development management methods*. We describe these both in terms of their general basic principles and in their specifics.

As mentioned, here in the CNMI, our economy is rapidly “developing.” During this development many of our resources are disappearing. In some cases, we may be depleting them beyond their sustainable levels.

35. 1. 2. Development’s Consequences

At the time of this book’s writing, we are overcrowding our infrastructure. Just look at the over-crowded condition of our roads, schools, and hospitals as examples.

Our crime prevention and social service agencies cannot possibly keep pace in their attempts to deal with crime, domestic violence, drug abuse, and teenage pregnancies.

In essence, all of our government and private business resource planners and engineers will admit that we have not realized the original vision that we had made for ourselves in regards to development. Saipan has become our most developed island and has suffered the most from the effects of resource depletion and environmental pollution as a result.

35. 1. 3. “Sustainability” and “Planning”

In this chapter we will investigate the concept of **sustainability** in terms of our islands’ overall economic development. The term sustainability is a current *catch-phrase* or *buzz word* of environmental resource managers. What does it mean?

We hope that by the end of these next two chapters you will feel comfortable not only in understanding the term, but in how you yourself can take part in the daily decisions to help bring it about.

Herein we also discuss **land use planning** and its most common form of implementation, **zoning**. Why exactly do *planners plan* or *zoners zone*?



The overcrowded condition of our roads is a clear example of an overstressed infrastructure.

We will identify the numerous land use and special purpose plans which we have developed for our islands. We will look at how zoning developed in the United States and the one attempted application of zoning here in the CNMI.

This chapter closes with a more thorough and focused look at the idea of sustainable development. This will set us up for the next chapter in which we discuss, in much greater depth, how we can actually bring about this noble and universal goal. First however, let us take a look at how land use planning and zoning came about.

35. 1. 4. The Market and the “Planned” Community

Try to recall our discussions in Chapter 25 on the role of government in economies. We discussed the concepts of two great economists, Adam Smith and John Stewart Mill.

Smith argued against government quotas and import duties while Mill professed that government taxing and spending wasn't such a terrible occurrence if it promoted the *public's health, safety and general welfare*. Recall that they were facing two different eras and circumstances (Adam Smith - pre-industrial revolution and John Stewart Mill - during and after it).

John Stewart Mill argued that government could play a valid role in the distribution of wealth, through taxes and public spending, without upsetting *the market*.

As mentioned, during this century, Congress and state legislatures nationwide adopted Mill's ideas and began to levy business taxes and to spend public funds on sewers, water lines, and other environmental improvements. Eventually even zoning-type protections, if they were understood and demanded by the public, could not be dismissed outright.

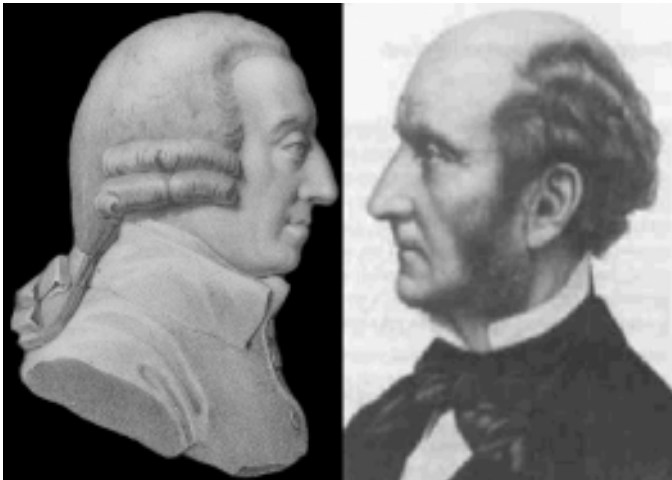
The actual institution of zoning developed more than 50 years after J.S. Mill originally wrote down and published his economic ideas. However, the concepts of public welfare improvements at the expense of the *completely free market* were his.

Recall that we stated that many capitalists joined with J.S. Mill in observing that that period's common oppressed-worker conditions demanded change? A happy worker might well be a productive one. In regards to this chapter, a community which *welcomed*, even eventually *planned for* and *invited* a business or factory to locate there, was often found to be preferable by businesses wishing to make investments to those communities which did not.

