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COMMENTARY...

Housing and the Maturing Population

Frank H. Spink, Jr.

It is normal practice as we finish a decade and begin a new one to review the past and examine the future. How will the future be different in land use and development needs and practices? More specifically, how will a population that continues to grow be housed?

Rising housing costs threaten the fulfillment of the housing expectations of the baby boom generation that is now coming into the housing market. It is easy to become preoccupied with meeting these expectations without looking at longer term trends. 1980 will be a watershed year of significant and long-term importance to the nation: It will be the year in which the percentage of households aged 65 or over becomes greater than the percentage of households aged 30 or less. At the close of the '70s, the U.S. will have about 78 million households of which approximately 15.8 million are households aged 65 or over, 47.1 million are households aged 31 to aged 64, and 15.4 million are households aged 30 or less. During the 1980s households aged 65 or over will grow by 4.4 million to 20.2 million, while households aged 30 or less will only grow by 3 million, to 18.4 million. In other words, households over 65 will grow 47 percent more than households under 30. By 1990, households over 65 will represent 26 percent of the national total. This percentage will continue to rise until well after the turn of the century.

In the past, and certainly during the rather dramatic period following World War II, we have been preoccupied with the development of housing for a young population. The focus has been on single-family, detached housing with a large number of bedrooms for young and growing families. The whole focus of community design has revolved around this housing type. Neighborhoods were typically defined as that area serviced by an elementary school. Communities were frequently defined as those served by a high school. The design of our suburban communities has been in direct response to the needs of young families, with open space, ball fields, play grounds, and neighborhood commercial centers with goods and services to meet the needs of that family structure—churches with large educational wings, community swim clubs, and carefully spaced schools.

But 1980 marks the year in which that phenomenon changes. The change will be much more dramatic than the simple statistics of household type would suggest. To date, the majority of our mature households are people who were born, raised, and continued to live in urban areas. To a great extent, our efforts to house this group have been focused on urban housing. The exceptions to this have been the limited number of housing units for a mature population that have been created in retirement communities primarily in the Sun Belt, and primarily for the most affluent of our mature population.

The decade of the '80s will be different. The new group of households that will move into the over-65 bracket during the '80s will be mostly people who have spent their adult years living in the suburbs created after World War II. Their lifestyles, their social contacts, and most importantly, their housing preferences will be those of the suburbs and not of the central cities.

Most efforts to specifically accommodate mature households in the suburbs have been limited to mid-rise and high-rise housing for the elderly, with some form of public subsidy attached. This housing has tended to serve older people who lived in cities but whose children live in the suburbs. In exchange for proximity to their families, they are willing to move from an urban environment to a reasonably familiar type of housing in the suburbs.

For people reaching retirement age and living in single-family, detached housing in the suburbs, their choice of other residences is limited. Reductions in property taxes and other mechanisms encourage them to remain in housing no longer suited to their needs. Carried to the extreme, this places a heavy burden on suburban communities and will result in much of our older population being overhoused, with unmanageable maintenance responsibilities. Also, a large supply of family-sized housing is not recirculated to the younger age groups that need it.

Developing an appropriate response to our long-term housing needs will be the challenge of the '80s and the '90s. We need to rethink both the housing design and the structural form of our suburbs in response to a maturing population. To a great extent some of the very tools that were applied in the '50s, '60s, and '70s to assure the long-term vitality and value of suburban neighborhoods will be the greatest impediments to change needed in the '80s and '90s. Most suburban subdivisions created during this period were carefully designed with covenants and deed restrictions to assure that their physical characteristics would remain unchanged in relative perpetuity. Our institutions, particu-

larly schools, have been built as though there will always be a sufficient number of children to fill the classrooms, even though the experience in our older suburbs tells us this is untrue.

What is needed is a re-examination of the basic physical organization of suburbia. What should be the institutional and commercial center of a mature neighborhood? What kind of housing can be created at market rates within the existing framework of suburbs that will meet the needs of a mature population, and not just during that period of time when they are empty nesters? What kind of housing will allow older people to remain in their communities as their mental and physical faculties decline?

