

Collaborative Land Use Planning: A Guide for Military Installations and Local Governments



ICMA International City/County Management Association
MIVT Metropolitan Institute at Virginia Tech





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Cover photo: Charleston Air Force Base, courtesy
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Dear Reader:

Communities with military installations face many unique challenges. The International City/County Management Association (ICMA) is pleased to partner with the Department of Defense to work with these communities and their local governments to promote practical solutions to such challenges. ICMA is the professional and educational association for over 7,000 chief appointed administrators and other professionals serving local governments all over the world. Our mission—to create excellence in local governance by developing and fostering professional local government management—is greatly enhanced by our military programs and capabilities. Members, local governments, and communities rely on ICMA for information, research, and technical assistance on many issues of special interest.



Communities are more than geographic locations on a map. They are about people—their lives, their families, and their homes. Local governments and installation management exist to enhance their respective communities and protect their “missions.” Issues of encroachment, however defined, affect the sustainability of communities, both military and civilian. For this reason, localities and installations must work cooperatively and coordinate their efforts to address issues of encroachment and sustainability in their region. Quality of life, military mission capability, and regional economic and environmental health are dependent upon such efforts. There is no bigger challenge facing local governments and installation management than planning for the long-term sustainability of their communities and region.

This challenge becomes more daunting than ever with the planned realignment and closure of numerous bases around the country and overseas. As troops move and missions change and grow, new issues and concerns will arise within and around military bases. This will require even more cooperation and communication among installations, municipalities, and their regional, state, and federal partners. Only with a coordinated effort can communities maintain and enhance their long-term health and sustainability.

These guides are meant to inform and guide all stakeholders, providing a basis for a common understanding which can lead to greater cooperation. A dialogue on the basic roles and responsibilities of the management leaders at the installation and within local government provides an excellent starting point for creating and maintaining the relationships that serve both communities. I urge all local government and military installation leaders to recognize the fence that used to divide the installation from the local government no longer exists. Only by allocating time and resources, resolving conflicts, and creating realistic expectations can the entire community become sustainable.

Sincerely,

A handwritten signature in black ink, which appears to read "Robert J. O'Neill, Jr." The signature is fluid and cursive.

Robert J. O'Neill, Jr.
Executive Director
ICMA

Dear Reader:

Recent reports document that incompatible land development near active installations and ranges has made it more difficult for the military services to accomplish their training missions. DoD has a huge presence in strategic regions of the country, such as the Mid-Atlantic, Southeast, and the West.

Historically these installations were located in relatively undeveloped areas for training troops and pilots in near battle-like conditions. No doubt certain installations will gain missions and troops from bases that will be closed or realigned through the current round of base closures. At the same time that DoD has identified certain installations for expansion, data from the 2000 Census shows that more than 80 percent of the fastest-growing metropolitan areas are located in Southern and Western states. Forecasts further indicate that the pace of growth and development will no doubt continue at record levels – therefore increasing the intensity of competition between communities and the military for scarce resources (e.g., air, water, and available open space/land).



Virginia Tech is pleased to partner with ICMA and the Department of Defense in launching a Military - Communities Land Use Planning Partnership. Through a series of regional meetings and policy roundtables, we hope to facilitate the design of more collaborative approaches between communities and the military on regional growth and development. We are also collecting and sharing model practices and the latest innovations in the fields of regional land use and conservation policy.

The following primer, written by Professor in Practice Joseph Schilling of the Metropolitan Institute, is one in a series of guides on the growth and development challenges that confront the military. The primer includes: 1) essential observations about land use policy and procedures that every installation commander should know; 2) critical questions that every installation commander should ask; and 3) suggestions and model practices for building stronger relationships with local policymakers and planning officials. We hope the primer will help military personnel, especially installation leaders, navigate through the complex and controversial world of land use and planning.

Sincerely



*Arthur C. Nelson, Ph.D., FAICP
Co-Director, Metropolitan Institute
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FRAMING THE ISSUE

The Need for Communication

Two-way communication between the military and stakeholder groups is crucial for successful compatible land use planning. State and local government officials have the authority to pass land use planning and growth management legislation, and it is vital for military planners and commanders to participate in the planning process. Without appropriate input from the military, state and local government officials will not have sufficient information to adequately assess the impacts of their growth management and land use decisions on military operations. By working together, the military, state, and local government planners can strike the appropriate balance of growth, environmental protection, and military operations.

This guide is designed to:

- Help Department of Defense (DoD) officials and military installation commanders gain a better understanding of how state and local governments make land use decisions that may impact military operations
- Increase city and county government officials' understanding of the potential effects their land use decisions may have on military installation operations

The Issue

Encroachment on United States (U.S.) military installations and test and training ranges is a serious and growing problem for DoD. Encroachment – a term used by the DoD to refer to incompatible uses of land, air, water, and other resources – is the cumulative impact of uncontrolled urban development that hampers the military’s ability to carry out its testing and training mission.

The rapid pace of urban growth into rural areas around military installations and ranges presents two sets of encroachment problems. First, DoD’s activities may have adverse impacts on neighboring communities. As residential and commercial development increases in areas near military installations, people may experience more aircraft over-flights, dust, and noise from military activities. Second, important military training exercises may be compromised due to incompatible land use developments adjacent to or near installations and ranges. For example:

- Night training can be compromised when light from nearby shopping centers interferes with soldiers’ night vision
- Parachute training can be halted when housing developments are built near drop zones
- Usable test and training areas can be segmented and diminished if development forces endangered species to migrate inside the military installation fence lines

Other issues that can lead to degradation of testing or training capabilities include:

- Competition for radio frequency spectrum
- Cell phone towers or wind energy towers in military use airspace
- New highways near or through training areas

The Army, Navy, Air Force, and Marine Corps manage nearly 30 million acres of land on more than 425 major military installations.