35. 1. 5. Designating Land Use “Zones”

Many communities decided that if certain business activities were polluting and nuisance-causing, but were economically necessary, they should be allowed to locate there, but only in areas away from most residences. Examples of such activities included manufacturing industries, refineries, and animal stockyards. The **community zoning plan** and the **community zoning map** concepts thus evolved.

Maps were made to show where certain allowed types of land use were to be located (**master plan maps**). Other maps showed where



Adam Smith (left) and John Stewart Mill (right) differed in their opinions as to the degree of the role that governments should take in regulating business.

sewer, power, and water lines or other infrastructure, such as roads and schools, were to be developed (**special purpose maps**).

In 1916, the first zoning ordinance, interestingly enough, involved *garment factories*. There was a collective effort of the citizens of a certain community of New York City to keep garment factories, and the then sprawling skyscrapers, from becoming established in their small store type neighborhood.

A coalition of three interest groups succeeded in pushing through an *ordinance* (municipal law) effecting the regulation of development. This coalition consisted of the following:

- 1) Fifth Avenue merchants,
- 2) real estate operators wanting to keep skyscrapers from depressing neighboring property values, and
- 3) reformers interested in broader ideas of city planning.

The planning by zoning concept spread quickly. Ten years later, in another community, in the State of Ohio, a zoning ordinance was legally challenged.

The US Supreme Court ultimately decided the case. *The Village of Euclid vs. Amber Realty Co.* (1926) ruling was a landmark determination which later became known as the “Euclid decision.” It upheld a community’s right to plan and designate land use for the protection of the health, safety and welfare of its citizens.

As a result, thousands of communities across the United States went on to adopt *standards, maps, and ordinances* describing what kinds of economic activities they desired and banning those which they did not.

Later court rulings held that such rules and restrictions could not be *arbitrary and capricious*. This meant they *had to be* well thought out, equally applied to everyone, and justifiably grounded in law.

Many civil engineering and architectural schools added coursework in community planning concepts. Colleges began to develop advanced degrees in **urban planning** and **resource management**. They did this to meet the need for trained professionals able to develop zoning plans and ordinances, *and* able to make them withstand a court challenge.

35. 2. MASTER PLANS

35. 2. 1. What are Master Plans?

A *master plan* is a written document, usually combined with a map. Many community governments adopt a professionally developed master plan to help guide current and future decision-makers on land use issues. More and more commonly these days, master plans are also developed using electronic **geographic information system (GIS)** data bases.

Despite the use of government-adopted master plans, most decisions regarding the use of private lands are still made by the private land owners themselves. Public laws regulate private develop-



Land use planning maps show where certain allowed types of land use are to be located.

ment only when there is a valid and necessary public interest to do so. Public officials at various government levels decide how to use public lands.

Master land use plans can help both private land developers and public land use authorities. For example, utility companies (both public and private) use master plans to coordinate the location of their infrastructure development. Master plans also help utilities obtain financing by showing funding agencies how grant and loan moneys would be spent. School districts use master plans to determine the best places to site new schools.

Here in the CNMI, most land uses can be placed into certain categories. We mostly use land for our homes, for our recreational parks, for our wildlife habitat or conservation lands, for our industrial and commercial purposes, for our infrastructure, and for our farming.

Master land use plans help guide which land uses will be allowed in specific locations and what percentage of our available land will be put to these purposes.

The following were major CNMI comprehensive master plan efforts: Seven Year Economic Development Capital Improvement Plans (done once every seven years)

- CNMI Public Lands Master Plan (1989)
- Saipan Physical Development Master Plan (1978)
- Saipan Comprehensive Land Use Plan (1993)
- Rota Physical Development Master Plan (1978)
- Rota Island Economic Development Master Plan (1995)
- Tinian Physical Development Master Plan (1978)
- Tinian Master Plan (only partially completed) (1993)

35. 2. 2. Constraints and Opportunities

We cannot put *all of our land uses* onto all of our lands. Only an area with good soil, which is flat or gently sloping, can be used for farming. Airports also need flat lands with clear take off and landing approaches. Seaports and marinas are restricted to shoreline locations. Homesteads are restricted to relatively flat areas with access to roads, and eventually to other infrastructure amenities (water, power, and sewer).