The prevalent trends in suburban housing development are totally inconsistent with this emerging need. The majority of housing being produced is still single-family detached, multi-bedroom, on relatively large lots, and, as a matter of policy in many suburban communities, on larger and larger lots. This type of housing is most unsuitable for the mature household. The other housing types we have constructed in quantity and continue to construct have equal weaknesses. The townhouse with its multi-storied configuration is not an attractive housing alternative for people with declining physical capacity and deteriorating eyesight. The supply of new garden apartments has all but dried up except in a few markets and those familiar with the field suggest that there is no great hope, given current investment return circumstances, for much of this housing form to be constructed in the next decade. High-rise construction, which may have been an acceptable physical form for a segment of the maturing suburban population, has always been a more costly form of construction than other designs.

It is reasonable to conclude that we need to develop and refine housing forms that are more similar to single-family detached than to high-rise multifamily if we are to respond to the preferences of maturing population groups. There is little evidence that the design professionals or the housing producers either understand or are prepared to design, develop, and market new and more suitable housing types.

The challenge for ULI, in keeping with its tradition of identifying emerging development needs and encouraging practical responses, is to direct its attention to creating a built environment for a maturing population. This will require institutional as well as physical change. It will require the careful reshaping of present concepts and practices to meet new needs without destroying the values that have been created in the last three and one-half decades. Like our population, our suburbs are getting older. When our cities got older, there was a tendency to abandon them. The allocation of national resources that is now required to revitalize our cities should be avoided with proper stewardship of suburbia.

The first step will be the development of ideas and concepts based on an understanding of the implications of a maturing population. Within ULI's membership, the seeds of those ideas are already available. We have identified the need for a publication on housing for a maturing population. We would like to identify within our membership individuals or organizations that could contribute to this effort.

The challenge is clearly there. It is not yet a crisis. In many cases waiting for a crisis to develop has been a requirement before an effective response is developed. We have consistently proven that crisis-response is the most expensive way to meet the needs of our nation. Hopefully this commentary will encourage your response with ideas, examples, or suggestions so that ULI can help meet the challenge before it becomes a crisis.

Frank H. Spink, Jr. is Director of Publications at ULI.

"Commentary" is a regular feature of *Urban Land* which provides an opportunity for the sharing of experiences and information by responsible people in the fields of land planning, management, and development. Your comments are welcome. The views and opinions expressed in "Commentary" are solely those of the author and do not necessarily represent any positions, policies, or attitudes of the Urban Land Institute, its collective membership, or staff. Articles are selected by staff on the basis of timeliness and relevance of subject matter.

Merchandising Architecture
THEMEPARKS

Thinking of a Theme Park?

David L. Brown

Theme parks are a relatively recent addition to the recreational field, yet their predecessors date back to earlier times. The ancient Greeks held fairs consisting of sacred feasts, and later the bartering and exchanging of merchandise. Booths, tents, and wooden stands for shows were used in even the earliest of these events.

After the collapse of the Roman Empire, commercial expansion and the emergence of individual craftsmen led to the establishment of large trading fairs. The gathering of large crowds created a market for entertainment, first with games, music, and dancing and later with skilled entertainers. By the early 1600s, rides in the form of the crudest of carousels and other devices were being added to the fairs.

As the short-term fairs proved popular and successful, they led to the establishment of amusement parks, offering rides and other attractions on a more permanent basis. Their operating periods coincided with good weather, and their numbers grew throughout Europe. In the mid-1600s Versailles was a very popular French garden park. In the mid-19th century, these "pleasure gardens" reached America (for example, Vauxhall Gardens in New York City, established in 1845). Again, as craft skills improved, ride designs became more daring, and

materials became more reliable in producing more thrilling rides. Luna Park, Coney Island, Riverview, and many other amusement parks were constructed across the land.

Street railway companies, offering horse-drawn and later electrical trolley services, found their facilities lightly taxed on Sundays during the early 1900s. One means of increasing their volume of transit business was to create a destination at the far end of the line. Thus, many streetcar companies invested in amusement parks on the outskirts of their cities. During the 1910 to 1930 period, the amusement ride production business and operating business flourished, with much competition.

