

NEW INSTITUTIONS FOR JOINT DEVELOPMENT

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The need for coordinating development of transportation and land use has long been recognized by professional planners and engineers. Such recognition is now becoming more widespread. We must now give more serious consideration to establishing institutional mechanisms that could be effective in implementing the concepts for coordination that have evolved. We should especially give attention to developing legislation that would permit, facilitate, and perhaps even require joint development.

•TRANSPORTATION and land use decisions are made largely independently of each other. Little effort is exerted to control or guide land use and relatively few concessions are made to land use plans in the design and construction of transportation facilities. It appears that planners and engineers who know better have largely given up trying to implement concepts such as coordinated interchange planning, multiple use of rights-of-way, and joint development (1). Even in the area of transit station location and design, i.e., where coordination is essential to efficiency and effectiveness, relatively little real coordination is being achieved. Much of what passes for coordination is little more than cosmetic design. Seldom are functional changes made in either transportation facilities or land use.

There are many reasons why we have not been more successful in achieving joint development: a lack of a sense of (a) urgency, (b) understanding about the levels at which coordination must be achieved, and (c) the concepts to be applied. However, the main reason that we do not make more progress in the coordination of transportation and land use is probably that the institutional tools that would increase the potentials for accomplishing joint or coordinated development are not well developed.

Joint development at a corridor scale is not being pursued because no agency or coordinated group of agencies has the resources required to deal effectively and comprehensively at this level. State highway departments and regional transit authorities are normally concerned with only one transportation mode and have no official responsibility for land use. Regional planning agencies and councils of government may have the necessary comprehensive concern, but they seldom have jurisdiction over either transportation or land development.

Aside from new towns, we have not devised ways of achieving joint development at the community scale. Even at the project scale, the problems of joint development often seem overwhelming. Thus, although joint development is theoretically possible and is sometimes achieved, it is far from commonplace. Its potentials for the solution of urban problems are hardly being scratched. If we are to move forward with joint development, more effective institutions and arrangements must be created.

We must be serious in developing legal and institutional ways to carry out joint development at all levels. We can point to some important precedents. Much of the extension of the railroad system through the West was accomplished through a form of joint development. Railroad companies were encouraged to and did establish settlements along their new lines. Later, the barons of the electric utility industry built electric railways and established strings of communities along them, e.g., Cleveland and Shaker Heights. Sweden and other European countries also provide examples of joint development at a corridor scale. And in the United States, from time to time, proposals (if not definite plans) are made for building new towns or major employment complexes in conjunction with the extension of highway and transit facilities.

Another precedent exists in the history of river basin development. A number of fairly successful programs have been carried out, and, in many respects, the issues involved are as complex as those found in transportation and land use. Probably the most famous river-related joint development is that carried out by the Tennessee Valley Authority (TVA). For many years, the TVA was pointed to as a model of how to approach a complex set of economic, social, and environmental problems that can only be resolved through joint and coordinated development. Unfortunately, the TVA experience has now been all but forgotten, but we should try to find out what lessons from the TVA might be applied to the problems of urban transportation (2).

Some conditions that should be achieved to help in accomplishing joint development and that are inherent in some of the historical precedents are

1. Agencies responsible for stimulating joint development must have flexible use of funds. Although one purpose may predominate, it must be possible to allocate moneys to stimulate and help secondary activities that are related to the primary objective.
2. Entities responsible for joint development should have a relatively broad charge. This charge should go well beyond building or helping to build a route from point A to B. Rather, it should recognize the interrelated nature of various systems and of transportation, land use, and other significant facilities or activities.
3. Programs for joint development at the corridor or sector level should probably work through existing institutions as much as possible. Joint development at these levels requires mainly mobilizing and organizing programs and activities already under way. There is no need, and it may be harmful, to create superagencies to achieve joint development objectives. Rather, it may be best to develop ways of using gentle but strong incentives to obtain the coordination and action required.
4. The corporation concept should be used as one model or point of departure for the organization of joint development agencies, at least at the project scale. Such corporations should be held publicly accountable but should be permitted latitude comparable to that of private companies in important matters such as buying and selling land, generating income and profit, and charging for services rendered.

What are some of the ways in which the conditions and organizations that will be effective in joint development can be achieved? No one technique or device will be adequate. There are many different situations that must be met with different approaches. In almost every case, special legislation is needed to establish the necessary mechanisms and to permit the actions required.

A number of possible models or formats should be considered and several should be available for use in every state or region. The most obvious of these include the application of zoning and other regulatory power. Although such devices may be valuable in some situations and necessary in most, they do not provide the levels of coordination required. Other measures are needed. These must involve more significant ability to acquire rights to and to allocate the use of land and money. Some of the possibilities for achieving joint development are discussed.

