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An Agricultural Law Research Article

Introduction: State and Local Land Use Planning and Control in the Agricultural Context

by

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INTRODUCTION: STATE AND LOCAL LAND USE PLANNING AND CONTROL IN THE AGRICULTURAL CONTEXT

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This Introduction discusses the role of state and local land use planning as it affects agriculture. The author reviews three legislative approaches advocated to guarantee or increase statewide involvement in planning and control, including the formulation of statewide comprehensive land use plans. The author concludes that consistent exercise of the zoning power by local government pursuant to comprehensive land use plans will preserve agricultural lands.

INTRODUCTION

Beginning herewith, is the Seventh Annual Symposium on Agricultural Law to be published by the South Dakota Law Review. More important than the actual number itself is the fact that this is the first issue of the new decade—the 80's—a decade that seems destined to see the blooming of agricultural law as an independent and distinctive area of the law for all important purposes, including law school courses, treatises, casebooks, law reviews, and legislation.[1] Thus, those who conceived and promoted the idea of the symposium in 1974 will be further vindicated as having been visionaries but not too far ahead of their times to also be classified as pragmatists.

Exactly how important agricultural law will become in the 80's is something one should be hesitant to predict. Most authorities working in the area cannot resist eyeing the example set in such similar circumstances by environmental law, which burst into prominence in the early 70's after modest beginnings in the late 60's. Indeed, the use of environmental law as a model does not seem inappropriate since the legal problems of both agriculture and environmental preservation and control can be said to arise in traditional areas of law such as property, land use control, torts, administrative law, business regulation, antitrust law, taxation, and the like. The need to consolidate and synthesize legal problems and issues as they affect the environment has established the need to treat environmental law as a separate legal speciality. Likewise, the need to concentrate and synthesize the legal approach to agricultural issues should establish agricultural law as a distinct area of law.

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1. The author is not aware of any up-to-date listing of courses, treaties, etc. A perusal of the Law Teachers Directory shows many listings of agricultural law school courses and seminars. A treatise, authored by numerous experts and edited by Professor Davidson of the University of South Dakota will be published by Shepards/McGraw-Hill in 1980. A multi-volume work on Agricultural Law has recently been published by Matthew Bender and is reviewed herein. The author and Professor Wadley of Washburn College of Law are co-authoring a one volume treatise to be published in 1981 by Little, Brown. The listings under "Agriculture" in each new volume of the Index to Legal Periodicals seem to increase in geometric progression.

A further analogy to the development of environmental law seems in order. The public interest in the environment and the recognition of the societal need to recognize the importance of clean air, water, and preservation of forests and other natural areas which culminated in Earth Day was without doubt a very important factor in the development of environmental law.[2] Americans seem at least on the verge of an Earth Day-type recognition of the essential and key role being played by American Agriculture in today's world. To note only a few indications of this phenomenon—the importance of American grain and other agricultural products in the balance of payments and concomitant value of the U.S. dollar in world currency exchange markets; the role being assigned, for better or worse, to American Agricultural products as weapons of international politics through embargos and quotas; the restriction of foreign purchase of American farmland; and finally, the increased hope that American agriculture will alleviate the energy shortage through gasahol production and the like.

AGRICULTURE AND LAND USE PLANNING

Whether the 80's become the heyday of agricultural law or not is for many purposes immaterial because many agricultural issues are already established as being of prime importance to 20th Century America. This introduction will focus on one of those issues—namely, the role of state and local land use planning as it affects agricultural lands and enterprises. The problem is how to preserve and protect agricultural lands from the pressures of urban sprawl. The importance of this problem is proved, if one needs proof, by how frequently it has been examined in legal writings, including this symposium, in recent years.[3]

It is the thesis of this author that too much emphasis has been placed on taxation and other economic incentives as the solution to the problem of preserving agricultural lands[4] and too little attention has been directed to

2. *See* Clawson, *Introduction: Social Controls Over Private Land Use*, 22 S.D.L. REV. 479, 490 (1977).