The Great Depression arrived in the thirties, and surprisingly, most of the parks survived. But the end of an era was in sight, as technology and economic prosperity created change in entertainment desires and opportunities. Many amusement parks were forced to lessen quality, and the vicious cycle of attendance losses and economic losses brought one after another to an inglorious end. There remained only a relatively few successful parks by the 1950s. Most of these survived because of hard-working family ownership and operation.

In the early 1950s, Walt Disney, so it is said, took his daughter to an amusement park. Among his observations was the fact that it lacked the qualities he believed should be important for family entertainment. He resolved to build a park of his own, and after many problems, he succeeded in opening Disneyland in 1955.

Disney combined the charm, color, excitement, entertainment, and thrill of his many movies with the essentials of an amusement park. The rides, shows, entertainment, shops, and food facilities were all successfully combined in an atmosphere of cleanliness, friendliness, safety, and nostalgic good times. The art direction and imagination required for his movies was applied equally well to the park, and the themed lands (such as Fantasyland and Tomorrowland) became known throughout the world.

Thus, the "theme park" was born.

The American Theme Park

A theme park is an amusement park operating within a specially created environment and atmosphere. There may be one theme, such as a specific historical setting, or multiple themes. In the thoughtful design and careful development of the overall environment the presence of traditional rides is somewhat subordinate. Clearly, some parks are more successful in this effort than others. To date, all that have succeeded have as a common denominator a high volume of attendance.

There are now over two dozen parks spread throughout the U.S. which can truly qualify as theme parks. To date, none exist outside the U.S., though several are being considered or are under construction. Numerous other parks claim theme status, yet they lack true distinction. Most of these parks are based upon a heavy concentration of rides, mostly of a thrill nature. They are often called "ride parks" within the trade. An "iron park" has the same rides, but is also generally considered to be without legitimate theming. Some of the theme parks have other major forms of patron entertainment. Included are marine parks, with their shows and displays of sea animals. Others are animal parks, with drive-through or ride-through tours of their landscape-themed facilities. There is also a myriad of theme attractions, including restored villages, historic railroads, specialty museums, botanical gardens, and even specialty shopping centers. The key theme parks, however, are the themed ride parks.

With few exceptions (Disneyland in Southern California and Disney World in Central Florida) each theme park occupies a primary market area by itself. Their preemptive presence discourages development of others of equal magnitude. As a result, most U.S. markets of sufficient population to support such a park are now served. Notable exceptions include the New York and New England market areas, where yet another one or two parks may develop. Europe, the Far East, and the Middle East are current targets with some good demographics for major theme park developers. So-called "mini-parks," considered by some industry people as the next wave, may begin to develop in some of the mid-size cities such as New Orleans, Birmingham, Indianapolis, and others.

Mini Theme Parks

The first successful, true mini theme park has operated for 4 years in the Minneapolis area while others have not performed as well. A park in South Carolina failed, as have two or three under-capitalized and poorly sited small themed parks elsewhere. Others have been talked of, but to date, few have been constructed.

A variety of specialty themed attractions have emerged recently. Mini race tracks using "formula" race cars at one-fourth scale have achieved some success with their Grand Prix format and setting. The current rage is water-oriented attractions, using water slides and wave pools. Many of these are loosely themed and of a highly seasonal nature.

An important characteristic of these latter attractions is their appeal to a population increasingly interested in active recreation. One severe drawback in developing participatory attractions is the limited number of participatory elements which can have a broad enough age appeal, and thus a broad enough market to be economically feasible. Another is the limited capacity when individual participation is allowed.

There is one other category of attraction which can be themed, and this is the true specialty entertainment "park." There are few of these. The Universal Studios Tour is a very successful one; the Grand Ole Opry, another. Both deal in large numbers of patrons. Unfortunately, neither lends itself easily to replication, for their location and already established uniqueness is a key factor in their success. The Kennedy Space Center is another unique form of entertainment attraction—successful and handling large crowds—but with a nonduplicative location and format. There would appear to be significant limitations on such development.