In 2002, the Government Accountability Office (GAO) reported that nearly 80 percent of the nation's military bases were witnessing growth around their fence lines at a rate higher than the national average.

The Implications

The U.S. military is responsible for protecting the American people and U.S. interests around the world. To maintain the country's premier military edge, troops must have the best and most realistic training and preparation for the challenges of combat before they go to war. Restrictions caused by increased growth and development can have a detrimental impact on the military's ability to "train as we fight." If trainees receive restricted or inadequate training, they are more likely to misunderstand combat strategies and tactics, leading to poor skills and unsafe practices on the battlefield.

State and local governments have responsibility for managing urban growth and development through their land use management authorities. Land trusts, the agriculture community, and conservation organizations can leverage their respective interests in open space conservation areas and work cooperatively with the military to establish compatible land use buffer areas around DoD lands. Working collaboratively, the military, state and local governments, and other stakeholder groups can protect military training capabilities while conserving important natural resources and maintaining community well-being.

To date, various groups have taken action in response to the growing issue of encroachment:

- State and local governments have formed military advisory boards to facilitate discussion and develop compatible land use policy for areas around military installations
- States have passed legislation to minimize incompatible development and promote compatible resource use around military installations
- Specific installations have engaged with conservation-oriented non-governmental organizations (NGOs) such as land trusts, as well as state and local governments, to establish conservation areas surrounding military lands

Engaging State and Local Governments: The Facts

Common Issues	True/False	What the Law Says	What This Means
“DoD personnel cannot provide information to state and local governments about legislation that would protect our military bases and ranges.”	FALSE	<ul style="list-style-type: none"> • “No part of the money appropriation...shall be used directly or indirectly to...influence...a Member of Congress, a jurisdiction, or official of any government, to favor ...or oppose any law, policy or appropriation.” [18 USC 1913] 	<p>IT IS OK TO:</p> <ul style="list-style-type: none"> • Share information about Administration positions • Share information necessary to the administration of laws for which a government agency is responsible • Provide pre-existing materials • Give speeches on Administration positions (as long as not exhorting the public to contact government officials in support of position) • Send letters from agency to members of Congress • Make statements to news media on Administration positions <p>IT IS NOT OK TO:</p> <ul style="list-style-type: none"> • Use appropriated funds to generate “grass roots” support, i.e., attempt to mobilize citizens or networks to call, write, or email or otherwise contact lawmakers in support of DoD initiatives
“Providing information on impacts of local development action on our installation is lobbying.”	FALSE	<ul style="list-style-type: none"> • Applicable to lobbying at the state and local level AND with regard to regulations and policy, not just legislation and appropriations 	
“Giving speeches on legislation is considered lobbying.”	DEPENDS	<ul style="list-style-type: none"> • “No part of any appropriations contained in this Act shall be used for publicity or propaganda purposes...” [DoD FY05 Appropriations Act] 	
“If state and local governments take the military’s advice the military may become liable for takings.”	FALSE	“Nor shall private property be taken for public use, without just compensation.” [US Constitution, Amendment 5]	<p>IT IS OK TO:</p> <ul style="list-style-type: none"> • Testify or provide information to governmental agencies about impacts of actions on military operations • Make recommendations or otherwise be persuasive about actions • Prepare draft ordinance/legislation <p>IT IS NOT OK TO:</p> <ul style="list-style-type: none"> • Be part of a panel that VOTES on land use matters • Threaten, deceive or recommend others do what we cannot do
“Testifying to a local land use planning authority makes the government liable for takings.”	FALSE	<p>“The United States may use its position as a landowner to influence local zoning authorities without incurring liability for a taking.” [Persyn v. United States, 32 Fed. Cl. 579, 585 (1995)]</p>	
“Working with state and local governments to combat encroachment is DoD policy.”	TRUE	“I recommend you direct more active involvement at the installation and Regional Environmental Coordinator level in all aspects of state and local planning that could impact readiness.”	<p>IT IS OK TO:</p> <ul style="list-style-type: none"> • Participate, communicate, build relationships and share information <p>IT IS NOT OK TO:</p> <ul style="list-style-type: none"> • Avoid all interactions with local planners and organizations about land use issues

INTRODUCTION

America's military installations have traditionally operated with few limitations. DoD and the four military services originally built most installations in places of relative isolation. The military could fly, shoot, and march with little worry about how its mission might impact the natural environment or surrounding communities. As the nation's military-industrial complex grew, these military installations became magnets for jobs and economic development. Thousands of defense contractors and retired military personnel made their homes and places of employment near active installations.

Over the past 10 years, things have changed dramatically for the military. The rapid pace of suburban development, especially throughout the country's Sunbelt, now threatens dozens of installations. New subdivisions, office parks, and planned communities are sprouting up near previously isolated and autonomous military facilities, often making an installation's mission impracticable. Incompatible development has altered the military's ability to operate and train from Air Force bases at Luke (Phoenix) and Nellis (Las Vegas) in the west to Oceana Naval Air Station (Norfolk/Virginia Beach) in the east. Increasingly, the military and local governments must directly confront the challenge of sprawl as it impacts the sustainability of DoD's training mission as well as the viability of installations in communities.

