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RETRENCHMENT AND DEMISE OF STATE GROWTH MANAGEMENT PROGRAMS

Jerry Weitz[1]

I am honored to join in the second celebration of Professor Julian Juergensmeyer's career of teaching and practice. For the first Festschrift, in a piece titled "The Next Wave in Growth Management" ("*The Next Wave*"),[2] I offered predictions and prescriptions about the future of state roles in growth management, with emphasis on infrastructure. Here, a decade later, I reevaluate some of those offerings for validity and conclude with additional thoughts about the next decade for state growth management programs. I am indebted to Dr. Ed Jepson for his scholarly assistance in this effort.

I suggested in *The Next Wave* that statutory reform for infrastructure and control of sprawl would continue, but at a slower pace of innovation. To the contrary, it appears that no new, significant state programs to manage growth have been adopted since that time. Further, there is evidence that existing state growth management programs have collectively entered a new wave of retrenchment, demise, and even abandonment.

STATE PLANNING

New Jersey

New Jersey is a leading example of state planning, but the New Jersey state development and redevelopment plan reportedly failed to meet its supporters' objectives.[3] The New Jersey state plan was expected to benefit from an "infrastructure needs assessment," but such an assessment reportedly failed to

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[2] Jerry Weitz, "The Next Wave in Growth Management," in "A 2020 View of Urban Infrastructure: A Festschrift Symposium in Honor of Julian Conrad Juergensmeyer on the Occasion of his 45th Year of Teaching Law," *The Urban Lawyer*, Volume 42-4/43-1 (Fall 2010/Winter 2011), pp. 407-416.

[3] Martin A. Bierbaum, "The New Jersey State Planning Experience: From Ambitious Vision to Implementation Quagmire to Goal Redefinition," in *Planning for States and Nation-States in the U.S and Europe*, Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors (Cambridge, MA: Lincoln Institute, 2015). pp. 131-184 (citation at p. 176).

develop as a useful decision-making tool.[4] Given that New Jersey's state plan had not been fully implemented by municipalities or state agencies, a new state strategic plan was proposed which largely abandoned a top-down approach to force compliance[5] (i.e., vertical consistency between local comprehensive plans and the state plan). New Jersey's state strategic plan called for horizontal integration among state agencies that regulate land use and infrastructure development, and a steering committee was created to align state investments and regulations with the state strategic plan.[6]

"Spatially explicit" state planning approaches[7] have largely been abandoned in New Jersey and elsewhere. It appears unlikely that any state will try to propose, in the spirit of the "quiet revolution,"[8] a state land development plan like Hawaii in 1961 and 1978, Vermont in 1973, Florida in 1978 and 1986, and Rhode Island in 1988. Further, even more modest efforts to pose a statewide "land classification" map, like decades-old efforts in Hawaii, Vermont, Connecticut, Delaware, and Maine[9] have failed to surface subsequently as a policy priority in any state. Two exceptions in the state planning arena are Maryland and Delaware.

Maryland

Maryland gained notoriety with its Smart Growth Areas Act of 1997 that required local governments to designate priority funding areas, to which the state would target infrastructure expenditures. Maryland undertook a "bold new experiment" in 2011 when Maryland's governor signed "PlanMaryland," "the first

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[4] Martin A. Bierbaum, "The New Jersey State Planning Experience: From Ambitious Vision to Implementation Quagmire to Goal Redefinition," in *Planning for States and Nation-States in the U.S and Europe*, Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors (Cambridge, MA: Lincoln Institute, 2015), pp. 131-184 (citation at p. 176)

[5] Edward J. Sullivan and Jessica Yeh, "Smart Growth: State Strategies in Managing Sprawl," *The Urban Lawyer* 45, 2: (Spring 2013), 349-405, citation at p. 376.

[6] Edward J. Sullivan and Jessica Yeh, "Smart Growth: State Strategies in Managing Sprawl," *The Urban Lawyer* 45, 2: (Spring 2013), 349-405, citation at p. 377.

[7] Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute, 2015). (p. 513).

[8] Fred P. Bosselman and David L. Callies, *The Quiet Revolution in Land Use Control* (Washington, DC: Council on Environmental Quality and Council of State Governments, 1971).