Major Park Site Selection

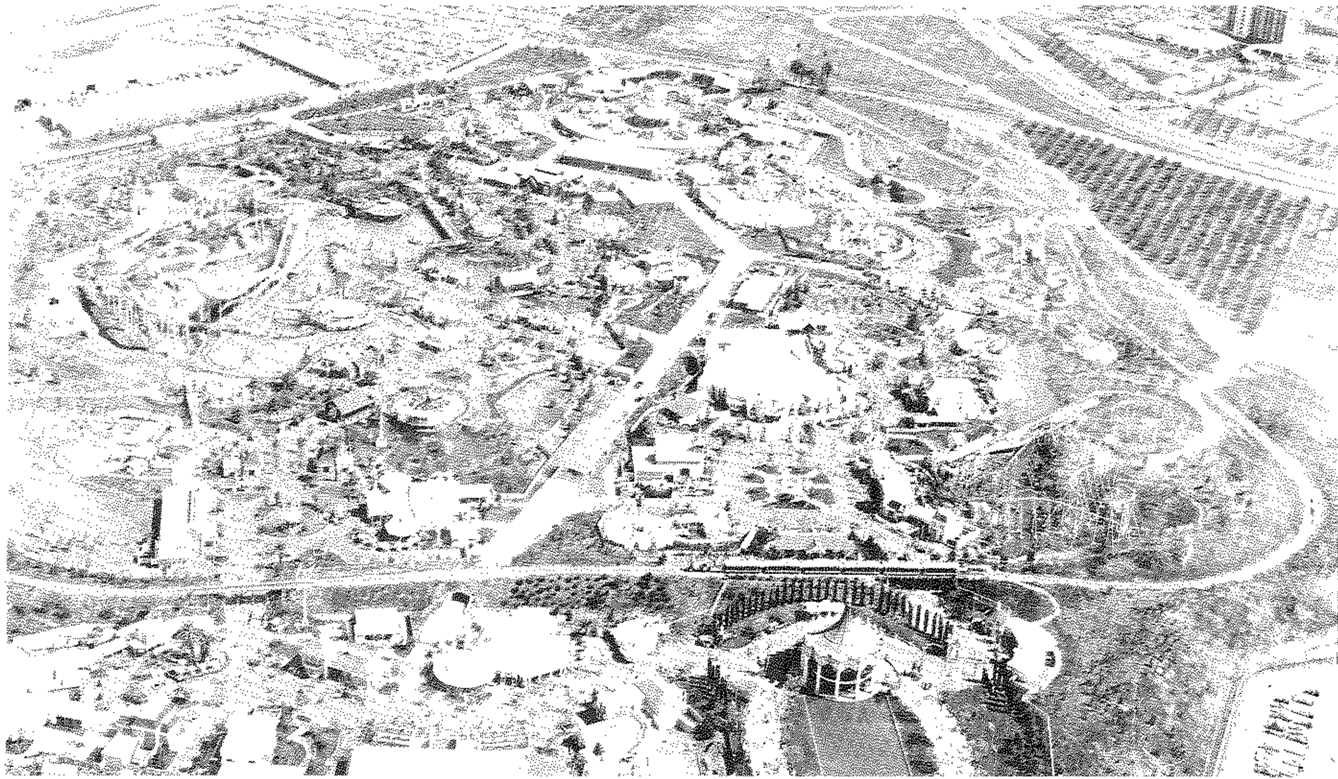
There has been a limited number of failures in the themed and specialty recreation field, but in most cases, a major factor in the failure was related to faulty location selection. As in most retail or public service businesses, the facility must be located where there is sufficient market size and quality. Faulty research or logic can readily lead to a park failure. All successful major theme parks, and undoubtedly most successful smaller themed attractions, have been preceeded by a thorough and carefully studied market analysis. These are almost always conducted by specialist companies, familiar with both research techniques and the park/attraction field. Detailed studies of population, demographics, competitive factors including non-park facilities, weather, and numerous other factors lead to projections of potential market penetration and probable levels of spending. These revenue projections, when coupled with known operating margins for a given type of facility, are essential to the determination of justifiable levels of investment.