3. It is significant to note that the first SOUTH DAKOTA LAW REVIEW Symposium contained an important article on point. Ellingson, *Differential Assessment and Local Government Controls to Preserve Agricultural Lands*, 20 S.D.L. REV. 548 (1975). Other recent discussions of the subject include: Dean, *The California Land Conservation Act of 1965 and the Fight to Save California's Prime Agricultural Lands*, 30 HASTINGS L.J. 1859 (1979); Keene, *A Review of Governmental Policies and Techniques for Keeping Farmers Farming*, 19 NAT. RESOURCES J. 119 (1979); Lapping, Bevins, & Herbers, *Differential Assessment and Other Techniques to Preserve Missouri's Farmlands*, 42 MO. L. REV. 369 (1977); Peterson & McCarthy, *Farmland Preservation by Purchase and Development Rights: The Long Island Experiment*, 26 DEPAUL L. REV. 447 (1977); Wershow & Juergensmeyer, *Agriculture and Changing Legal Concepts in an Urbanized Society*, 27 U. FLA. L. REV. 78 (1974); Comment, *Farmland Preservation Techniques: Some Food for Thought*, 40 U. PITT. L. REV. 258 (1979).

4. *See* Adamson, *Preferential Land Assessment in Virginia*, 10 U. RICHMOND L. REV. 111 (1975); Cooke & Power, *Preferential Assessment of Agricultural Land*, 47 FLA. B. J. 636 (1973); Currier, *An Analysis of Differential Taxation as a Method of Maintaining Agricultural and Open Space Land Uses*, 30 U. FLA. L. REV. 821 (1978); Henke, *Preferential Property Tax Treatment For Farmland*, 53 ORE. L. REV. 117 (1974); Lapping, Bevins & Herbers, *supra* note 3; Myers, *The Legal Aspects of Agricultural Districting*, 55 IND. L.J. 1 (1979); Nelson, *Differential Assessment of Agricultural Land in Kansas: A Discussion and Proposal*, 25 U. KAN. L. REV. 215 (1977); Comment, *Pref-*

the importance of land use planning at the state and local government levels and the implementation of such plans through local land use regulations. Although tax incentives may be useful and effective in certain situations and areas, their ultimate effectiveness depends upon economic factors that are seldom sufficiently coordinated with or encompassed within a given preferential scheme to guarantee results on a comprehensive and equitable basis. Professor Currier has recently observed that the majority of studies indicate that differential tax programs do not have a significant impact on the pace at which undeveloped land disappears.[5] There may be other reasons for retaining such tax programs, but properly implemented land use planning seems to be a much more effective approach.

Until recently, the "planning" aspect of the land use planning and control process in this country had been a miserable failure. In theory, a comprehensive plan has always been a prerequisite to zoning and other exercises of the police power through land use control.[6] Nevertheless, most local land use control authorities and most judges have required little more than a map of the jurisdiction in question, properly colored in to show the zoning use districts, as evidence of the existence of a comprehensive plan.[7]

This lack of true comprehensive planning and the resultant prevalence of subjectivity, arbitrariness, and inconsistency was one of the factors that gave birth to the so-called "quiet revolution" in land use control.[8] One of the key tenets of the "revolution" was to vest planning and control power in state governments,[9] which have delegated this power through the various zoning enabling acts.[10] The purpose alleged to be served by this approach was to guarantee or at least increase the statewide view of land use, and also to insure that state and regional policies would be considered and effectuated rather than just local interests. Three legislative approaches have been advocated to accomplish this goal: (A) requiring state legislatures to formulate and follow state comprehensive plans; (B) classification of certain areas of a state as areas of critical concern and classification of certain types of developments as developments of regional impact, and; (C) a state requirement that all units of local governments formulate, adopt, and implement comprehensive plans. All three approaches have the potential to greatly affect the way in which agricultural lands are regulated and preserved.

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erential Assessment of Agricultural Property in South Dakota, 22 S.D.L. REV. 632 (1977); Note, *Property Taxation of Agricultural and Open Space Land*, 8 HARV. J. LEGIS. 158 (1970); Note, *Preferential Property Tax Treatment of Farmland and Open Space Under Michigan Law*, 8 U. MICH. J.L. REF. 428 (1975).

5. Currier, *supra* note 4.

6. The requirements of a comprehensive plan were contained in the Standard State Zoning Enabling Act, U.S. DEPARTMENT OF COMMERCE, ADVISORY COMMITTEE ON ZONING, A STANDARD STATE ZONING ENABLING ACT (rev. ed. 1926).

7. *See* Haar, *"In Accordance with a Comprehensive Plan"*, 68 HARV. L. REV. 1154 (1955).

8. F. BOSSELMAN & D. CALLIES, THE QUIET REVOLUTION IN LAND USE CONTROL (1971).

9. *See* T. PELHAM, STATE LAND USE PLANNING AND REGULATION 1, 1-10 (1979).

