

## In the Works

# Report on the Mid-Atlantic States APA Conference

Darlene Finch

Jon Lockman

Darlene Finch and Jon Lockman are Master's candidates in the Department of City and Regional Planning, majoring in Land Use and Environmental Planning.

The mid-Atlantic chapters of the American Planning Association held a major conference in Virginia Beach, Virginia from September 24 through 26. The conference was organized by the Maryland, District of Columbia, Virginia and North Carolina chapters of the APA. A wide variety of issues were discussed during the conference, ranging from managing the small planning office to the development and implementation of impact fees.

Thursday morning, September 24, began with a session entitled "Land Trusts: A Non-zoning Vehicle for Resource Protection and Land Use Implementation." This workshop outlined what land trusts can do to further planning objectives, and when their use should be considered by local planners. Robert Beckett, Executive Director of the Maryland Environmental Trust (MET), began the session with a film which examined the use of conservation easements as a way of preserving unique environmental areas. The film presented several case studies where conservation easements have been successfully used to preserve private lands. Beckett then described the MET and its efforts to conserve, stimulate, improve and perpetuate Maryland's natural environment. With state funding, the MET's programs arrange for the donation of land, conservation easements and financial contributions in order to protect deserving open space properties. Beckett believes that conservation easements, although a focused tool with very limited applications, have been used effectively in Maryland. Given a \$300,000 budget by the state, the MET has succeeded in preserving open space areas worth \$2.5 million. Beckett noted that one of the prime motivations towards voluntary donation of conservation easements has been the role of property taxes and tax credits.

The second speaker at the session was David Miller of Natural Lands Trust, Inc. Miller described his organization as a private, non-profit group which operates in the region around Philadelphia to improve conservation management. Natural Lands Trust focuses on land which surrounds areas that are rare and unique, and attempts to influence how these areas are managed. Trust's goal is to protect natural areas for the general public without actually owning these lands. By working with landowners, the staff of NLT works to satisfy both conservation and profit motives in a manner which allows for effective conservation management. In describing how the staff accomplishes this, Miller presented a detailed case study of a property located south of Philadelphia where NLT designed a program which allowed the landowner to realize a profit while maintaining effective and sensitive environmental management.

There were four mid-morning sessions: "Managing the Small Planning Office"; "Community Character: What Is It?"; "Planning for Black Neighborhoods in Downtown Revitalization"; and "Private Sector Provision of Road Improvements." The last session discussed the trend toward private participation in infrastructure development and differences in the form of participation as dictated by state enabling legislation. Members of the panel included Robert A. Longfield, an associate of Harland Bartholomew & Associates; Robert L. Moore, Chief of Transportation Planning for Fairfax County, Virginia; and George B. Chapman, Planning Director of Raleigh, North Carolina. Moore began the discussion by describing the proffer system currently in use in Fairfax County. He specifically addressed the major features of the proffer system as well as the statutory limitations of the technique. He as-

sessed the strengths of the proffer system as being: providing site-related improvements; having widespread application; being legally binding; and eliminating the uncertainty of zoning. Moore also described weaknesses of the system, including the voluntary nature of the proffer (meaning all-or-nothing acceptance), limited off-site applications and the fact that commitments are not always proportional to changes in intensity.

George Chapman spoke next and explained Raleigh's current development pressures as well as the historical approach to infrastructure development in North Carolina. He said that a combination of resource limitations and rapid growth had led the city to move from requiring exactions from developers to extractions to extortions. In order to improve upon this system, Raleigh developed and implemented an impact fee/facility fee system. Based on the belief that exactions do little to expand existing systems and are fairly inequitable, the City of Raleigh created a system where fees were assessed based on the actual impacts created by new development rather than on specific locational requirements. The City of Raleigh asked for and received from the North Carolina legislature specific approval to develop a fee system. Chapman explained the kinds of questions that have been raised and addressed in developing Raleigh's system and concluded by suggesting issues other municipalities should consider before deciding to use impact fees.

The final speaker was Robert Longfield who discussed Florida's experience with impact fees. He explained the specifics of a road impact fee system used by Manatee County, and highlighted both the development of the system as well as how some of the more difficult issues were resolved. The system that has been used in Manatee County for the past four years draws heavily on legal holdings from other county cases and relies on a legal nexus test whereby new development must receive equal or greater benefits than existing development. Longfield described the formula used to calculate road impact fees in the county and suggested a variety of other services that can be financed by fees. These include solid waste, emergency medical services, parks and transportation. He stressed that impact fees cannot be used for maintenance and that all current deficiencies are the responsibility of existing residents, not the new development.