Again, the projects that have failed, or which are marginal, frequently are found to have had inadequate market analysis. In many cases, they were based on either the owner's or developer's intuition or on his biased belief in a given factor. Local and nonobjective individuals, or even the developer himself, have actually prepared many such feasibility studies—which projected what the developer wanted, rather than what he truly needed to know.

Major theme parks generally require a reasonably noncompetitive (with other parks, at least) location. The primary market needs a minimum size of at least two million people, with a secondary market equal to or better than that. Large tertiary and tourist markets can be very helpful, though these must be discounted due to probable prolonged fuel problems. The primary market is generally considered to be the 50-mile or 1-hour drive time range; the secondary is up to 150 miles or 3 hours which still allows the patron to return home before the end of the day.

Other important factors in site selection include: location on or very near a major highway, with ample

Traditional rides like the carousel are distinct features of theme parks.



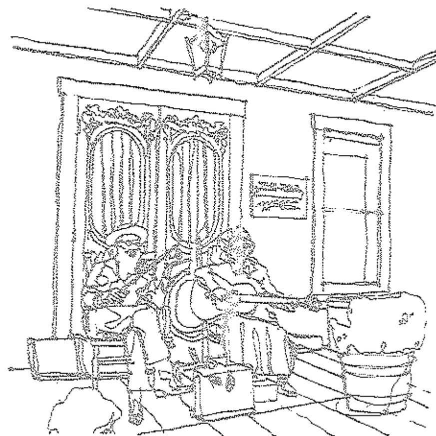
(aerial photo)—Marriott's Great America theme park in Santa Clara, California.

traffic handling capacity and interchange access; a secondary road for auxiliary or emergency entrance/exit and other service traffic; a visible site, capable of showing off at least key elements (towers, major structures, and a sign) to the passing motorists; identification with an existing landmark or area (helpful, but not essential); adequate utilities sources, as parks are heavy users of power, water, and sewage treatment; a favorable governmental climate for both zoning and taxation negotiation; and a limited number of nearby residential neighbors, who may object to permitting the development and subsequent operation. Adequate acreage is a necessity, with major parks requiring a minimum of 200 acres. The topography or configuration of the site can considerably increase the number of acres needed. Local requirements for buffer zones can also affect the acreage. The ideal topography is gently rolling, at most, for many guests will have a hard time navigating anything more, and steep hills will both discourage them and reduce length of stay—which directly affects spending and profits.

A site would ideally be roughly a rectangle of about a two to three ratio, with plenty of natural beauty—wooded areas and one or two low spots where permanent retention basins could be constructed. A cleared area for parking would be ideal if it is situated close to the highway or in another logical location. Existing greenery of a deciduous type is most desirable in reducing construction landscaping costs, in giving the facility an "established" appearance, in reducing the importance and need for heavily detailed architecture, in delineating and defining separate theme areas, and in helping to provide the feeling of coolness on hot summer days. Construction within such a situation is more difficult, as the specimen trees must be identified and protected, but this cost and effort is well worthwhile.

Smaller Attraction Siting

In some respects, it is more difficult to specify a site for smaller attractions. Many of these facilities are developed as an ancillary attraction in the vicinity of the primary market area of a major park or attraction. Others relate to long-standing tourist-oriented facilities. Natural wonders, such as caves, springs, mountains, lakes, etc., are the rationale for the profit-oriented development of attractions which relate to these. Still another reason for some of these facilities is the previously mentioned specialty of an area, such as country and western music, Ozark crafts, the space program, a famous race track, the movie production industry, and others. Some of these attractions spring up quickly, often from totally unassuming "Ma and Pa" operations, and have thrived. Others have been very strategically planned and crafted to capitalize on the given market.



Standing alone, smaller facilities might attract fewer patrons, but clustered they offer enough value to serve as a destination for tourists. In most all cases, the length of stay in smaller facilities is an hour or two, thus enabling visitors to take in several separate attractions in one day. They may, incidentally, spend considerably more money on this day's activity than they would for a full day of entertainment at a major theme park.

Quite obviously, the smaller attractions are far less demanding of space, utilities, superhighway interchanges, etc. They are able to fit into more odd-shaped land configurations, and they are clearly much less expensive to develop. In many cases, however, they can only be placed in situations where they can exist parasitically with a major attraction, or as a combination in a tourist-oriented location.