Tanks and artillery need firing corridors, but they are increasingly encroached upon by civilian developments outside the installation.



Development conflicts will only get worse as DoD continues to transform and restructure its military branches to encourage more joint operations and training. The Pentagon also plans to return thousands of troops to U.S. shores from overseas. The changing missions at military installations will likely increase tensions

with regional and local governments. The military and surrounding communities must compete for shrinking air space, limited water resources, and a decreasing supply of open space and land.

To encourage compatible development outside the fencelines of military bases, installation commanders and staff will need to provide substantial input to land use planning and policy decisions that are controlled by state, regional, and local governments. Engaging state and local policy makers and planning officials will require a new set of skills and ground rules. Recent reforms, such as new guidance from DoD's Office of General Counsel and state planning laws passed in Florida and Washington, provide a good framework for facilitating joint discussions on regional growth and military training and operations.

For most installation commanders, however, the maze of land use regulations and development decisions is still uncharted territory. This guide will assist installation commanders and their staffs in navigating the complex and often controversial land use and planning processes governing local development. By working and collaborating with local governments, military installations can have a hand in shaping the growth and development occurring in their regions.

OBSERVATIONS ABOUT LAND USE POLICY, DEVELOPMENT DECISIONS, AND REGIONAL GROWTH

Local Scenario, Part 1

Late in the day, an installation commander receives an urgent phone call from his public affairs officer. She explains that reporters from the local newspaper would like the commander's official position on a proposed subdivision to build nearly 500 homes within a quarter mile of the installation's fence line. At a five-hour meeting of the city planning commission the night before, more than 100 people testified both in support and against the developer's request for changes to the city's general plan and zoning ordinances. Emotions ran high for both sides, so the commission postponed its decision and scheduled another meeting within 60 days. Scenes from last night's marathon meeting were aired on the local television news. The public affairs officer once again tells the commander, "Sir, they want to know our position on this proposed residential development." She continues to hear silence on the other end.

What should a base commander do in this case?

- Should he sit on the sidelines, say nothing, and watch the construction of the 500 homes near the fence line?
- Should he explain the potential adverse impacts such residential development might pose for the installation's mission?
- If he decides to engage in this land development process, how should he do it? Where should he begin?

Before trying to answer these questions, it may be helpful to first understand the general context and climate in which land development decisions are made. Here are six common planning themes that every installation commander should know:

1. Growth and development are inevitable.
2. Land use planning is complex.
3. A long-standing respect for private property rights is prevalent.
4. Land development decision-making is controversial.
5. Many development decisions are driven by the demand to increase local tax revenues.
6. Installation operations and planning decisions strongly influence regional and local land use and development dynamics.

1. Growth and Development are Inevitable

Many regions of the country experienced tremendous growth during the nation's economic resurgence in the 1990s. A few of the fastest-growing metropolitan regions included Phoenix/Maricopa County, Arizona; Las Vegas/Clark County, Nevada; Charlotte/Mecklenburg County, North Carolina; and Riverside/San Bernardino County, California. In the Northeast and Midwest, new growth on the fringes has drawn people, jobs, and businesses away from the urban cities and inner-ring suburban communities.

Regardless of the type and rate of growth, these trends present an opportunity for proactive land use planning to channel new growth into already existing areas. Otherwise, such tremendous growth will consume undeveloped land that could further impinge on the operations of military installations throughout the country. Military installation commanders and staff should actively engage in regional planning strategies so that military operations remain viable and unthreatened by the continuing construction boom.

Rapid Growth and New Development

Research commissioned by the Brookings Institution confirms what many people already know—rapid growth and new development in many regions is inevitable.

- By 2030, nearly 50% of all buildings in the country will have been built after 2000
- Most of the construction during this 30-year period will be residential buildings, but the Midwest will also produce new industrial and commercial space, and 70% of that space will be less than 30 years old
- Most new growth will occur in the South and West, a near doubling of existing built space. Fast growing southern and western locations will see the most dramatic growth (Nevada, Florida, North Carolina, and Georgia)

"Toward a New Metropolis: The Opportunity to Rebuild America," Arthur C. Nelson (Brookings Institution, December 2004)(www.brookings.org)

Installation leaders can find ways to effectively engage in local land development processes.



2. Land Use Planning is Complex

There are many complexities involved in land use planning processes:

- Land use planning has its own language, including legal concepts such as “transfer of development rights” (TDRs), and design concepts such as “transit-oriented development” (TOD).
- Land owners and developers often go through several development hearings to acquire formal local government approval before they begin building.
- Developers must frequently apply for a change in the local plan or zoning map.
- If the land involves sensitive lands or special habitat, developers may need to obtain environmental permission from a federal or state agency.
- Land use processes are generally administered by multiple government agencies or departments within the city or county. Each process may have its own set of rules and public hearings.

Since development projects involve private property rights, a maze of real property and land use laws adds to the complexity. Land use laws also vary from state to state and city to city. It is wise to consult with a land use attorney to more fully understand the legal nuances.