[9] Jerry Weitz, "From Quiet Revolution to Smart Growth: State Growth Management Programs, 1960 to 1999," (CPA Bibliography 355/356/357), *Journal of Planning Literature* 14, 2 (November 1999): 267-338. See also Fred P. Bosselman, "State and Local Plans in Hawaii: Lessons for Florida," in *Perspectives on Florida's Growth Management Act of 1985*, John M. DeGrove and Julian C. Juergensmeyer, eds. (Cambridge, MA: Lincoln Institute of Land Policy, 1986).

new state development plan in the United States in decades."[10] Yet, Maryland's state plan was controversial, and early efforts were thwarted by a lack of enthusiasm by Maryland counties. The state plan "did not contain a spatial vision for the future of the state" in the spirit and legacy of the quiet revolution; it was more of an "agenda of actions." The requirement that state spending be in accordance with local plans is still in force today in Maryland but has been "often forgotten," and no new funds were appropriated to implement PlanMaryland.[11]

In *The Next Wave* I prescribed Maryland's priority funding areas and hoped the concept would diffuse to other states. Indeed, because of its emphasis on targeting state expenditures for growth management purposes, Maryland has remained one of the most promising state growth management programs during the last decade, especially for those states that cannot muster support for Oregon-style urban containment.

Despite the promise of the idea of priority funding areas, scholarly inquiries suggest that Maryland's smart growth programs (including but not limited to efforts to contain sprawl) have shown little evidence of success. Development patterns in Maryland have not been altered by targeted state spending to date.[12] Maryland's approaches, including priority funding areas and its companion rural legacy program, have not been strong enough or effective at preventing sprawl and preserving agricultural lands.[13] Maryland's program has also been affected by inconsistent application of its growth management legislation.[14]

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[10] Gerrit-Jan Knaap, "Using Incentives to Combat Sprawl: Maryland's Evolving Approach to Smart Growth," in Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute, 2015), pp. 189-222 (citation at p. 190).

[11] Gerrit-Jan Knaap, "Using Incentives to Combat Sprawl: Maryland's Evolving Approach to Smart Growth," in Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute, 2015), pp. 189-222.

[12] Gerrit-Jan Knaap, "Using Incentives to Combat Sprawl: Maryland's Evolving Approach to Smart Growth," in Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute, 2015), pp. 189-222 (citation at p. 208).

[13] Bernadette Hanlon, Marie Howland and Michael P. McGuire, "Hotspots for Growth: Does Maryland's Priority Funding Area Program Reduce Sprawl?," *Journal of the American Planning Association*, 78: 3: 256-268 (2012), (citation at pp. 256-257).

[14] Steve P. Calandrillo, Chryssa V. Deliganis, and Andrea Woods, "Making 'Smart Growth' Smarter," *The George Washington Law Review* 83, 3 (April 2015): 831-879. (citation at p. 864). The authors call for devising approaches that are more "stick" than "carrot," and they suggest a more

Delaware

Delaware's state growth management program has a quality similar to Maryland; it has sought to exert state influence over development patterns by investing state funding in accordance with strategies for state policies and spending, including a state strategies investment levels map. Key components of the Delaware state plan are investment area maps, strategies, and principles for each of four tiers of investment. Delaware is unique among states in its provision of infrastructure and services, particularly roads and schools, and its investment area maps have been considered a powerful tool to influence local governments.[15]

Florida

Around the time of *The Next Wave*, a "counterrevolution" had already started in Florida. Nancy Stroud has chronicled the "retreat" from state and regional roles in growth management in Florida, which adopted the Community Planning Act of 2011. That legislation eliminated the requirement for local plans to be consistent with state plans. The administrative rule that dictated the content of local comprehensive plans was repealed, and the Florida Department of Community Affairs was reduced in staff and reorganized for economic development. Concurrency for transportation, schools, and parks and recreation was made voluntary. State capacity to review local plans was also diminished.[16] State reviews of local comprehensive plans were "severely undercut" by Florida's 2011 legislation.[17] Florida's legislative changes in 2011 are representative of the shift in focal point of state growth management programs toward economic development.[18]

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stringent, consistent and robust application of urban growth boundaries and priority funding areas (p. 879).