Certain lands cannot be put to much human use at all, other than as *conservation land*. These include steeply sloping lands, including our cliffs, and our often flooded “wetlands”.

Unless expensive private infrastructure is provided for, most medium and large commercial developments are restricted to areas which already have infrastructure amenities.

Real estate developers benefit from *adopted* master plans by having knowledge of where new infrastructure would be going. This helps guide their land purchase and lease investments and their general corporate business plans.



Certain lands, including steeply sloping lands, cannot be put to much human use at all.

35. 2. 3. Special Area Management Plans

Some particular locations need special planning attention. As discussed in chapter 25, some uses of an area, particularly a public *commons* area, can conflict with one another.

Tragedy of the commons syndromes may occur. Excessive resource harvesting at certain locations may exhaust otherwise renewable resources. Water, air, and other forms of pollution may occur. Either immediate neighbors or the general public as a whole may suffer. These conditions call for the development of a *Special Area Management Plan*, or *SAMP*.

At the time of this book's writing the following SAMP's have been developed here in the CNMI:

- Saipan Groundwater Management Plan (1989)
- Saipan Lagoon Use Management Plans (1985 and 1997)
- Saipan Comprehensive Wetlands Management Plan (1992)
- Tinian Magpo Wetlands Protection Plan (1994)
- Rota Sabana/Talakaya Watershed Plan (1993)
- Rota Natural Resources Conservation Plan (1998)

35. 2. 4. Special Purpose Master Plans

Several *special purpose master plans* have been developed locally. These were done to design and schedule infrastructure improvements; to plan natural resource uses; and to support public and private health, education, and social services. They were also done to develop programs to monitor and prevent pollution; and support public recreation and coastal access needs.

At the time of this book's writing the following are special purpose master plans produced here in the CNMI:

- CUC and DPW Infrastructure Master Plans;
 - Power Master Plan
 - Water Master Plan
 - Sewer Master Plan
 - Highways and Roads Master Plan
 - Traffic Control Master Plan
 - Integrated Solid Waste Management Master Plan
- CHC and Public Health Master Plans;
- State Plans For Children and Families;
- Public Schools Development Master Plan;
- Public Schools Bussing Master Plan;
- Marianas Visitors Bureau Tourism Master Plan;
- Outdoor Recreation Master Plan (1970);
- Shoreline Access Plan (1989);
- Coastal Nonpoint Pollution Prevention and Control Plan (1995);
- Forest Resources Conservation Plan (1985);
- Coastal Hazards Plan (1996);
- Long Range Marine Monitoring Plan (1997);
- Oil Spill and Hazardous Materials Response Plans (updated bi-yearly since 1990);



The Saipan Lagoon has its own Special Area Management Plan.

35. 3. ZONING

35. 3. 1. What is Zoning?

Zoning is a process of regulating land use based upon the location of a property. Zoning officials apply criteria and standards to each development, depending on their location. Government officials legally adopt and apply these criteria and standards, most often according to an approved and adopted *community master plan*.

Zoning legal authority itself derives from each State, Territory and Commonwealth's *police powers*. These derive from each jurisdiction's right to protect its public's health, safety, and welfare. Read more on 'police power' in ch. 38.

The aim of zoning is to prevent the misuse and overcrowding of land. Zoning protects property owners from adverse impacts caused by incompatible land uses on a neighboring property.

35. 3. 2. When and Why did Saipan Establish a Zoning Law?

In 1993 the Legislative Delegation of the CNMI Island of Saipan originally initiated zoning in response to the perceived negative effects certain developments were having on other island residents.

Island economic development created increased traffic flows, decreased potable water quality, and increased power outages. This was despite a continued program of upgrading this island's infrastructure.

Most importantly however, many felt that the cumulative effects of development had caused an undesired and adverse changing of the *island's character*. Residents felt they were going from a condition of a tropical village setting to an urban island city.