3. A Long-Standing Respect for Private Property Rights is Prevalent

Dozens of regional and national property rights organizations contend that state and local land use regulations unreasonably interfere with the economic value of private property and must be changed. Groups such as the Institute for Justice and the Pacific Legal Foundation base their activities on federal and state court opinions that strictly interpret constitutional provisions protecting private property rights against unreasonable seizure. They have successfully introduced federal and state laws and policies (e.g., Oregon's Measure 37) that make it more difficult for local governments to adopt and administer even basic land use controls such as zoning, planning, eminent domain, and environmental regulations.

4. Land Development Decision-Making is Controversial

Public participation and civic involvement is one of the hallmarks of land development in this country. Meetings held by city councils, county commissions, and planning commissions to consider major development proposals often result in conflicting opinions and stalemates.

- Many cities have officially designated neighborhood planning groups that attend and actively participate in public hearings and meetings on prospective development projects.
- Land use decision-making is often a politically charged environment. The political careers of many local elected officials have succeeded or failed upon the approval or denial of land development projects.
- Local government officials must do their best to balance the private rights of an owner/developer with citizen concerns and the long term future of the community and region—not an easy task given the many competing and often conflicting interests within a community and region.

5. Many Development Decisions are Driven by the Demand to Increase Local Revenues

Land use decisions are often made with an eye toward how much revenue the new development will generate for local governments instead of whether the project is consistent with fundamental planning principles because:

- Dwindling federal and state revenue sources are causing local governments to depend more on sales taxes and fees tied to the strength of the regional economy. When the economy declines, so do the public dollars, but the demand for essential public services and basic amenities often remains constant or increases.

Strong sentiments and state traditions in favor of private property rights can have a tremendous influence on local land development decisions. For example, elected and appointed officials may find it difficult to adopt more stringent land use controls to protect military installations.

The politics and policies of the property rights movement strongly influence development decisions and land use planning.

- Many state laws make it difficult for local governments to adopt new taxes or fees. Several states now require city-wide elections to raise general taxes or fees.

As a result of these legal limitations and fiscal factors, local planning commissions and town councils may be inclined to approve a development project that will help them with their budgetary bottom line. Projects that generate sales taxes, such as auto malls and large retail or “big box” stores, are popular because of their local revenue-raising ability.

6. Installation Operations and Planning Decisions Strongly Influence Regional and Local Land Use and Development Dynamics

The intensity of land use at most military installations can easily surpass that of major civilian industrial operations. Military operations are not strictly confined to the installation grounds. Jets fly over civilian properties to access firing and bombing ranges. Tanks and artillery need firing corridors but they are increasingly encroached upon by civilian developments outside the installation. Military missions are changing and growing, and the platforms (planes, artillery, etc.) are becoming faster and more powerful.

Most military installations are an integral part of a region’s economy. However, these installations also generate a host of economic, land use, and environmental impacts upon surrounding communities. Installations can:

- Increase the need for more housing units, new schools, and additional civilian jobs in nearby communities.
- Stress local infrastructure, including transportation, roads, and utilities, as many installations employ thousands of civilian contractors who travel in and out every day.
- Increase demand for local government services such as police and fire departments, parks, libraries, and schools, especially where off-base housing is convenient and popular.
- Create noise and safety zones in which certain land uses, particularly residential, may be incompatible with installation operations.

Base Realignment and Closure Considerations

When DoD realigns or closes an installation, traffic and growth patterns of communities near military installations can be significantly affected. Some installations grow as a result of the closure of other installations. They inherit military missions and additional troops from the closing facilities, and this increases the competition with nearby communities for resources and access to airways, watersheds, and land. Decisions made about the installation's infrastructure, planning, and the military mission directly affect the regional and local development dynamics. Military and local government officials, as well as planners, should share planning information so they can anticipate and accommodate the impacts of closure for enduring installations.

PLANNING AND LAND DEVELOPMENT: POLICY AND PROCEDURES

Planning and development on military installations differs significantly from the process used for civilian land. Because federal lands are exempt from state and local land use regulations, DoD has direct control of development inside the fenceline, and acts as the owner, developer, and often the decision-maker regarding development on its installations. Some DoD projects do require an environmental assessment under the National Environmental Policy Act (NEPA).