10. *See* note 6 *supra*.

State Comprehensive Plans

Oregon and Florida have the "model" legislation requiring the formulation, adoption, and implementation of statewide comprehensive plans.[11] Agricultural land and uses are given considerable attention in both states' plans. In fact, preservation of agricultural land is said to have been the primary motivation behind the adoption of the Oregon comprehensive planning statute.[12]

The goals and guidelines for Oregon's agricultural lands are now formulated as follows:[13]

> Goal: To preserve and maintain agricultural lands.
> Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space. These lands shall be inventoried and preserved by adopting exclusive farm use zones pursuant to ORS Chapter 215. Such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area. Conversion of rural agricultural land to urbanized land shall be based upon consideration of the following factors: (1) environmental, energy, social and economic consequences; (2) demonstrated need consistent with LCDC goals; (3) unavailability of an alternative suitable location for the requested use; (4) compatibility of the proposed use with related agricultural land; and (5) the retention of Class I, II, III and IV soils in farm use. A governing body proposing to convert rural agricultural land to urbanizable land shall follow the procedures and requirements set forth in the Land Use Planning goal. . . .
> Guidelines
> A. Planning
> 1. Urban growth should be separate from agricultural lands by buffer or transitional areas of open space.
> 2. Plans providing for the preservation and maintenance of farm land for farm use, should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
> B. Implementation
> 1. Non-farm uses permitted within farm use zones under ORS 215.213(2) and (3) should be minimized to allow for maximum agricultural productivity.
> 2. Extension of services, such as sewer and water supplies into rural areas should be appropriate for the needs of agriculture, farm use and nonfarm uses established under ORS 215.213.
> 3. Services that need to pass through agricultural lands should

11. For a detailed discussion of both the Oregon Act (OR. REV. STAT. § 197.225 ff (1977)) and the Florida Act (The Florida State Comprehensive Planning Act, FLA. STAT. ANN. §§ 23.011-0193 (West Supp. 1979)) *see* T. PELHAM, *supra* note 9, Ch. 7.

12. T. PELHAM, *supra* note 9, at 158.

13. Oregon Land Conservation and Development Commission, Statewide Planning Goals and Guidelines 6 (1975).

not be connected with any use that is not allowed under ORS 215.203 and 215.213, should not be assessed as part of the farm unit and should be limited in capacity to serve specific service areas and identified needs.

4. Forest and open space uses should be permitted on agricultural land that is being preserved for future agricultural growth. The interchange of such lands should not be subject to tax penalties.

Florida's comprehensive plan takes a much broader approach. It considers the preservation of agricultural land, vis-a-vis urban expansion, as just one of many concerns facing the agricultural sector of the state. As the following passage indicates, it places equal emphasis upon Florida agriculture's water, land, government, energy, marketing, and farm labor problems:[14]

Goal I—Food

To promote a productive and prosperous agriculture that will help supply the nation's consumers with a variety of high quality foods and other agricultural products.

Goal II—Economy

To contribute toward the achievement and maintenance of a healthy, balanced state economy.

Goal III—Renewable Resources

To assure future food production and promote a healthy Florida environment.

Goal IV—Non-Renewable Resources and Water

To promote the efficient use of resources in agricultural production, processing, and marketing.

Goal V—People

To enhance the skills of people in agricultural employment, promote mutually beneficial employee-employer relationships, and provide agricultural workers and their families with opportunities to elevate the dignity and quality of life.

Goal VI—Fiber

To enhance the protection and efficient harvest of timber from forest land, consistent with other resource values, and enhance the utilization and processing of wood products to help the nation's short- and long-term needs.

WATER

Objective A: Priorities

Water use should be resource oriented and priorities governing its use should be determined according to the importance of each activity to society.

Policies

1. Provide local governments with quantitative estimates of the limitations of their water resources. Each locality should plan the character of its area at its discretion so as not to exceed the water resource limitations.

14. Division of State Planning, Florida Department of Administration, The Florida State Comprehensive Plan.

2. Consider the limitations of the water system in land-use planning decisions.

Objective B: Conservation

Florida farmers, as well as urban Floridians, should utilize water conservation practices.

Policy

3. Where feasible, urban effluent and excess irrigation water (tailwater) should be used, recycled, and reused by agriculture.

Objective C: Natural Ecosystems

The capacities of natural ecosystems as mechanisms that affect water quality and quality management should be more fully understood and utilized.