[15] Rebecca Lewis, "Delaware's Quiet Emergence Into Innovative State Planning," in Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute, 2015), pp. 227-253.

[16] Nancy Stroud, "A History and New Turns in Florida's Growth Management Reform," *The John Marshall Law Review*, 45, 2 (Winter 2012): 397-415.

[17] Edward J. Sullivan and Jessica Yeh, "Smart Growth: State Strategies in Managing Sprawl," *The Urban Lawyer*, 45, 2 (Spring 2013): 349-405.

[18] Tim Chapin, "From Growth Controls, to Comprehensive Planning, to Smart Growth: Planning's Emerging Fourth Wave," *Journal of the American Planning Association*, 78, 1 (2012): 5-15 (citation at p. 12).

Georgia

Three decades have passed since Georgia adopted the Georgia Planning Act of 1989, which was a comprehensive effort specifying provisions for local, regional, and state planning. Unlike the "top down" approach employed by Florida, local governments prepared comprehensive plans first, then plans by regional commissions (then titled regional development centers) were prepared based on adopted local comprehensive plans. The act contemplated that the state in turn would ultimately adopt a state plan based on adopted regional plans.[19] While successive rounds of local and regional plans have been prepared over time, a state plan has never been prepared.

In 2011 the Georgia General Assembly passed but Governor Nathan Deal vetoed Senate Bill 86. Through a redefinition of "qualified local government," the bill would have dramatically weakened local comprehensive plans. Instead of a local comprehensive plan reviewed for compliance with state rules, adoption of a "basic local plan" (not defined in the bill) by a local government would suffice. The bill would have also required regional commissions, using their own resources (which include state funding), to prepare a basic local plan upon request of a city or county in its jurisdiction.

Senate Bill 86 was broadly interpreted at the time as a major undoing of Georgia's planning program. Although Governor Deal vetoed Senate Bill 86, he essentially satisfied the initial concerns of legislators who introduced the bill by subsequently directing the Georgia Department of Community Affairs to simplify its rules for local planning (adopted in 2012) and ensuring that regional commissions would thereafter be responsible (upon request) for preparing local government plans in their jurisdictions without cost to local governments.

Maine

Maine has long been considered a growth management state, with passage of legislation during the quiet revolution (1969 and 1971) and a law mandating local comprehensive planning (1988).[20] Like Oregon and Washington, Maine's

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[19] Jerry Weitz, *Sprawl Busting: State Programs to Guide Growth*. Chicago: Planners Press, 1999.

[20] Jerry Weitz, "From Quiet Revolution to Smart Growth: State Growth Management Programs, 1960 to 1999," (CPA Bibliography 355/356/357). *Journal of Planning Literature*, 14, 2 (November 1999): 267-338.

legislation relied on the establishment of statewide planning goals rather than a state plan.[21]

In *The Next Wave* I touted Maine's Informed Growth Act, passed in 2007, as one the few more recent innovations in state growth management. The bill essentially required an economic impact study of large-scale retail development, something that Julian Juergensmeyer explicitly supported in the first Festschrift.[22] But almost immediately after I touted it, the act was repealed in 2011 (HP 255). Although the Informed Growth Act was repealed, Maine had previously adopted growth management-related statutes between 2001 and 2004 addressing state spending for new school construction and requiring state agencies to give preference to municipalities that have growth management programs, land use ordinances, and capital investment plans that are consistent with state goals.[23]

TOWARD STATE SOLUTIONS FOR INFRASTRUCTURE

The states do not appear to be any better situated today than they were when Arthur C. Nelson (for Juergensmeyer's first Festschrift) observed the nation was headed for an "infrastructure train wreck."[24] Indeed, there remains today a "pattern of neglect" of infrastructure by states, and states are cutting infrastructure spending as a share of the economy to historic lows. Further, federal infrastructure investment has fallen by half over the last 35 years.[25] Operations and maintenance costs continue to increase, but public capital spending on transportation and water

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[21] John DeGrove, *The New Frontier for Land Policy: Planning and Growth Management in the States*" (Cambridge, MA: Lincoln Institute of Land Policy, 1992); John DeGrove, *Planning Policy and Politics: Smart Growth and the States* (Cambridge, MA: Lincoln Institute of Land Policy, 2005).

