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Smart growth and regionalism

Planning and Development Committee public hearing -- March 2, 2009
Testimony of Raphael L. Podolsky

We are generally supportive of the recommendations of the Smart Growth Working Group. Smart growth principles take a regional approach to development; encourage planning that coordinates transportation, environmental, housing, economic development, and tax policies; reduce reliance on local property taxes; and encourage the concentration of development in town centers. In regard to housing policy, which is of particular concern to us, smart growth encourages the use of greater density to attract housing development to town centers and along transportation routes and promotes the reuse rather than the demolition of existing buildings. We see smart growth principles as a sensible and constructive way in which to manage development.

Defining smart growth, however, is not as easy as it may seem; and it has become clear that the phrase means different things to different people. First, "smart growth" is not the same as "no growth." To the contrary, it is a method for promoting growth in a well-planned manner. Second, smart growth should not be treated as a preemption of all other forms of growth. It should be viewed in terms of preferences and guidelines but not as an absolute. Indeed, smart growth principles are by their very nature parts of a broader development strategy and not exclusive principles to be promoted at the expense of all other development strategies. Third, there are times when smart growth principles themselves may be in conflict with each other. For example, a preference for reusing existing buildings (such as abandoned factories) may conflict with a preference for concentrating development near transportation centers. From this perspective, we would like to offer comment on two particular bills.

H.B. 6467 -- Listing of "smart growth" principles

We believe that some changes need to be made in the listing of "smart growth" principles in Section 1(1) of the bill.

- * Smart growth in housing: In Part (E), the bill appears to imply that any housing that is not mixed income or is not near a transportation and employment center is per se not smart growth. This is an unreasonably narrow concept of smart growth and could be used to prevent housing development across-the-board outside of center cities. We support substituting the language suggested by Atty. Timothy Hollister, which reads: "(E) development or preservation of workforce or affordable housing through densities that reduce sales prices or rents, including in locations proximate to transportation or employment centers."
- * Definition vs. guidelines: We are concerned about the use of the word "and" in line 21 of the bill, which arguably converts a set of flexible guidelines into a rigid

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definition. The bill lists seven elements of smart growth. The implication is that any development that does not contain all seven of these elements is not smart growth. In practice, however, most smart growth projects will not meet all of the criteria. This takes on great significance because parts of this and other bills require that various plans "incorporate smart growth" (e.g., line 84 of the bill). Significant sanctions may be imposed or priorities denied for non-smart growth projects. The bill should make clear that Section 1(1) is not a definition of smart growth but a listing of smart growth principles. We suggest that, in line 7, the phrase "one or more of the following principles" be inserted after the word "promotes."

H.B. 6588 -- Training for land use commissioners

It goes almost without saying that we support appropriate training for land use commissioners. We believe, however, that subsection (c) of the bill (lines 23-28) has to be deleted. It is simply not appropriate for the results of a land use appeal to be varied based on the degree of training and expertise of the commissioners. That would be unfair to both the applicant and the municipality. A decision of a land use commission must stand or fall on the evidence before the commission, as reflected in the transcript and the record, and on the merits of the decision itself. Indeed, other than knowing whether a commissioner had attended particular courses and certification programs, there is no way for a court on appeal to know the degree of expertise of a commissioner.