Recall also our earlier discussion about the *direct daily discharge* of 1.5 million gallons of raw sewage into the Saipan Lagoon in 1991. Residents determined that zoning was a necessary action to prevent this from continuing.

The Saipan Legislative Delegation established the Zoning Law after two long years of development. When adopted, its passing vote was by a bare margin of one. Island leaders adopted it after 11:30pm on the final day provided by law for its preparation and adoption.

In 1994, after just one short year of its implementation, Saipan's Zoning Law was suspended.

Zoning had promised predictability and compatibility for island land uses. Zoning had also promised to help plan for and guide public facility improvements, including roads, water, power, and sewer line upgrades.

Before the Zoning Program, only very large scale projects had received a careful and coordinated interagency review through the CNMI-wide Coastal Resources Management Program.

Why hadn't zoning worked? First let us discuss a bit more about how our zoning was supposed to work.



The Saipan Zoning Law was first developed in 1994.

35. 3. 3. Community Character and Performance Zoning Concepts

The consultants hired to develop Saipan's Zoning program asked the Zoning Office staff, various agency officials, and the appointed Zoning Board to determine what was the character of island at the time. They also asked what each felt the character of the island should be like in twenty or fifty years. The advocates of island zoning promised to ensure that their desired vision of the island would be carried out.

In 1990, the Saipan Legislative Delegation mandated the drafting of a "performance zoning" regulation. The island leaders chose the performance zoning method because it promised a certain degree of *flexibility* when making land use decisions.

Given the period's investment and political influence situations, applying *regular zoning* was not felt to be *approvable*. Normal zoning requires developers to strictly design their projects according to the communities' indicated development desires and its area-based standards. Again, the proponents of performance zoning promised flexibility.

35. 3. 4. What is Community Character?

The idea of protecting each community's character was the basis for the Saipan Zoning Law. Planners defined the character of a community based on its relative density and on the *scale* of its land uses.

The planners considered the character of Saipan and what makes the island attractive to new development. They determined that the contrast between the built environment and the natural setting was part of the island's character. They then developed restrictive standards to maximize the protection of the island's natural setting.

Some types of communities were felt to be living in harmony with the natural environment, while others were deemed "totally destructive."

They determined that different areas of Saipan had very different qualities. Saipan's homestead villages, its Beach Road strip, and its high-rise hotels are indeed all very different.

The planners felt that the owners of a garment factory might not need to care about their surroundings since the focus of their industry occurred indoors. Saipan's tourism industry, on the other hand, was found to depend very much on the preservation of the island's tropical scenery.

The Zoning Law therefore established several categories of *permitted land uses* based on these planner's determination of the relative character of each area. The character types ranged from *rural* — which indicated that the land is in mostly its natural state and development was limited, to *urban core districts* — indicating that urban-type city uses were to be permitted.



The contrast between the built environment and the natural setting is part of Saipan's character.

35. 3. 5. Saipan's Zoning Regulation also Sought to Protect the Islands' Natural Resources

Natural resources were to be protected as well, based on the planner's understanding of their relative importance and abundance.

Certain natural resources were felt to require total preservation, such as certain forests, because they served as habitat for endangered plants and animals, and the island's wetlands, because of their unique value and functions.

Other resources, such as clifflines and grasslands, were to be allowed development according to restrictive guidelines that protected their natural drainage and aesthetic visual functions.

Shorelines were to be preserved with wide land setbacks that maintained their natural functions and preserved coastal access to residents and tourists.

35. 3. 6. Zoning Required Extensive Landscaping and Buffering

Landscaping refers to the placement or retention of natural vegetation on a site to make it more attractive. Landscaping is also effective in ensuring that rainwater is absorbed on site and does not run off to flood adjoining properties. Types of landscaping include lawns, trees, bushes, shrubs and other plants.

Buffering refers to the use of vegetation or fencing to screen-from-view different types of incompatible land use.

The Saipan Zoning Law required both landscaping and buffering. Planners included this to ensure that developed sites were pleasing to the eye and to protect neighboring properties.

35. 3. 7. The Administration of Saipan's Zoning Program

The Governor appointed a Zoning Board which was ultimately responsible for the development and operation of Saipan's Zoning program. Government employees were excluded from serving on this Board.