[22] Julian C. Juergensmeyer and James C. Nicholas, "Loving Growth Management in the Time of Recession," in "A 2020 View of Urban Infrastructure: A Festschrift Symposium in Honor of Julian Conrad Juergensmeyer on the Occasion of his 45th Year of Teaching Law," *The Urban Lawyer*, Volume 42-4/43-1 (Fall 2010/Winter 2011), pp. 417-423. The authors call for growth management programs to require development applicants to submit impact studies relating to public infrastructure demands and effects on the environment, as well as market studies establishing market demand to avoid overbuilding.

[23] John DeGrove, *Planning Policy and Politics: Smart Growth and the States* (Cambridge, MA: Lincoln Institute of Land Policy, 2005).

[24] Arthur C. Nelson, "Reforming Infrastructure Financing with 2020 Vision." In "A 2020 View of Urban Infrastructure: A Festschrift Symposium in Honor of Julian Conrad Juergensmeyer on the Occasion of his 45th Year of Teaching Law," *The Urban Lawyer*, Volume 42-4/43-1 (Fall 2010/Winter 2011): 29-40.

[25] Elizabeth C. McNichol, "It's Time for States to Invest in Infrastructure." Washington, DC: Center on Budget and Policy Priorities, 2019.

infrastructure has decreased substantially from the mid-2000s through 2016.[26] There is an important role for states to coordinate and prioritize infrastructure to address local capital deficiencies.[27]

To improve infrastructure, states might look back to some of the earlier state growth management programs. It is difficult to imagine a coherent approach to state infrastructure guidance, management, and improvement without some sort of state planning document or at least well-articulated statewide goals. Further, spatial explicitness is useful in defining and articulating state infrastructure policies and programs. Spatially explicit state land use plans may never be resurrected, however, and it is doubtful additional states will articulate statewide infrastructure and growth management futures in the form of statewide planning goals.

Yet, states should not underestimate the power of state investments in infrastructure as a tool for guiding and improving land development patterns. Although there has been retrenchment, I suggest that the state growth management programs of the past should be investigated again because they offer sound policy proposals and administrative mechanisms to address infrastructure needs now and in the future. The need for such programs has never been greater. I suggest a few infrastructure-related programs that can contribute to success.

State Agency Functional Plans

As noted above, broad statewide policy guidance from the state is needed to manage growth and provide infrastructure. That guidance may be lacking altogether. But even if it is absent in a given state, state growth management programs can and should call for the various agencies of the state to coordinate efforts toward those planning goals that have been articulated or are generally accepted. After all, even if there is no vision for state land use patterns, states must at least ensure their agencies are not working at cross purposes.

State growth management programs of the quiet revolution and subsequent waves included provisions aimed at state agency coordination of land use objectives articulated in a state plan or in local comprehensive plans. Hawaii's Act 100

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[26] Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2017." October 2018.

[27] Robert W. Burchell, Matthew S. Crosby, and Mark Russo, "Infrastructure Need in the United States, 2010-2030: What is the Level of Need? How Will It be Paid For?," in "A 2020 View of Urban Infrastructure: A Festschrift Symposium in Honor of Julian Conrad Juergensmeyer on the Occasion of his 45th Year of Teaching Law," *The Urban Lawyer*, Volume 42-4/43-1 (Fall 2010/Winter 2011): 41-66.

mandated the preparation of state functional plans and set out institutional machinery to make that mandate happen. Senate Bill 100 empowered Oregon's Land Conservation and Development Commission to require state agency coordination programs to assure that state agency efforts conformed to statewide planning goals,[28] and state administrative rules were adopted for that purpose. Vermont (via its Act 200), Florida, New Jersey, Rhode Island, and Maine also required state agencies to become an integral part of their state growth management systems.[29] State agency functional plans were prepared in Florida, but they mostly "went on the shelf unused."[30]