Lane Kendig's presentation on community character centered on a curious irony. The purpose of most planning enabling legislation is to "preserve

community character." Planners, however, have never tried to define just what community character is. Citizens who object to new development projects often bemoan the loss of character in their neighborhoods, but what is it exactly that makes a place feel urban, suburban or rural?

Kendig criticized the unfortunate use of density as the sole criterion for judging community character. Using photographs of developments at various densities, Kendig proved to the audience that the number of dwelling units per acre is only a minor element in perceiving a project. Kendig's concept of character is based on the relative quantity of architectural space, borrowed space and landscape available to the viewer. Architectural space is the enclosure within a built environment. Landscape is a view of natural terrain largely unworked by man. "Borrowed space" is a term Kendig uses to describe what makes suburban areas different from urban areas dominated by architectural space, and rural areas dominated by landscape. In suburban areas, extensive landscaping and open spaces create "micro-landscapes" which can be seen by suburban residents. They are "borrowed" because the viewer does not own or control them. The progressive loss of borrowed space degrades the character of a suburban community and changes it into an urban one. Kendig's consulting firm has developed a way to quantify borrowed space to help communities set measurable objectives for the purpose of character preservation.

Thursday afternoon continued with five new sessions entitled: "Managing Land Use at the Shore Edge: Maryland's Chesapeake Bay Critical Areas Program"; "Threatened Planners—Strategies for Survival"; "Federal Installation Planning as Part of the Development Process"; "Where the Navy is Today"; and "A Public-Private Partnership."

"Managing Land" provided an overview of Maryland's recent law and a thorough introduction to the innovative and controversial land use regulations recently adopted by the state. In order to manage land use and development to protect water quality and sensitive habitat resources, the state adopted Critical Area Criteria to regulate new development on lands immediately adjacent to the Chesapeake Bay. The session's speakers addressed such topics as the legislative history and administrative aspects of the Criteria, specific statutory components of the legislation, and potential challenges.



Dr. Sarah Taylor, Executive Director of the Critical Area Commission, outlined the events that led up to the development and adoption of the Critical Area Criteria. In 1984, the Environmental Protection Agency completed a study which concluded that the Chesapeake Bay was experiencing severe environmental decline and that immediate steps were necessary to mitigate the impacts of human activity upon the Bay. In response, the state of Maryland passed 34 separate initiatives addressing the environmental problems. The initiative which established the Critical Area Program declared all lands from the high tide line to 1,000 feet inland as the critical area and established the Chesapeake Bay Critical Area Commission to develop regulations to guide future development. The Commission began work in October of 1984 and was given until December of 1985 to develop criteria to be considered by the state legislature. The overriding goal was to accommodate future growth in a way that minimized impacts to water quality and the environment. Members of the Commission felt that these goals would be best achieved by examining and classifying existing growth, allocating future growth and trying to distribute new growth away from the critical area.

Dr. Kevin Sullivan, scientific advisor to the Critical Area Commission, prefaced his remarks by stating that the concepts in the Criteria reflect components of other programs from around the country. He described previous attempts to protect the Chesapeake through the use of engineering solutions and performance standards as insufficient. The Critical Area Criteria were developed to coordinate and refocus existing efforts to accommodate future growth while protecting the water quality of the Bay. Sullivan explained the structure and content of the Criteria. The Criteria begins by designing and establishing a classification scheme for existing land use which becomes the basis for allocating future growth. The three classes used are: Intensely Developed Areas; Limited Development Areas; and Resource Conservation Areas. The Criteria lists specific goals and standards for all future development in these areas. The second part of the Criteria explains the components of the critical area protection programs required of local jurisdictions, as well as variance and grandfathering provisions. The final section of the Criteria addresses resource management and protection issues including: shore erosion, forests and woodland protection, agriculture, surface mining, natural parks, and habitat protection.

Implementation of the Critical Area Criteria depends heavily upon the existence of a substantial information base, much of which was created as the result of strong support by the federal government. Sullivan emphasized the importance of the role of state agencies for insuring the success of the Critical Area Program.

Lee Epstein, the attorney for the Commission, described the variance provision in the Criteria and addressed concerns over the taking issue. This question arose through the Resource Conservation Areas classification which restricts development intensity to one dwelling unit per 20 acres. Epstein believes that the courts will uphold any downzoning actions resulting from this classification as not involving a taking. He also described the enforcement mechanisms available to the Commission and noted that there are no citizen suit provisions in the Criteria.