The Board oversaw the conduct of a Zoning Administrator, who in turn, oversaw the work of a Zoning Office. An Inter-agency Plan Review Committee also played a role in approving and conditioning development proposals.

Some of the routine proposals would only require staff approval of a site plan. Other, more intense developments, such as hotels or large office construction, would require the approval of the Plan Review Committee and the Zoning Board.

The process of having one's land approved for development was designed to be different depending on the development proposal. Approval to develop small projects was designed to be relatively easy and involved only the determination of whether the applicant had met several restrictive standards such as setbacks, minimum lot size and height.

More complicated development proposals were to be reviewed more thoroughly to ensure that landscaping, parking, and signage re-



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Landscaping refers to the placement or retention of natural vegetation on a site to make it more attractive.

quirements had been met. In addition, some development applications were required to obtain certain public utility agency approvals. Very large scale proposals required an environmental impact assessment and a public hearing.

35. 3. 8. Why did Saipan's Legislative Delegation Choose to Suspend Zoning after Only One Year of Implementation?

The Legislative Delegation's decision was influenced by the state of the economy at the time and the changing political landscape. The then new administration and legislature had different economic philosophies than the previous one.

An important land ownership legal matter which involved indigenous ownership of land (Article 12 of the CNMI Constitution), was being decided at the same time. Additionally, there were rhetorical statements being made by rival regulatory agencies laying blame upon each other for the economic slow-down. The final decision also reflected the influence of certain powerful private developers.

The question makes for a good research topic. Answers on several of these "fronts" could be brought to light, but exploring them in depth is not our intent here.

The short answer is that more than 50% of the Saipan Legislative Delegation, which initially voted for the law, later chose to suspend it. Governor Froilan Tenorio approved their decision.

35. 3. 9. What About the Issue of Zoning's Re-establishment?

At the time of this book's writing, Zoning is not in place on any of our CNMI islands. It is anticipated that a Zoning program for Saipan will soon be reinstated. It is very likely that certain changes would be made to simplify the law, lessen the burden of its restrictive standards, and provide for better interagency coordination.

[Ed. update: Twelve years after it was suspended, at the time this book goes to press, the Saipan Zoning Law is again being implemented. This is being done in a somewhat piece-meal fashion, based on Zoning Program officials' priorities. An Attorney General's opinion declared that the Saipan Legislative Delegation had no authority to 'suspend' the law it earlier established.

Zoning officials are first attempting to zone adult businesses out of Central Garapan, to relocate them to a presently 'undeclared' area. Public hearings are being held. No doubt there will be court challenges.

What do you want to happen? Get involved. Let your voice be heard.]

35. 4. OUR SEARCH FOR SUSTAINABLE DEVELOPMENT

35. 4. 1. What is Sustainability?

Now, as promised, we will discuss just what is meant by the phrase **sustainable development**.

Sustainable development, sustainable agriculture, sustainable industry, sustainable community. What does "sustainable" really mean?



Is our community economically worse off than it was 20 years ago?

It's not hard to tell if one's community, a small rural town or a large urban area, is *not sustainable*:

Is our community economically worse off than it was 20 years ago?

Are there fewer good-paying jobs, so people are working more and earning less?

Is there more poverty and homelessness?

Is there more crime?

These are traditional measures of communities in trouble, communities that can no longer sustain the quality of life they previously enjoyed. We often use numbers to show how bad these problems are. For example "unemployment rose .4 percent in January;" or "hotel occupancy dropped below 40% in April."

However, the numbers only show changes in one part of the community without showing the complex links between the community's economy, environment, and society. Solutions that target one area, such as the economy, often cause more problems in other areas because the links are neglected.

In a sustainable community, solutions to problems take into account the links between economy, environment, and society. In fact, the very questions asked about problems in a "sustainable" community include references to these links.

For example, the question "Are there fewer jobs that match the skills of the available work force?" looks at the link between economy and education.

Sustainability is an issue for all communities; from small rural towns that are losing the natural environment upon which their jobs depend; to large metropolitan areas where crime and poverty are decreasing the quality of life.