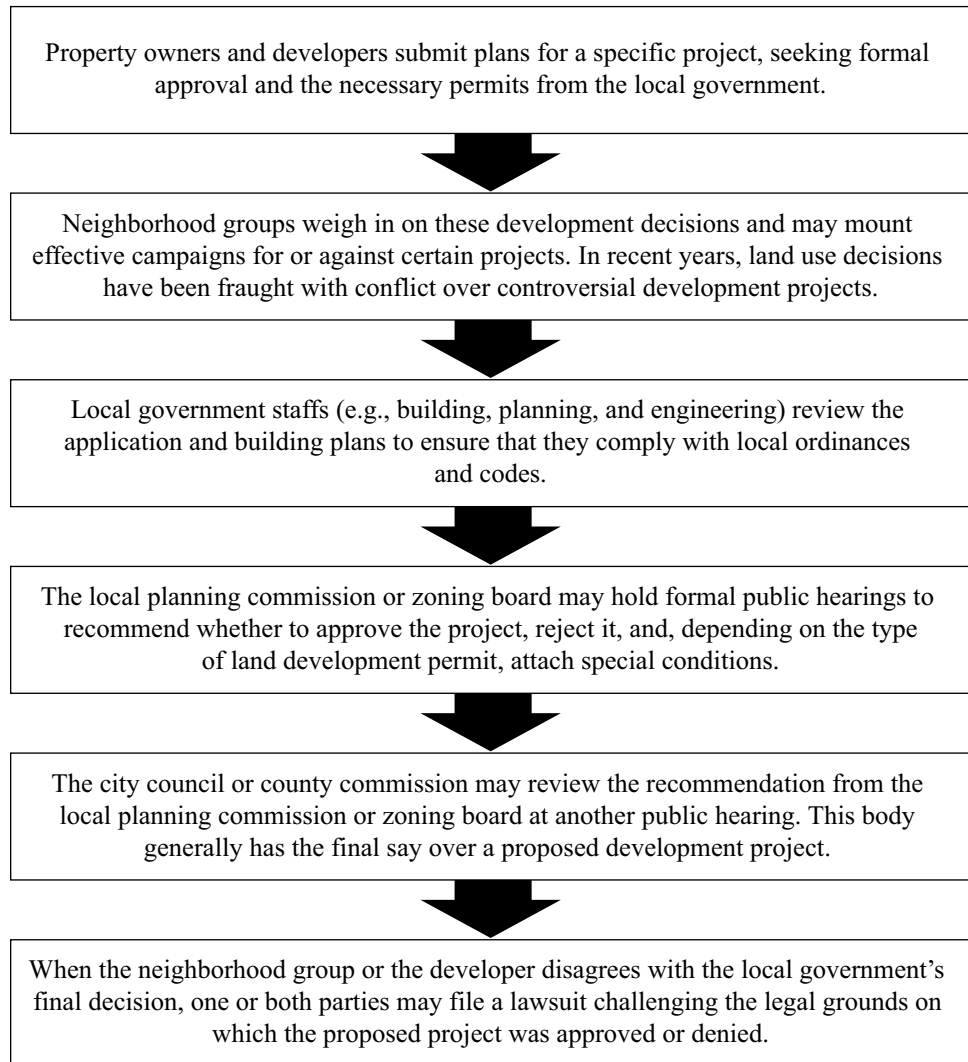
Local governments, subject to state laws, formulate most land use policies and enact different types of land use regulations. Land use plans, building codes, and zoning regulations form the basic ground rules for developing private property. These regulations differ from state to state and city to city. The great variety of rules and processes means that no two local governments will approach land use in exactly the same way.



Development conflicts will continue to increase as DoD transforms to encourage more joint operations and training.

Local governments also manage the actual land development approval process. While the procedures may vary from town to town, land development decision-making generally follows the same basic steps (see Figure 1).

Figure 1. Land Development Decision Steps



Pursuant to these development review processes, local governments conduct a wide range of public meetings and hearings. Private property owners and developers must follow these local processes to obtain permits or special approvals before they can develop their land. Local governments must follow similar hearing procedures when they want to change or update planning and zoning ordinances. Installation commanders and staff should have a firm grasp of these

procedures and the terminology involved so they can know when and how to share their perspectives on a proposed development's impacts on the installation's mission. As installation leaders and staff become more familiar with state and local approaches and procedures, they will be ready to engage in collaborative land use decision-making.

Local Scenario, Part 2

The public affairs officer skillfully negotiates more time from the local newspaper reporter to formulate a response. The base commander calls a meeting of his management, planning, and infrastructure teams. As they discuss what they know or should know about the proposed subdivision development and its possible impacts on the installation's mission, they begin to formulate answers to several critical questions:

- What land use regulations are in play?
- Who are the players and participants in the local land development process?
- What are their roles and responsibilities?
- Who makes the initial and final decisions about the proposed development or change to existing land use regulations?
- What are the formal processes and procedures for approving the proposed development or change to existing land use rules and requirements?
- Where is the proposal in the land development process?
- What are the implications of the proposal on the installation's mission and overall operations? How should the installation evaluate the proposed development project?
- How should the installation commander's perspectives be shared on the proposed development or change in land use rules? Has the installation responded previously to similar land use issues?

Types of Land Use Regulations

If a proposed development project satisfies all existing plans and codes, the local government, after public input, generally must approve the project "by right." In other words, local plans and codes give the developer a right to build the project as presented. For example, if the land is zoned to allow "big box" commercial uses and that is what the developer wants to build, the local government must generally approve the plans even if the development is not particularly popular with community. If the project is not "by right," the developer will seek

Installation commanders and staff may have more opportunity to influence the shape of a proposed development when the proposed permit or development requires discretionary review, such as with a conditional use permit or a planned unit development.

changes in local land use regulations. Depending on the size and nature of the project, a developer may request a rezoning or perhaps a special waiver called a *zoning variance* (see *Appendix A for Glossary of Essential Planning Rules and Regulations*). Sometimes the developer needs a *conditional use permit* where the planning commission negotiates special conditions limiting the use or future activities on the property. Other larger development projects may require changes to the city's *comprehensive or general plan*. Many such projects require multiple permits and approvals by different local government departments. Here the local government makes discretionary land use decisions.

Know the Local Terrain

Before attending a meeting with local planning officials or staff, the installation commander should become familiar with local land use regulations, particularly the general plan and the zoning code. Review these documents closely within the context of how they relate to the installation's operation and mission. Refer to these documents when explaining to the decision makers whether or not the proposed development is compatible with the installation's mission.

Land Development Players and Their Roles

Every development project requires some form of local government review. Some development projects require only internal review before permits are issued, while other projects require extensive public input. Projects that are more complex or controversial than others will generally take longer and undergo a more rigorous review process before obtaining final approval. The following section identifies the typical participants and decision makers for local development approval processes.