The very small attractions, such as skateboard parks, water slides, mini-golf, various racquet facilities, and others of this generally participative nature, can, of course, be constructed in any urban area with sufficient size and demographics. These are generally located on secondary real estate sites, though high visibility on a fairly major road is important. They are often considered a temporary land use. As an element of a fad—as many of these are—they may be of an even more temporary nature than their developers may have intended or required. In some cases, they have been constructed too close together and with little or no market research or consideration of competitiveness.

Special Considerations

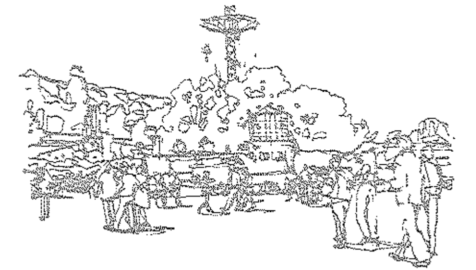
Whether an entertainment facility is major or minor in size, there is a direct correlation between overall quality of the unit and of its degree of success. Disney set the tone for today's family entertainment business. His company has developed a level of quality that is highly commendable, yet unaffordable for virtually any other developer. The sheer volume of people, with the attendant revenues and profits, has enabled Disney to afford levels of authenticity and/or construction sophistication that simply cannot be economically justified by others. There is, however, a given degree of design, construction, and operational quality below which any entertainment enterprise dare not fall if it is to have a reasonable chance of success.

Most of the major theme parks would cost in the range of 80 to 100 million dollars to duplicate in today's construction market. Another Disney World would cost far more. The mini-parks are in the $10 to $20 million range. A children-only park is currently under construction by a major firm, with a budget of $6 million plus. Specialty attractions can be expensive, ranging from around $100,000 for a simple water slide to many millions of dollars for a specialty themed facility.

Over-design and construction is the economic swamp into which developers are often enticed. The desire of emulating Disney or the self-indulgence of a personal ego are the traps to be avoided. The best means of doing this is to employ knowledgeable individuals or companies to serve as a restraining conscience. In such cases, if the project manager or consultant is truly experienced and has integrity, the controls will result in an end project well worth the cost of the specialists.

Design Constraints

The design of any entertainment facility requires specialists of several types. The routine aspects of vehicular traffic handling, utilities design, and similar planning can be done by any competent firm in these fields. Design of the physical facilities should, in most cases, be done by firms specializing in these areas. This design requires a "theatrical" approach, coupled with traditional architectural and planning skills. The objective is to mentally transport the patron into another time, place, era, or mood, and this demands an almost dramatic capability. Noninstitutional uses of color are required with theatrical lighting for proper emphasis. The magnification of certain elements, addition of architectural "gingerbread," and scaling down (or up) of certain dimensions are all keys to this form of design.