POWERS OF TRANSPORTATION AGENCIES

Broadening the responsibilities and powers of transportation agencies to include various aspects of land development should be used in many situations where opportunities for joint development are limited, scattered, and intimately related to the functioning of the transportation system. This is the technique involved in rather major ways in the development of most air and sea ports and in minor ways in the development of roadside stops along freeways and newsstands in transit stations. Major port authorities usually have the broadest responsibilities and powers.

There are obvious advantages and disadvantages to using this technique. Where a particular land use or activity is clearly necessary for transportation system operation, it may be provided for quite well. However, where the advantage to the transportation function is less clear, it is unlikely that suitable provision will be made for the land use in the construction or operation of the transportation facility. This is

particularly true if there is some risk of opposition or failure or if the effort to obtain coordinated development is not clearly matched with a potential return.

Because most functions (e.g., housing, commerce, education, recreation) are perceived in view of the responsibility of other institutions or agencies, there is likely to be opposition to the efforts of transportation agencies to provide for facilities or services beyond transportation. Nevertheless, in many situations, the best potential for achieving effective joint development will be through expansion of the responsibilities and powers of such agencies. They are often best equipped to expand to meet new requirements, and they must be involved in the achievement of joint development objectives; however, care must be taken to expand the vision and understanding of the broader missions to be achieved as grants of power are increased.

MULTIFUNCTIONAL PUBLIC CORPORATIONS

The New York State Development Corporation, British new town corporations, and the TVA are examples of multifunctional public corporations. Local redevelopment authorities also have often been effective in planning and implementing somewhat limited joint land use and transportation projects and programs.

Such corporations probably offer some of the greatest potentials for achievement of effective joint development; however, they too have often suffered from limitations in financing and in the way their missions are defined. Thus, if maximum potentials for coordination are to be achieved, roles must be more broadly defined and necessary financing, particularly of transportation facilities, must be channeled into and through such organizations.

The public corporate model could be applied in many ways. For example, a corporation could be created to take the initiative in joint development projects throughout a state or a region on an open-ended basis. Or it could be established with objectives limited to a specific corridor, area, or project. The New York State Urban Development Corporation is one example of the first type; the typical British new town corporation is an example of the second. Such corporations are sometimes formed to achieve narrow objectives, such as the construction of new public office and parking facilities, and they then expand their role to include the construction of a wide range of public facilities (e.g., public building commissions in Indianapolis and Chicago).

One of the chief limitations of public corporations is that they are frequently restricted in the amounts and types of nonpublic development that they can include in their projects and in the ways in which they can cooperate with private investors and operators. Redevelopment agencies are usually free to work with private investors and developers; however, they can usually participate only in projects involving land that is either slum and blighted or that is needed for other public purposes. Thus, to be most effective, adjustments will be required in the models available.

PRIVATE CORPORATIONS

Another concept to encourage joint development is to commission or charter private corporations to plan and implement joint developments. Major joint developments, often with little public participation, are carried out by many private companies in the form of new towns, shopping centers, or large industrial developments. However, these are rarely at a scale that permits the most coordination with major freeway, highway, and transit facilities. Opportunities for joint development are limited by the ability of private developers to obtain land in locations where such development is possible and needed.

It is possible to cloak private corporations with some of the powers needed; e.g., in some states private redevelopment corporations are established and given some of the powers of eminent domain. Other precedents, from the Hudson Bay Company to cable TV, show that there are effective ways to direct and use private corporations to achieve combinations of public and private objectives. Much more creative work is needed in this area.

LAND BANKING

Another concept that could facilitate joint development and the coordination of land use and transportation is land banking, a technique for dealing with problems such as reserving open space and facilitating orderly development.

The value of land banking as a tool for joint development stems primarily from its potential use in assembling and disposing of land. Even when several entities are involved in construction, coordination can be achieved through the careful planning and control of development rights.

One technique suggests that a single entity be created to buy and manage lands needed for all public purposes within an urban area. If the term public means land needed to achieve joint development objectives, this land banking entity could do much to help in the coordination of transportation and land use (3).

DEVELOPMENT DISTRICTS

One characteristic of joint development is the necessity or desirability of singling out an area for special investment control. One way of doing this is to create special development districts in which various financing and control techniques can be applied, apart from those of the larger community. Development districts could be fully compatible with the other concepts described. They can serve as interim or special-purpose government or management units that provide ways to plan and raise money for joint improvement.