Project Proponents

Proponents offer positive commentary at public hearings or community and neighborhood organization meetings. Project proponents may include:

- A property owner or developer seeking local government approval when he or she wants to change or modify an existing land use, repair or rehabilitate an existing structure, or build new structures on previously undeveloped property (e.g., greenfields).

Local Land Use & Public Participation

Public hearings are a required part of most decision-making processes for land development. Local governments also use a variety of public meetings and other methods to obtain community input before the formal public hearings begin.

- The developer and city planning staff may meet with neighborhood planning groups to hear their perspectives
- City planning staff may hold several internal meetings with relevant departments to coordinate the permit and plan reviews
- For larger projects, the city or the developer might convene special public workshops, such as visioning sessions or charrettes, where the public participates in design exercises with a team of architects to consider alternatives and shape the proposed project before official public review

Waiting until the planning commission schedules a formal public hearing on a project may be too late to influence the design and shape of a proposed development. Installation leaders and staff should **participate early and often** in any of these processes in addition to speaking at the formal public hearings. Responding late in the process may also frustrate city/county leaders and developers. A good working relationship with the local government's planning and building department is crucial to get a jump on new development proposals.

A good working relationship with the local government's planning and building department is crucial in order to know about new development proposals in their early stages.

- Depending on the nature and size of the project, the owner and/or developer may hire a team that can include land use consultants, architects, engineers, and lawyers to prepare the necessary plans and permits, and represent the owner/developer at various meetings and public hearings.
- Nearby residents, community groups, neighborhood associations, and other special interest groups may choose to support a project because it provides amenities or services they will use or enjoy, such as a park.
- Business or civic leaders may publicly support a project because it will provide additional tax revenues or support long-term economic development objectives, such as new job creation.



Project Opponents

Development proposals will also encounter individuals or groups that oppose a project:

- Nearby residents may not want a development project because of concerns about its potential impact on traffic levels, housing density, or environmental resources.
- Local nonprofit organizations may oppose the project because it does not address community needs, such as affordable housing, or because of potential impacts on environmental resources (e.g., how the proposed development will handle runoff and storm water).
- Individuals and community groups may raise concerns about a building's design and size if the scale does not fit the character of the existing neighborhood.

Local Government Staff

Local government staff (planners, permit and plan reviewers, attorneys, and building inspection managers) review proposed projects to ensure they are consistent with state and local land use regulations, building codes, and environmental regulations. These staff members typically make recommendations about whether elected officials should accept or reject the project. They also interface with the public and project applicants, and represent the local government's interests at various public meetings.

Planning Commission

Most communities have a planning commission composed of five to nine people appointed and approved by the chief elected official (mayor) and/or a local governing body (city council or county commission). Members of the planning commission are usually selected to represent a wide range of local interests. The commission's role is to convey community opinion on land use matters to the professional planning staff and local elected body. Planning commissions typically review changes in zoning and neighborhood plans and applications to build subdivisions. In some cases, the planning commission is authorized to decide on conditional use permits, site plan reviews, and planned unit developments without deference to the local elected council or board, although in most cases the planning commission serves in an advisory capacity only.

State and Local Open Meeting Rules

Many state and local governments have open meeting and conflict of interest laws establishing strict rules for meeting with land use decision makers regarding a pending development proposal. These laws are designed to encourage discussion and input at open public meetings and discourage behind-the-scenes meetings that create the appearance of political favors and special interests. General meetings about land use planning policy and general development trends should be encouraged. **Installation commanders and staff should double check with planning department staff about these rules before scheduling a meeting with members of the Planning Commission, Zoning Board, or City/County Commission.**

Board of Zoning Appeals

The local Board of Zoning Appeals (sometimes referred to as the Board of Zoning Adjustment or Zoning Board of Appeals) typically hears appeals of staff decisions and applications for variances from the zoning code. While the planning commissions typically engage in the long-range planning and vision of the community, the role of the Board of Zoning Appeals is more narrowly focused on interpretation and enforcement of existing zoning regulations, although its decisions may have a great impact on community planning goals.

City Council/County Board

City councils and county boards play a crucial role in the political processes that influence land use decision-making. These elected bodies appoint planning commissioners and board of zoning appeals members. City Councils and County Boards are often the final decision makers on contentious land use decisions, unless the project ends up in court. Many locally elected bodies also hear appeals of planning commission and zoning board decisions.

Understand the Community

Installation commanders and key staff members can easily get a better sense of the regional development dynamics by meeting with local associations representing home builders, boards of realtors, apartment owners, mortgage companies, and others. These groups can provide the development industries' different perspectives on growth.