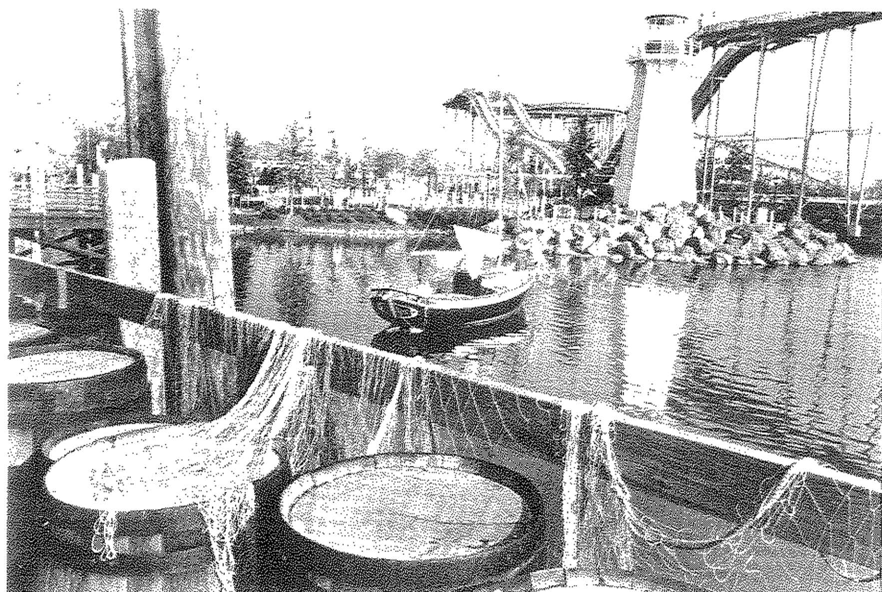


There are strategically important ways of placing the elements of a park so as to maximize patron spending and spread the entertainment experience properly over the desired length of visit. Quantities of each element, including entertainment, shows, rides, games, participative elements, merchandising, and food facilities are all determined in a fairly sophisticated manner. Still another reason for careful location of all elements is the impact on crowd flows and thus on crowd satisfaction. It is important for comfort, security, and guest satisfaction that they "are getting their money's worth." Cul-de-sac situations, too narrow walkways, and improperly located plantings can (though possibly aesthetically attractive, both on paper and in reality) become operational nightmares.

Based on properly prepared attendance projections, it is possible to predict, with reasonable accuracy,

the daily attendance and even hourly attendance patterns. With this information, skilled planners can then project capacity requisites for peak days and "design days"—which are the average high days for which most elements of a park must be planned. In a themed ride park, for example, there are acceptable numbers of rides per day which patrons will consider as proper value for their price of admission. This will govern the number of ride units which must be installed, and, thus, the required investment level can be calculated. As in any large crowd situation—ball park, shopping mall, or others—there are crowd pleasing amenities and certain service necessities which must be provided. Again, thoughtful planning related to previous experience can assure that these are present in proper quantities and style.

Extensive design criteria must be developed for a leisure project prior to commencement of the design. In fairness to the architects, they are entitled to detailed guidelines and limitations, to budget goals, and to all basic concepts which the owner/developer can develop. The owner's preconceived design ideas should be set aside, and the architects encouraged to think freely within those reasonable constraints agreed upon in advance. As a general statement, it is probably true that the more "quality" that can affordably be put into an entertainment project, the better chance it will have for success and for long life.


The theme of a New England fishing village in the early 1700s provides a water setting.

Local Impact

The developer of a theme park or specialty attraction must give attention to the potential impact of the facility on the adjacent elements. Most entertainment projects will not spawn the myriad of ancillary development, similar to that in the Anaheim, California, area surrounding Disneyland. Such developments logically require a year-round market and, unless they can stand on their own, will not be able to survive on the seasonal market associated with most entertainment.