Objective D: Water Retention

Rainfall should be retained as close to the place where it falls as is compatible with a healthy agriculture, with release of the water kept as close to the natural discharge pattern as possible in order to moderate seasonal wet and dry cycles and minimize water pollution from other sources.

Policy

4. Encourage sound agricultural practices that will minimize water pollution from diffuse (non-point) sources.

LAND

Objective E: Preservation of Agricultural Land

To prevent further harm to Florida's renewable resource lands through unregulated development, the state should embark upon a program to identify and preserve agricultural lands with special emphasis upon those agricultural lands most seriously threatened by urban development or other forces.

Policies

5. Designate agricultural resources as essential, renewable resources of our environment that should be dealt with in environmental and socio-economic impact statements.

6. Define agricultural land as land having soil, climate, water, and topography so interrelated that, if prudently managed to protect the natural qualities of the land, it is favorable for the production of adapted crops.

7. Maintain Florida's 10-year statewide soil survey mission with increased priority given to rapidly urbanizing counties having agricultural, environmental, and other renewable resources lands so that proper consideration of the soil will be a factor in agricultural planning and development.

8. Consider the protection of the natural qualities of the land and water and the capabilities and needs of the soils so as to discourage and discontinue soil wastage and soil erosion in all planning and developmental activities affecting Florida's lands.

Objective F: Tax Laws and Policies

The preservation of agricultural land should be encouraged through provisions in, and enforcement of, existing tax laws and policies at all levels of government.

Policies

9. Establish policies that require new developments to pay for all services and facilities essential for their development in keeping with this objective and the objectives, needs, and resources of the local area.

10. Provide that agricultural land may be taxed at its value as farm land as long as it remains in agriculture, and raise the federal estate tax exemption to a more realistic present-day level.

Objective G: Property Rights Protection

Governments should recognize that property may be regulated to a certain extent, but ensure that compensation is provided to the property owner if the courts determine that the regulation is unreasonable and amounts to a taking.

GOVERNMENT

Objective H: Government Spending

Both the State and Federal Government should minimize spending by reexamining existing programs and seeking the most effective, least costly ways to carry out the functions that are deemed most important.

Policies

11. Seek and adopt ways to achieve efficient compliance with state and federal regulatory programs that deal with agricultural industries.

Objective I: Unreasonable Regulations

Administrative agencies of government should identify and rectify situations where unreasonable regulation of the agricultural community is occurring.

Policy

12. Encourage, at all levels of government, the use of regulation based on performance standards rather than on rigid specifications and procedures.

ENERGY

Objective J: Conservation

Energy should be conserved in the production, processing, and distribution of agricultural commodities, to levels that are consistent with the demands of Florida and the nation.

Policies

13. Review and reformulate the federal and state laws and regulations and union rules that govern agricultural transportation so that these rules, laws, and regulations promote the wise use of energy and broaden agricultural transportation capabilities.

14. Encourage agricultural producers to make full practical use of the existing conservation practices so that production is maximized while energy use is minimized.

15. Encourage more efficient use of crop residues and the recycling of agricultural and urban wastes.

Objective K: Research

Basic and applied research should be conducted into ways to improve the effectiveness of energy use in agricultural.

Policies

16. Encourage research into ways to increase the conservation of

energy in agricultural production, processing, and the entire agribusiness industry.

17. Encourage research into ways to increase the use of solar and other alternative sources of energy in agricultural operations.

Objective L: Information Dissemination

The state should keep all agricultural sectors informed about the current energy situation and should disseminate information about ways to improve the effectiveness of energy use in Florida.

Policy

18. Encourage a high priority for the dissemination of energy conservation practices through extension and education programs.

Objective M: Supplies

The state should attempt to ensure that sufficient energy resources are provided for all sectors of Florida agriculture when and where the resources are needed.

Policy

19. Encourage the federal government to include all sectors of Florida agriculture under agriculture's energy allocation priority rating.

MARKETING

Objective N: Marketing Efficiency

The state should encourage improvements in the efficiency and effectiveness of the systems used to market Florida's agricultural products.

Policies

20. Continue to provide adequate state and federal support for research and educational programs that focus on agricultural marketing.

21. Encourage uniform laws and regulations for all highway transportation.

22. Achieve an adequate transportation system for agricultural products, by working with agricultural groups and the United States Congress to promote a balanced transportation system that includes rail, truck, water, and air.