The last session on Thursday afternoon was entitled "Lobbying Roundtable: Effective Grassroots Efforts." This was a "how-to" session which stressed methods that planners could use to effect state and national legislation important to planning. Joseph T. Fitzpatrick, City Treasurer for Norfolk, Virginia and a former member of the Virginia legislature discussed lobbying techniques that were particularly effective in influencing legislators and suggested strategies for providing information and advancing legislation. George Marcou, Deputy Executive Director of the APA, and Nancy Schamberg Willis, Director of Government Affairs for APA, provided additional suggestions for effective lobbying techniques. Willis provided a list of tips for communicating with lawmakers which recommended getting to know the lawmaker's staff person, making sure that information is current, keeping letters brief, and using local examples to substantiate one's position. The APA staff also mentioned that the APA office in Washington, D.C. has materials available on lobbying at the chapter level.

The five Friday sessions were: "Innovative Transit Options"; "Hiring and Using Consultants"; "Planning Commissioners' Workshop"; "Development Fees: The National Perspective"; and "Housing the Homeless: Planning Issues for the International Year of the Homeless, 1987."

The first session presented a national perspective on impact fees and discussed the legal and theoretical aspects of preparing a defensible and logical fee system. Dr. Thomas Snyder of the University of North Carolina at Chapel Hill Department of City and Regional Planning discussed the issues of in-



*Providing Infrastructure—Who Will Pay?*

tergenerational equity and economic efficiency of impact fees. Traditionally, each generation of citizens has paid for its own infrastructure needs and, in part, has funded some of the next generation's needs. This has worked reasonably well in communities that have grown at a moderate pace. However, impact fees may be required when the existing infrastructure cannot accommodate rapid growth. The necessary urban infrastructure cannot be provided by the combination of current revenues and contributions from the previous generation. When designing an impact fee system a fair distribution must be maintained between costs charged to new residents and those paid by existing residents. Snyder believes that impact fees have a rightful place in the arsenal of planning tools, but warned of the potential for misuse. Besides the intergenerational equity problems, economic analysis suggests that impact fees may lead to higher rents, slower economic development, and may indeed be a very poor growth control measure. James Duncan, the Director of Land Development Services for the City of Austin, Texas, followed Snyder with a step-by-step discussion of how to design a legally defensible impact fee system, and worked through the many definitional distinctions necessary to understand the vocabulary of the field.

The second session focused on specific examples of existing workable development fee systems and featured detailed explanations of the programs in Montgomery County, Maryland and Raleigh, North Carolina. Richard Tustian, Planning Director of the Maryland-National Capital Park and Planning Commission, described the preparation and implementation of the Montgomery County impact fee system. Ira J. Botvinick, Deputy City Attorney for Raleigh, presented that city's plan for impact fees and warned the audience not to jump on the im-

pact fee bandwagon too hastily. Botvinick's detailed outline of the possible legal pitfalls of development fees suggested that an increase in property taxes might be an easier way to raise money. William Breazeale, Assistant Planning Director for Raleigh, continued the discussion with details of the data collection and modeling that were employed during preparation of the city's fee system.

"Housing the Homeless" was moderated by APA President Norman Krumholz. The Reverend John F. Steinbruck, Pastor of Luther Place Memorial Church and Director of the Luther Place Women's Shelter in Washington, D.C., described the homeless problem in Washington, and his experiences running a shelter. He lamented the lack of sufficient political will in this country to address the needs of the homeless and noted that the problem was compounded by the absence of advocates for this segment of society. Steinbruck was extremely critical of the policies of the Reagan administration and the policies of the District of Columbia addressing the homeless problem. He explained that despite large increases in private and volunteer efforts, these alone cannot solve the problem. The government must become more involved in finding solutions to the homeless problem.

Arthur L. Sargent, Director of Community Planning for the Health and Welfare Council of Baltimore, Maryland was the principal investigator on a recently completed study entitled "Homeless in the State of Maryland: A Study of People at Society's Economic Margin, and Their Service Needs." He prefaced his remarks by reminding the audience that to be homeless means being totally vulnerable and that the problems of the homeless are extremely complex. Many of the people on the streets are there because they have fallen through the cracks of every program designed to help them. In looking at homeless individuals in Maryland, Sargent's report found the most pressing service needs to be: emergency services, transitional housing, affordable housing, specialized housing, and housing that is linked to job training and health services. The report also found numerous barriers to providing for these needs, including uncoordinated funding, lack of sufficient motivation to help the homeless, the complexity of the problem, and the diversity of the homeless population. Sargent concluded that there is a short-term emergency need for "urgent charity," a long-term need for "rigorous justice," and an overall consistent approach to the problem of homelessness. □