Similar, subsequent state agency coordination initiatives in Florida were challenging and mostly unsuccessful. In Georgia in 1997, a task force suggested that the Governor's Development Council should be reestablished to marshal state resources toward implementation of a state vision. South Carolina in 1997 by statute required that state agencies make regulatory decisions consistent with state and regional comprehensive infrastructure development plans.[31] Executive orders were adopted in Maryland in 1998 and Vermont in 2001 aimed at state agency coordination of state growth management programs. In New Jersey in the 2000s, state agencies were reluctant to reshape their plans and programs to be consistent with the state plan, and they failed to use their infrastructure investments to implement the state plan.[32]

State Infrastructure Inventories

Before providing infrastructure plans, at whatever geographic level, there has to be sound knowledge of existing publicly provided facilities and their conditions. In *The Next Wave* I drew attention to South Carolina's 1997 mandate to prepare and maintain a state infrastructure inventory. I suggested that states should

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[28] John M. DeGrove, *Land Growth & Politics* (Chicago: American Planning Association, 1984).

[29] John M. DeGrove, *The New Frontier for Land Policy: Planning and Growth Management in the States* (Cambridge, MA: Lincoln Institute of Land Policy, 1992).

[30] Douglas R. Porter, "State Agency Coordination in Growth Management Programs." in *Modernizing State Planning Statutes: The Growing Smart Working Papers Volume One*. Planning Advisory Service Report No. 462/463. (Chicago: American Planning Association, 1996, pp. 75-84) (citation at p. 77). See also Edward J. Sullivan and Jessica Yeh, "Smart Growth: State Strategies in Managing Sprawl," *The Urban Lawyer* 45, 2 (Spring 2013): 349-405.

[31] South Carolina Comprehensive Infrastructure Development Act (1997), South Carolina Code of Laws, Title 11, Chapter 42, Section 11-42-80.

[32] John M. DeGrove, *Planning Policy and Politics: Smart Growth and the States* (Cambridge, MA: Lincoln Institute of Land Policy, 2005).

take stock of their existing infrastructure and also adopt "fix it first" strategies focused on repairing and replacing aging facilities.

States now have good tools at their disposal to implement such strategies. Geographic information systems (GIS) have advanced remarkably during the past three decades. State growth management programs have historically included roles for the state to sponsor data collection and management. To date, those state efforts have been directed more at natural resource protection than infrastructure provision. State use of high technology tools such as GIS should be nurtured and further advanced by the states, especially in the infrastructure arena. Again, a look back at what the states have already done should be fruitful, even if such prior efforts have thus far failed to gain much traction.

State Capital Improvement Programming

The planning profession teaches us that local governments should adopt comprehensive plans, then implement those plans with land use regulations and capital improvement programs. The same concepts, individually if not collectively, can and should apply at the state level. In *The Next Wave* I lamented the vast underutilization of capital improvement programming at the local and state levels and suggested that more states should initiate systematic approaches to state capital budgeting and capital improvement programming. Although there has been not been widespread activity by states to fully utilize multi-year infrastructure programming, there are a few signals this may be changing.

South Carolina, again, adopted a promising approach in 1997. South Carolina's Comprehensive Infrastructure Development Act required regional councils of government to develop regional comprehensive infrastructure development plans and submit them to the state Division of Regional Development, which in turn was charged with creating a state infrastructure plan consistent with and coordinating regional comprehensive infrastructure development plans. State agencies were required by the act to make regulatory decisions consistent with state and regional comprehensive infrastructure development plans.[33]

Given heightened attention paid to the current condition of our nation's infrastructure, and perhaps due to inaction nationally, at least a few states have recently taken action to implement state capital improvement programming. Illinois

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[33] South Carolina Code of Laws (2018): Section 11-42-50 (requirement for a state infrastructure plan and assignment of functions to the division of regional development); Section 11-42-90 (mandate for councils of government to create regional infrastructure plans); and Section 11-42-80 (mandate for state agency consistency with regional and state infrastructure plans).

in 2019 prepared a six-year plan to invest $45 billion in its state infrastructure and facilities.[34] New York's governor, also in 2019, announced a five-year, $150 billion program for state infrastructure projects.[35] What is not known at this time is whether New York's 2019 capital program was prepared consistent with guidelines established in the state's Smart Growth Public Infrastructure Policy Act, signed into law in August 2010.[36]

State Guidance of School Siting Decisions

Schools are critically important infrastructure. In *The Next Wave* I observed a disturbing trend toward construction of sprawl-inducing mega schools in suburban areas without adequate supporting infrastructure.[37] Minimum acreage requirements for school sites, established by states, have had the effect of promoting the dispersion of new public school facilities into areas with plentiful vacant land of sufficient parcel sizes. In *The Next Wave* I also noted how South Carolina had eliminated minimum acreage requirements for new school sites and suggested that minimum state acreage requirements and minimum building square footage requirements for schools could be eliminated in more states.