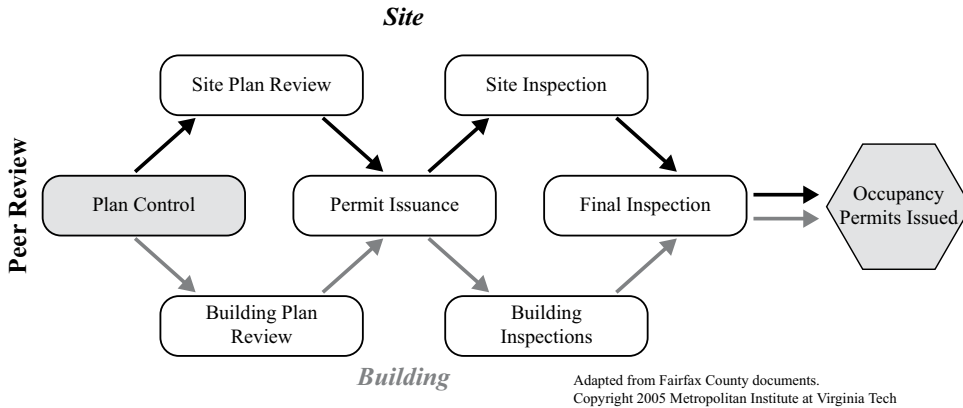
The installation commander and staff should also identify community and neighborhood organizations active in local land use planning and environmental issues. Many communities have smart growth coalitions that monitor development, or local chapters of environmental groups such as the Sierra Club. Local universities and regional councils of government can provide the latest development and demographic data, and often have long-term forecasting and research units. As a general rule, an installation commander should try to meet with many different organizations to better understand their perspectives on growth and development.

Finally, the installation commander and staff should build an ongoing relationship with the local government planning staff. These individuals know the most about the community's plans for growth and development. Beyond meeting on a particular development project, communicating with local planning staff on a regular basis can ensure the commander and staff learn about pending development projects as early as possible. The planning staff also benefits from understanding the commander's general plans for new development on the installation. The military should strive for consistent responses so that the community can anticipate an installation's positions.

Procedures for Land Development Approval

No two land development processes have the same steps or use the same terminology. There are many intricacies in the administration and negotiation between local governments, developers, and end users of a project (see Figure 2):

Figure 2. Generic Plan Review and Permit Approval Process



- A typical process starts when an applicant submits plans and seeks permits to build a particular project (usually the property owner or developer).
- He or she will use a formal application form to submit a site plan and design specifications.
- Staff will review the application to make sure the project complies with local zoning ordinances, the community's comprehensive plan, and relevant land use or environmental regulations.
- If staff members decide the proposal is consistent with these ordinances, plans, and regulations, a permit will be issued *as of right*. This means that the local government cannot impose additional requirements or conditions since the project adheres to basic land use laws and regulations.
- If the owner or developer requests changes to existing regulations, or the project is a type that requires special reviews, then the local government has discretion to impose additional limits or conditions on the project.
- The site and building will undergo inspection at various stages of construction, including a final inspection.
- If the developer has promised to provide infrastructure in the future or dedicate land for a particular use, the financing (usually through a bond, if it is a public project) must be in place at the time of final inspection.
- When the developer has gained the financing and passed the final inspection, he or she will be issued a certificate of occupancy. An owner must have this

document before the structure can be occupied, leased, rented, or sold. This is the last stage of development and the final step in the permitting process.

Evaluation of a Proposed Development Project

Individual projects range in size from an individual building to a new, master planned community. According to David Goldberg from Smart Growth America, there are five questions that citizens should ask when evaluating a proposed project, regardless of its nature and size. Installation commanders and staff should ask these same questions when evaluating the potential impacts a development might have on the installation:

1. *What is really being proposed?* Citizens often first learn of a project by word of mouth, the posting of a zoning notice, or a news item in the local paper. Before deciding whether to support or oppose a proposal, visit the local planning department and ask to see any submittals from the developer. If possible, talk to the staff planner assigned to the project. Learn as much detail as possible from direct sources.
2. *What is the underlying zoning?* Find out what the developer can do by right under existing zoning and other entitlements, including use, parking spaces, setbacks, and design.
3. *What does the comprehensive plan say?* Most jurisdictions have comprehensive plans that are meant to consider how all of the pieces fit together. If the proposed project works against some or all of the plan's goals, citizens can make a strong argument for changes or denial.
4. *Is the developer asking for a variance?* For some projects, developers need to request a zoning variance. Common requests include increasing or decreasing setbacks, varying building heights, or changing landscaping rules. The Zoning Administrator reviews and makes a preliminary decision that could be reviewed by the Board of Zoning Appeals. In the end, decisions should rest on how the project will fit in and work in its surroundings, not on narrow legal definitions.
5. *Have any conditions been placed on the project?* Local planning and zoning officials often establish conditions when developers seek project approval. Some conditions, such as restricted hours and timing of deliveries, are placed during the construction phase. Others relate to operations and are in effect as long as the building is in use.

IV. CONCLUSION—ENGAGING IN LOCAL LAND DEVELOPMENT PROCESSES

Local Scenario, Part 3

After meeting and learning more about the proposed development, the installation commander and his team have a much better understanding of its nature. They are genuinely concerned about the current design and placement of the subdivision because it could hinder upcoming joint training operations that tend to happen at night and result in noise and dust. Some type of development may be practical, but perhaps more of a commercial nature. They really need more in-depth studies of the potential impacts. Beyond the land use policy dimensions, the commander and his team must also formulate their strategy for engaging the local planning staff and the land development decision makers.