35. 4. 2. What is a Sustainable Community?

Sustainable means continuing without lessening. A **community** is a group of people who live and interact in a certain area. A *sustainable community* seeks to maintain and improve the economic, environmental, and social characteristics of an area. This is so its members can continue to lead healthy, productive, enjoyable lives within it.

Development means improving or bringing to a more advanced state. Sustainable development improves the economy without undermining the society or the environment.

Sustainable development is not an economic theory. It is not an environmental movement. Instead, sustainable development requires the understanding that a healthy environment and a healthy economy are both necessary for a healthy society.

These three parts of a community—*economy*, *environment*, and *society*—are linked in complex ways. A sustainable community takes these links into account when planning for the future.

The United Nations' World Commission on Environment and Development defined sustainable development as **meeting the needs of the world's current population without making it impossible for the world's future citizens to meet their needs.**

Sustainable development focuses on improving our lives without continually increasing the amount of energy and material goods we consume.

A sustainable community does not consume resources — energy and raw materials — faster than the natural systems they come from can regenerate them.

We must face the fact that we are currently *living unsustainable lives*. If we are not careful how we use and dispose of resources--our children, grandchildren, and great-grandchildren will have a poorer, more polluted world to live in.

A sustainable community is one where development is not unlimited growth; rather it is the enhancement of what already exists in the community.

A sustainable community is not stagnant; sustainability does not mean things never change. On the contrary, it means always looking for ways to improve a community by strengthening the links between its economy, environment and society.

A sustainable community is also not a “**utopia**”. It is not a community where nothing ever goes wrong. Sustainability does not mean that businesses never fail or that people never lose jobs or that pollution never happens.

Sustainable means that when problems arise, we look for solutions that take into account all three parts of the community instead of applying a quick fix in one area that causes problems in another.

35. 4. 3. Sustainable Local Communities

Local means the area in which we live, work and shop. For some people this may be a small town. For others it might mean a large metropolitan area.

The primary goal of a sustainable local community is to meet its basic resource needs in ways that can be continued in the future. To do this, we need to figure out what our basic needs are and how to meet those needs most effectively.

Do we really need one television set for every room of our houses? Do we each really need to use 188 gallons (average US) of water every single day? Or can we develop more effective, efficient ways to create a way of life that is not only equally or more satisfying, but can also continue indefinitely into the future?

35. 4. 4. Planning and Sustainable Development

Some communities have already started to work toward this goal. The most successful projects have three characteristics in common:

First, the community created a vision of its future that balances economic, environmental and social needs. The community viewed its future in the long term: not on the order of years, but on the order of decades or generations. Second, the vision incorporated the views of a wide cross-section of the community. Third, the community figured out how to keep track of its progress in reaching that vision.

It is important for the community itself to become involved in the project. A sustainable community needs to be developed by the people who make up the community.

It cannot be completely designed by an outside consultant. It cannot be implemented by experts hired specifically for the project. It needs to be implemented each day by the people who live and work within our communities.

35. 4. 5. Determining Community Needs and Vision Creation

A sustainable community means many things to the different people who live within it. To business owners it means a healthy economy so that their businesses have a place in which to create and sell their products. To parents it means a safe environment in which to bring up their children.

Everyone wants a secure, productive job to support themselves. Everyone needs clean air to breathe and clean water to drink.

Discovering the needs of the community and finding ways to meet these needs is not difficult but it does require some effort. It begins by deciding what one's sustainable community would look like.

There are as many different ways to create a vision as there are communities that have done so. What is most important is that the vision be created by the entire community: the well-to-do and those living in poverty, business owners and union workers, young and old.

35. 4. 6. Living Within the Carrying Capacity and the Sustainability Stool

Accomplishing sustainable development means focusing on a long-term perspective. It means improving the quality of human life. It means living within the *carrying capacity* of our supporting ecosystems.

Sustainable development places equal emphasis on the three legs of the *sustainability stool*. These are **economic prosperity**, **environmental quality**, and **community well-being**.

Understanding the relationships among economic, environmental and community systems means that community problem-solving will consider, enhance, and mutually reinforce each of these systems.