I continue to urge that states consider ways to mitigate the adverse consequences of school siting in suburban and exurban areas. States can use their financial powers by withholding state funding if school sites exceed certain maximum acreages, as has Illinois and Maine.[38] California and New Jersey are two examples of states that have at least partially addressed the environmental problems associated with school siting decisions.[39]

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[34] Chris Galford, July 2, 2019. "Illinois to invest $45B into state infrastructure and facilities under new capital plan." *Transportation Today* (accessed November 23, 2019 at https://transportationtodaynews.com/

[35] Kim Slowey. "New York's Cuomo proposes $150B, 5-year infrastructure plan." *Construction Dive*, January 22, 2019.

[36] The Laws of New York, Consolidated Laws, Article 6, Environmental Conservation, Sections 6-0101 – 6-0111. (Bill No. A 08011, New York State Assembly). Accessed November 23, 2019 at https://www.assembly.state.ny.us.

[37] Richard K. Norton, "Planning for School Facilities School Board Decision Making and Local Coordination in Michigan," *Journal of Planning Education and Research* 26 (2007): 478-496.

[38] Noreen C. McDonald, "School Siting," *Journal of the American Planning Association* 76, 2 (2010): 184-198.

[39] Sandra Sutak, "Green Schools, Brown Fields: School Sitting Legislation Provides a Weak Foundation," *Tulane Environmental Law Journal* 21, 2 (Summer 2008): 427-448.

CONCLUSION

Quiet revolution-style state land use planning has little, if any, momentum and may no longer be under way in several U.S. states.[40] At the time of the first Festschrift for Julian Juergensmeyer, there were "warning signs"[41] we were already entering a new wave of demise, retrenchment and even abandonment of state growth management programs. Today, state land use planning is dormant at best, and its condition is and will remain uncertain. State growth management programs have been under attack[42] for decades, and they are constantly susceptible to further retrenchment, abandonment and repeal.

Nonetheless, the best days of state land use planning need not be behind us. There has been great work done in many states to design and implement growth management programs. I hope that the states will continue to "experiment"[43] with quiet revolution growth management program components, even if they have not been proven entirely successful.

All states need to pay greater attention to the provision of efficient and cost-effective infrastructure in urban and suburban areas. The needs to repair and replace (i.e., "fix it first") existing infrastructure have never been greater. States must use their financial resources to direct future development patterns. States should implement programs such as state infrastructure inventorying, state agency coordination planning, state capital improvement programming, and regulatory reforms such as elimination of minimum site acreage standards for local school sites. I hope that states will also adopt a back-to-basics approach, revisiting state growth management programs, building on their logic and albeit, limited, successes.

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[40] Gerrit-Jan Knaap, Zorica Nedović-Budić, and Armando Carbonell, editors, "Conclusion," in *Planning for States and Nation-States in the U.S and Europe* (Cambridge, MA: Lincoln Institute of Land Policy, 2015).

[41] Steve P. Calandrillo, Chryssa V. Deliganis and Andrea Woods, "Making 'Smart Growth' Smarter." *The George Washington Law Review* 83, 3 (April 2015): 831-879.

[42] For a representative attack, see Randall O'Toole, "The New Feudalism: Why States Must Repeal Growth Management Laws," Cato Institute Policy Analysis Number 802 (2016). O'Toole suggests that state growth management laws do more harm than good and therefore should be repealed.

[43] Daniel R. Mandelker, "Implementing State Growth Management Programs: Alternatives and Recommendations," *The John Marshall Law Review* 45 (2012): 307-316. Calling the quiet revolution a "continuing experiment," Mandelker reminds us not to forget that programs must change and adapt to new problems and policies (p. 316).