After researching the issues and taking time to analyze the situation, most military installation commanders and staff can find a way to effectively engage in local land development processes near the installation. Here are some insights and strategies to consider:

- **Take Along Translators.** Make sure the installation has its own land use team in the room so they can translate planning terms and policies, and provide critical insights and analysis. Speak in “civilian” language when meeting with planning departments.
- **Use the General Plan and Zoning Code.** Refer to specific passages and provisions from the community’s planning and zoning documents to bolster the installation’s case as to why this development might be inconsistent or fail to satisfy the rules and requirements set forth by these and other land use regulations; the same strategy could also work under applicable environmental laws and policies.
- **Consider a Wide Array of Strategies.** While the focus of this guide is on local land development processes, installations must have a wide array of other strategies in place to manage encroachment and minimize the impacts of incompatible development. Additional options include:
 - The acquisition and control of open space and habitat as buffers through conservation partnering with regional and local land trusts

OEA is DoD's primary source for assisting communities adversely impacted by Defense program changes, including base closures or realignments, base expansions, and contract or program cancellations. OEA offers technical and financial assistance to adversely impacted communities, and coordinates involvement of other federal agencies through the Defense Economic Adjustment Program and the President's Economic Adjustment Committee.

- Prospective and preventive land use planning studies through DoD's Office of Economic Adjustment Joint Land Use Study Program (JLUS)
- State encroachment laws (where they exist) that expressly require local governments to ensure local plans and codes consider the impacts on adjacent and nearby military installations

Office of Economic Adjustment (OEA) Guidebook

Encroachment from incompatible civilian development is a problem that can affect the operation and mission of military installations across the nation. In an effort to encourage compatible civilian development near military installations, the Office of Economic Adjustment has released a Practical Guide describing the roles of local, State and Federal governments in conducting collaborative local land use planning and the various tools and methods of implementation that can be utilized by state and local governments to prevent encroachment. Working together, military installations and local decision making bodies can enact policies and guidance that are beneficial to both parties.

To view the guidebook, visit: <http://www.oea.gov/oeaweb.nsf/PG?readform>

- **Share Information.** One of the best ways to establish trust and build a stronger relationship with local planning staff and land development decision makers is to share relevant planning and infrastructure information about the installation. Planning and infrastructure decisions on the installation often have a direct impact on the surrounding community. To the extent that security procedures allow for the sharing of this information, it helps convey a sense of trust and understanding about the installation's regional role and importance.
- **Engage Early and Often.** Do not wait until the planning commission is about to hold a hearing on a pending project proposal. Meet regularly with regional and local planning and development departments to monitor development proposals and potential planning and zoning changes.
- **Have a Long-Term View.** The installation and the community will need to grow and develop together over the long term instead of maintaining the historic attitudes of isolation and independence. As the commander and staff view pending development proposals or general plan updates, they should be evaluating the growth and development of both the region and the installation over a period of 10, 20, or even 30 years.

Glossary of Essential Planning Rules and Regulations*

- *General or Comprehensive Plans* set forth a community's vision and long-term goals and objectives for existing and future development. They often include elements on housing, transportation, open space/conservation, and environmental protection. General plans are implemented through the use of zoning codes and land development regulations.
- *Zoning* regulates different land uses (residential, commercial, industrial, and agricultural) through a series of rules and restrictions. Zoning also controls the size and placement of buildings through different development regulations. For example, most zoning codes establish height limits for buildings within certain zones. Some development projects may require changes in the zoning ordinance, amendments to the actual zoning map, or variances.
- *Overlay zoning* superimposes a set of zoning requirements on top of the base zone's regulations. Overlay zones are especially effective in protecting special areas (e.g., sensitive habitat) or addressing known problems (flooding, airport noise, crash zones).
- *Variances* provide property owners with a legal means to deviate from the standard zoning rules to mitigate any "unnecessary hardships" caused by complying with the strict interpretations of the zoning code. Variances usually require a public hearing before a zoning administrator or board of zoning adjustment, and generally do not allow for changes of use (that require a zoning amendment).
- *Subdivision ordinances and approvals* control the division of a tract of land by requiring development to follow local design standards and other procedures adopted by a local ordinance.
- *Conditional use permits (CUPs)* establish hearing procedures that allow for special and intense land uses that do not ordinarily fit the categories of permitted uses within a zone, such as airports, sports stadiums, hospitals, or gas stations.
- *Planned unit developments (PUDs)* create unique development projects that can cluster buildings while also preserving adjacent open spaces and sensitive habitat. Instead of adhering strictly to the underlying zoning, PUDs establish their own development rules that apply just to the particular project being proposed.

**Glossary definitions derived from "Choosing Our Communities Future - A Guide to Getting the Most out of New Development," (Smart Growth America, 2005) (www.SGA.org)*

This primer is one of a series designed in cooperation with DOD's Range Sustainment Initiative to facilitate a better understanding among all stakeholders, including military installation leadership, state and local government officials, land trusts, and communities, of how each operates within the context of encroachment and sustainability decision making. It is our hope that this information will facilitate communication and collaboration among those stakeholders to discover ways to engage in compatible land use planning. The primers in this series provide tools and suggestions for establishing and maintaining effective relationships and partnerships to address the challenges of encroachment. By working together, these stakeholders can find mutually beneficial solutions to encroachment and other sustainability issues.

The initial primer series includes:

- ❖ *Working with Local Governments: A Practical Guide for Installations*
- ❖ *Understanding and Coordinating with Military Installations: A Resource Guide for Local Governments*
- ❖ *Collaborative Land Use Planning: A Guide for Military Installations and Local Governments*
- ❖ *Working with Land Trusts: A Guide for Military Installations and Land Trusts*
- ❖ *Working with State Legislators: A Guide for Military Installations and State Legislators*

These primers are available online at www.denix.osd.mil/SustainableRanges

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