Development districts have been suggested as devices for obtaining better coordination and planning services for suburban areas. They have been used with tax increment financing for renewal projects. They have also been used to provide the infrastructure needed to permit new urban areas to be created in places like Disney World. (Florida widely uses such districts; other states use them on a more limited basis.)

They provide a way of giving special attention to land that might be the subject of joint development without necessarily involving or penalizing other areas. They also provide ways of capturing some of the values and impacts that might be generated by transportation investments.

CONTRACTS

An easily overlooked tool for coordination is the contract. Contracts are obviously required at many stages in any large program or project; however, where major coordinative actions are required, master contracts may be needed.

In a redevelopment program, the redevelopment or renewal plan serves as a master contract. In federally aided new communities, the project agreement is such a contract. In one of the most complex joint developments, the (Chicago) Illinois Central Air Rights Project, the 100-page Lakefront Ordinance serves as the master contract, which binds the city, the landowner, and several developers into a common plan. Efforts to facilitate and promote coordination of land use and transportation should make full use of contract potential.

LEGISLATIVE ACTION

Although these and many more techniques (including simple cooperation) must be used for achieving joint development, it would be helpful to clarify and focus power and responsibilities through legislative action that clearly states objectives, powers, and protective guidelines. Article 5 (3), which governs land acquisition, provides one point of departure. The need for legislation is described in a commentary on the code (3). Much of this rationale applies to joint development as well.

The commentary (3) also indicates that many states are reviewing their laws of eminent domain and that the National Conference of Commissioners on Uniform State Laws is coordinating activities in this area. Thus, at least in the area of land acquisition, opportunities exist for the development of legislation that might favor joint development.

However, much more than land acquisition is involved in joint development; therefore, legislation to support joint development must go beyond the models now being proposed. It must provide answers to a number of institutional, fiscal, and procedural questions.

What Organizational Structures and Arrangements Should Be Established?

Specifications for organization should be related to the structures of each state government. They should stem from existing legislation governing renewal, building of highways and transit, and other public facilities. Ideally, several ways should be provided for conducting joint development; maximum flexibility should be allowed. Entities desiring to undertake joint development should be permitted to choose one or several organizational forms, from role expansion of existing agencies to creation of new agencies.

It should not be necessary to create new organizations; rather, cooperative arrangements between existing entities should be possible. Safeguards and restrictions will be required. These should be obtained through requirements for observing certain procedures and auditing techniques rather than through rigid organizational specifications.

What Are the Definitions of Joint Development?

It will be important to carefully define joint development in any legislation drawn up. If special authority or powers are to be granted, some limits to their application must be established. When coordination is to be between two or more public utilities, problems of definition are less complex. However, when joint development entails major private involvement, the definition and limits of the public purposes that warrant use of joint development powers become quite critical.

What Are the Purposes and Issues To Be Resolved With Joint Development?

A strong, clear basis should be established before joint development is undertaken because joint development may be required, and probably will be useful, in achieving social, economic, and environmental objectives.

Joint development should be permitted in any situation where it is the best or most effective way of achieving some significant public purpose. In the American Law Institute model code (3), land acquisition and disposition are primarily discussed; however, where joint development does not involve taking land by condemnation but is confined to the pooling of financial resources, a more flexible set of guidelines than that described in the code could apply.

OTHER LEGISLATIVE QUESTIONS

There are several other legislative questions that should be answered to varying degrees concerning implementation of joint development.

What Powers and Responsibilities Should Be Granted and Exercised?

The powers and responsibilities would include the authority to do everything required to accomplish the basic public purposes involved with additional powers to permit joint efforts and to enable achievement of secondary or supporting objectives.

What Finances Should Be Provided?

Entities responsible for joint development should receive moneys for any public purposes involved; also, funds to facilitate joint development (through planning and coordination) for accomplishing supporting objectives should probably be provided. Possibly some bonus moneys might be made available to encourage joint development and to reflect the added values expected therefrom.

What Decision-Making Processes and Requirements Should Be Imposed?

Demonstrating a need for the feasibility of orderly and democratic procedures must be done, but any requirement should be kept simple inasmuch as the main objective is to facilitate joint development. If possible, the planning and procedural requirements for joint development should reflect accumulated experience and should be permitted to replace overly complex or otherwise inadequate guidelines now associated with individual functional areas.

There are, of course, other subjects that must be covered by legislation governing joint development; however, most of these will be related to the characteristics of individual states or cities. Some would be developed in the process of drafting a model code.

We do need to consider how we can increase our ability to undertake joint development through institutional change. Hopefully, this discussion will move us toward this goal.

REFERENCES

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