

Urban Land

Smart Growth

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EIR and Smart Growth

In states lacking smart growth laws, the EIR process can actually help.



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Does the environmental impact review (EIR)

process get in the way of smart growth and new urbanism? Leaders of the new urbanist movement have criticized the effects of the EIR process in California and a number of other states, claiming that it has stopped large, well-planned projects that meet smart growth goals and that it has failed to check sprawl.

In states that lack a comprehensive smart growth law, the EIR

process can help fill the void. In Massachusetts, three EIR strategies have been used successfully: attention has been paid to the growth-inducing impacts of public infrastructure investments, the EIR process has been restructured to favor smart growth private developments, and the process has been used to strengthen the legal status of local and regional planning.

The EIR process has been required for federal agencies since the 1970 passage of the National Environmental Policy Act (NEPA). Strictly speaking, the EIR process does not require an environmentally beneficial outcome; it only opens up the actions of government agencies to public review and oversight—through the study of alternatives and environmental impacts—to encourage agencies to act more responsibly. NEPA has been one of the most copied environmental laws: at least 24 states and more than 80 nations have adopted the EIR process.

Like NEPA, the Massachusetts program focuses greater scrutiny on public agency projects, which are not subject

to local zoning. The EIR process may offer the best chance to affect the location and design of roads, sewer lines, and other public facilities. By contrast, review of private projects, which are subject to local zoning, is limited to those impacts that spill over local boundaries or affect state-regulated natural resources. Under the state's Executive Order 385, the EIR process must take into account state-level smart growth policies that favor projects either located on urbanized sites or well served by existing infrastructure, rather than greenfield projects.

The Massachusetts program is structured for efficiency and speed. All environmental reviews are consolidated within a single office, answerable directly to the cabinet-level environment secretary, and all EIRs must be reviewed within 37 days of submittal or the document is deemed adequate and the project allowed to proceed.

Public agencies can promote either sprawl or smart growth through their investments in public infrastructure—highways, transit lines, airports, and water and sewer systems. Beyond the direct physical impacts—such as filling of wetlands or alteration of rare-species habitat—indirect growth impacts of new or expanded services must be taken into account. Expansion of a new road or sewer line across woods and fields inevitably will increase development pressures and environmental impacts.

To tackle this problem, the Massachusetts program has worked closely with the state department of environmental protection to require townwide wastewater plans, rather than letting local sewer systems undergo piecemeal expansion. All submittals are reviewed for consistency with local land use plans. The first priority for construction of sewer lines is given to areas with failing septic systems, followed by service to infill sites. Any kind of leapfrog sprawl development is discouraged.

One of the biggest challenges for smart growth is the disconnection between state control of transportation investments and local control of land use through zoning. Each set of agencies disavows any influence over what the other does. Highway agencies claim that new roadway capacity will only serve existing traffic congestion. Yet even by that standard, it is unwise to spend millions of dollars

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to widen choked roads if, through unchecked sprawl development, a new cycle of congestion is begun.

The EIR process can help to force state transportation agencies to work with local planners. In reviewing the proposed widening of a radial highway running south from Boston, the state highway department was compelled to convene a land development task force composed of members of local planning boards, two regional planning agencies, and environmental groups. The task force's recommendations ranged from zoning reforms and open-space protection to check sprawl, to increased parking at commuter rail stations within the corridor. Another land development task force, examining a proposed commuter rail line in southeastern Massachusetts, is looking at opportunities for transit-oriented development around new stations.

The Land Use, Transportation, and Air Quality (LUTRAQ) project in the Portland, Oregon, region is an even more ambitious use of the EIR process to shape regional transportation. To fight a proposed new suburban beltway, the 1000 Friends of Oregon nonprofit organization raised money and hired consultants to study a light-rail alternative that, coupled with zoning, would concentrate new development in transit-oriented nodes. The analysis, which showed significant improvements in traffic and air pollution, was so compelling that the state department of transportation adopted the LUTRAQ scheme as its own preferred alternative. Today, the light-rail line has been constructed, and new development is underway around the stations.

For smart growth to function effectively in the marketplace, environmental regulations need to acknowledge that, on balance, projects located in urbanized areas have less impact on the environment than do greenfield projects. Urban projects are less likely to harm wetlands, wildlife habitat, or water resources, and they produce less traffic and air pollution because workers and residents use transit, join car-pools, and walk.

In 1998, Massachusetts revised its EIR regulations to support smart growth goals. Previously, a project's size or cost determined whether it was reviewed under state environmental regulations. Now, the level of a project's environmental impact is the sole determining factor. The thresholds that primarily affect greenfield projects, such as impervious surfaces and impacts on rare-species habitat, have been tightened. As a result, the likelihood of review has increased significantly for greenfield projects—particularly for large-lot residential subdivisions—while it has decreased for projects on urban sites.

But location is not the only factor being considered in EIRs. The success of smart growth policies also depends on the fine-grained detail of development. Are buildings clustered, and interspersed with open space? Are different uses and housing types mixed together? Is parking constrained? Are streets designed for pedestrians and bicyclists, as well as cars?

In Massachusetts, developers of large-lot residential subdivisions are routinely made to examine the possibility of using a clustered site plan. Reduced parking ratios are encouraged at commercial and retail developments, particularly if they are near transit stations. For the redevelopment of a former military base, originally proposed as the site of a regional mall, the EIR program required the redevelopment agency to consider a smart growth alternative focused on a commuter rail station at the project's doorstep, even though it conflicted with local zoning. This approach has increased the site's appeal for private investment.

If the EIR process is to support smart growth, it needs to reinforce planning decisions. Ultimately, smart growth is a function of good planning. State, regional, and local agencies need to work with each other to make intelligent decisions about the location, density, and character of development. The states that have done the most to advance smart growth have strengthened the quality and legal enforceability of planning. In Oregon, the state reviews and approves local plans, which then

govern local zoning. In Maryland, state infrastructure investments must be targeted to designated growth areas.

The EIR process can provide a forum for planning in a state like Massachusetts, which has weak planning laws. Under environment secretary Bob Durand, the state has provided significant new financial and technical assistance to improve the quality of local planning. Executive Order 385, which requires state agencies to consider local and regional growth management plans in the EIR process, has given further legal weight to those plans.

Planning can provide an invaluable context for the environmental reviews of complicated projects. When controversy erupted over redevelopment of the South Boston waterfront (see page 79), attention was focused on the city's district plan. While this did not ease the controversy, it shifted the debate to districtwide issues of transit capacity and public open space. Ultimately, the EIR process led to approval of truly urban densities on key sites and helped to streamline reviews for future waterfront developments.

The Massachusetts experience shows that conflicts among the EIR process, smart growth, and new urbanism are more perceived than real. As Robert Liberty, former executive director of 1000 Friends of Oregon, points out, smart growth and new urbanism operate at different scales. Smart growth advocates seek to influence regional patterns of transportation, development, and ecosystems. At this scale, the EIR process can bring public scrutiny to bear on the sprawl-inducing impacts of public investments in roads and sewers. New urbanists are concerned primarily with the mix of uses and the design of streets and buildings within a project's boundaries. At this scale, the EIR process can be structured to favor projects on urbanized sites without sacrificing environmental protections. And at both regional and project scales, the EIR process can serve as a forum for debate over better physical planning and design. ■

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