23. Provide timely agricultural marketing information of the type and in the form most useful to the trade.

24. Provide information and technical assistance, through existing state agencies, to consumer and producer groups that wish to increase their direct producer-to-consumer marketing.

25. Expand foreign markets for Florida's agricultural products by providing a climate that encourages export activities and by providing assistance to selective programs of export market development and promotion.

LABOR

Objective O: Skills and Work Environment

Employment opportunities should be maximized for agricultural labor through the use of programs that enhance skills and through improvements in the work environment.

Policies

26. Devise a system that encourages short-term employment op-

portunities and promotes bona fide interstate job referrals for farm laborers during the summer weeks when farm labor jobs decline.

27. Assure that local job training programs available in the agricultural areas of the state are related to the changing needs of agriculture.

28. Provide safe and adequate field sanitation.

29. Require crew chiefs and other farm labor employers to furnish written statements certifying that, in their belief, all of their employees are legally eligible to work.

30. Undertake a detailed examination of the feasibility of extending mandatory coverage under the state Workmen's Compensation Law to all agricultural employees while providing small growers with the protection of rates that are equitable with those of large growers.

Objective P: Quality of Life

Farm workers and their families must be offered the same dignity, understanding, and quality of life that are offered to other members of their communities.

Policies

31. Achieve stricter enforcement of crew chief registration by consolidating the enforcement of federal and state laws at the state level, by upgrading the State's enforcement capabilities, and encouraging industry to increase its voluntary compliance with provisions of the law.

32. Review the physical standards for child care center buildings on a regular basis, for the purpose of increasing the availability of child care centers for rural, low-income, farm worker families.

33. Enforce federal and state child labor laws rigorously.

Areas of critical state concern and development of regional impact

Another key goal of those seeking to revolutionize land use control through its rationalization is embodied in Article 7 of the American Law Institute Model Land Development Code.[15] Article 7 actually embodies two separate ideas: (1) that certain areas of a state—for example, prime agricultural lands or aquifer recharge areas—are of such importance to the entire state that the state should play a major role in their protection and preservation through various land use control devices,[16] and (2) that certain developments impact so significantly on the entire state, or at least on major portions of the state outside the local government's jurisdictional boundaries, that such developments should be undertaken only after state and regional considerations have been invoked.[17] The two approaches are unified

15. A.L.I. MODEL LAND DEVELOPMENT CODE art. 7 (1975).

16. For a discussion of the provisions of the Model Code concerning areas of critical state concern as enacted in Florida, *see* J. JUERGENSMEYER & J. WADLEY, FLORIDA LAND USE RESTRICTIONS ch. 23 (Looseleaf).

17. The Florida enactment of the relevant Model Code provisions are also discussed in J. JUERGENSMEYER & J. WADLEY, *supra* note 16.

by the concept that certain land use control decisions should not be left entirely within the power of local land use control authorities.

Local Government Comprehensive Plans

Another recent development in the land use control area is the requirement via state legislation that all units of local government formulate and adopt comprehensive plans that meet state specified standards.[18] The important enforcement mechanism in such statutes is the so-called "consistency requirement" whereby the state statute requires all subsequent land use regulations by local governments to be consistent with the state comprehensive plan.[19]

A specifically required element of such a plan normally includes planning for agricultural lands and related activities. Thus, the Florida act provides for a "future land use plan element designating proposed future general distribution, location, and extent of . . ."[20] agriculture as well as the requirement that each local government comprehensive plan contain an "open space element."[21]

CONCLUSION

One land use control expert has recently observed that the "quiet revolution" in land use control has become "quiescent"[22] in the sense that the transfer of land use control power from the local to state and regional levels has slowed down and proved disappointing where it has been tried.[23] This does not mean, however, that we have returned or will return to the pre-quiet revolution era. What has been accomplished, frequently by way of the opposition of agricultural interests to the idea of shifting land use control power to the State level, is a strengthening of land use planning at the local level. Due to state planning and state-required planning, the arbitrariness and inconsistency that characterized local land use decisions in the past, with regard to agricultural as well as urban lands, is beginning to lessen.

Thus, for the near future at least, the principal threatre for land use control dramas will be the planning-oriented local land use control authority. It remains to remind the reader of the key tools and concepts possessed by such authorities in regard to regulation and protection of agricultural lands. The best land use control device would seem to be the oldest—zoning. In spite of changes and reforms, zoning remains the most frequently

18. California, Oregon and Florida are once again the leading states in this regard. *See* CAL. GOV'T. CODE § 65300 (West 1966); OR. REV. STAT. § 197.175 (1977); FLA. STAT. ANN. §§ 163.160-315 (West 1972).

19. *See* T. PELHAM, *supra* note 9, at 148.

20. FLA. STAT. ANN. § 163.3177(6)(a) (West Supp. 1979).

21. FLA. STAT. ANN. § 163.3177(6)(e) (West Supp. 1979).

22. T. PELHAM, *supra* note 9, at 3.

23. "From 1961 to 1975, a veritable flood of state land-use legislation swept across the country. . . . But by the mid-1970's, the flow of such state legislation had slowed to a trickle." T. PELHAM, *supra* note 9, at 3.

used and most generally appropriate land use control device in regard to agricultural lands.

The failure of zoning to solve myriad urban ills should not obscure its appropriateness for protection of agricultural lands vis-a-vis development. The major problem in regard to zoning and agricultural uses is not inherent in zoning but in one of its increasingly discredited approaches, i.e., "cumulative" concept. Under the cumulative idea of zoning, all higher, *i.e.*, more preferred uses, are permitted in "lower" categories.[24] Since urban oriented planners were development oriented, "agricultural use" was generally ranked at or near the bottom, meaning that some other use could be ranked higher, no matter how inconsistent or competing with agricultural activities it was. One need only take a short drive in many rural areas to see the spattering of residential and non-farm related commercial and industrial uses that spoil the rural scene, decrease property values, and are the basis for complaints of odors or sounds that those persons voluntarily chose to be near. Many zoning ordinances that allow only agricultural and specifically permitted uses in agricultural zones proceed to specifically permit so many inappropriate uses that the result is the same.[25] This familiar pattern must not obscure the fact that agricultural use zones can and should permit only agricultural and appropriate accessory uses.

A further problem encountered with agricultural use zones is the status of their fringes. Inherent in the zoning process is drawing lines, which means that for agricultural lands abutting land zoned for other uses, development pressures and conflict of uses will often be severe. This frequently leads the agricultural entrepreneur to defeat the protective purpose of zoning by applying for variances and rezonings allowing for non-agricultural development of his land. Once again, newer zoning concepts provide possible avenues for the relief of conflict and the lessening of the economic burden. Buffer zones can frequently be provided if careful attention is paid to the planning of development in the area. One approach is to use cluster or planned unit development patterns[26] for the land to be developed in the fringe area so that open space will adjoin the farm land and not houses or stores. The same result can sometimes be accomplished by requiring dedication[27] by the developer of strips of land adjoining farms so that parks, recreation areas, open space or conservation easements will separate the developed land from that designated for agricultural use.[28] If all else fails, the

24. *See* Katobimar Realty Co. v. Webster, 20 N.J. 114, —, 118 A.2d 824, 829 (1955).

25. A Florida zoning ordinance includes as special exception uses in agricultural zones: cemetaries, kennels, hospitals, schools, sawmills, asphalt plants, golf courses, etc. *See* J. JUERGENSMEYER & J. WADLEY, FLA. ZONING—SPECIFIC USES, § 12-10, (1st ed. 1980).

26. The classic examination of clusters and planned unit developments can be found at Symposium, *Planned Unit Development*, 114 U. PA. L. REV. 1 (1965).

27. A partial list of the legal literature, concerning required dedications or exactions can be found at D. HAGMAN, URBAN PLANNING AND LAND DEVELOPMENT CONTROL LAW 253 n.37 (1971).

28. Several states have specific statutory provisions regarding the dedication of conservation easements. *See, e.g.*, FLA. STAT. ANN. § 704.06 (West Supp. 1979).

farmer's development rights can be purchased via transferable development rights[29] or zoning by special assessment financed eminent domain,[30] thereby at least partially compensating the farmer for being required to forego development windfalls.

Each of these zoning innovations merits and has received detailed attention elsewhere. The point to be made here is that the future of agriculture lands preservation and protection would seem to center not on the shifting of land use power from the local to the state or regional level but the consistent, competent and innovative exercise of the zoning power by local governments, pursuant to comprehensive land use plans which emphasize the essential role that agriculture does and will continue to play in our nation's future.

29. *See* PETERSON & MCCARTHY, *supra* note 3.

30. Hagman, *Zoning by Special Assessment Financed Eminent Domain (ZSAFED)*, 28 U. FLA. L. REV. 655 (1976).