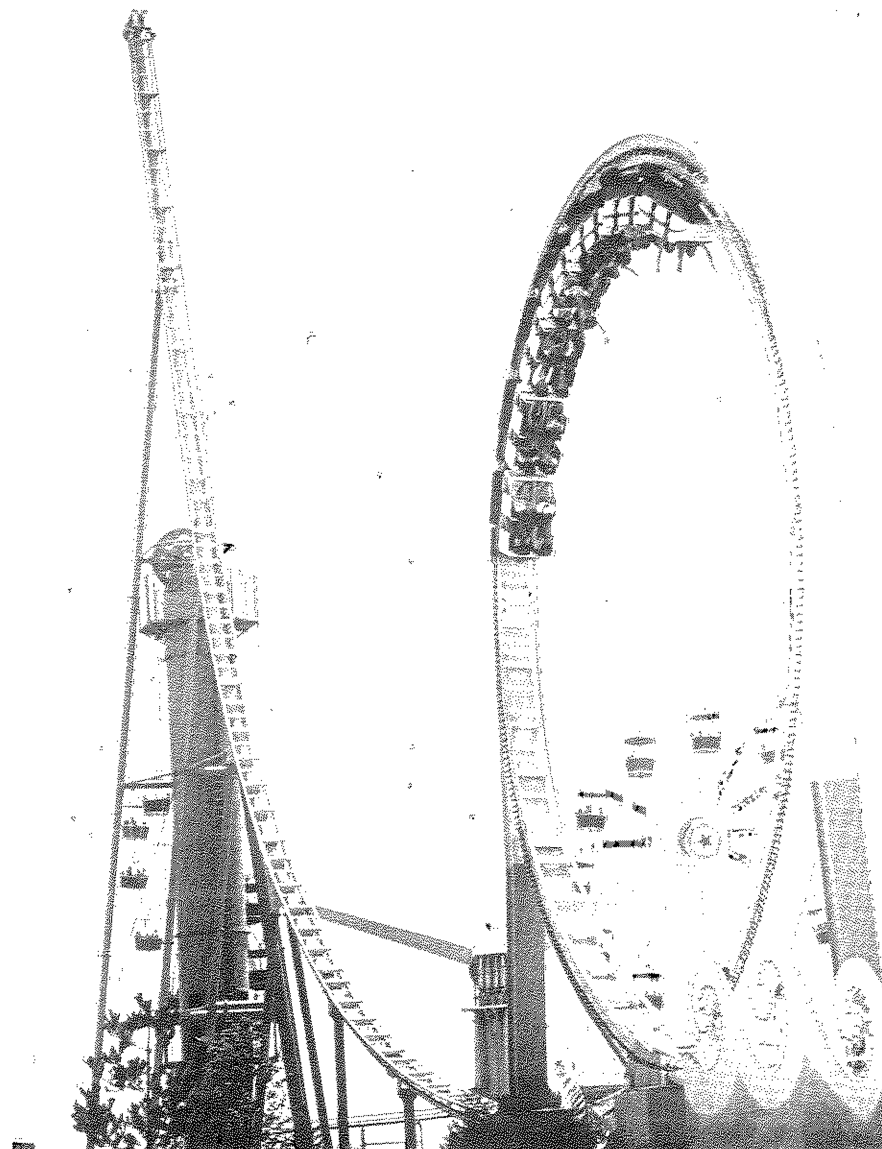
It can be profitable and also wise for the entertainment developer to acquire and control some acreage on the perimeter of the development. If the attraction is of sufficient size and quality, it can rapidly develop local or even regional attention, which can benefit the general area. Land values can be significantly increased as a result, and the developer may well offset some of his project costs through the sale of that nearby acreage. He also places himself in the position of control as to the usage of that land. High quality office parks, hotels, and commercial uses have accompanied recent park developments, all within complementary covenants as determined by the theme park developers. There are recorded examples of land values associated with park development appreciating as much as 300 to 400 percent over short time spans.

There is an implicit responsibility of a theme park developer to assure that the project is compatible with other developments in the immediate vicinity. Traffic, noise, and light problems are the most common which can occur, but which can be handled through proper foresight. There is no reason that even a residential area cannot be immediately adjacent to a theme park, if the proper planning is done.

From a governmental standpoint, a theme park can create certain new problems, but the trade-off is normally considered more than worthwhile by local officials. A large park project can momentarily inundate a planning department with plan checks for unique structures, products, and construction techniques. Longer range concerns, traffic control, and security problems relating to most large crowd gatherings are at least small problems for the local police. However, local government often considers these problems to be offset by a major new tax base and by new employment for relatively unskilled persons.

Financial Considerations

There is little question that new theme parks are not easy to finance. The unfortunate failure of a few (Freedomland, Old Chicago, the World of Sid and Marty Kroft) has caused traditional financial sources to consider these enterprises as risky, at best. Clearly, they have limited convertability to other use in the event of failure. In essence, they are an extremely inflexible and expensive user of large quantities of land. Even large sums of money cannot convert a park to an office building, without first bringing in the wrecker's ball.


Although rides of a "thrill" nature are the staple of "ride parks," they also are found in theme parks such as Great America.

The best way to prepare for financing a park project is to develop the strongest possible rationale for it. Use of well-qualified experts in market analysis, economic feasibility, land planning, specialty architecture, and operational planning is essential. Coordination of these specialists, with an articulate final presentation, is equally important. The funding sources must be convinced that thorough analysis, devoid of speculation or biased interpretation, is being presented to them.

Short-term construction funds may be obtainable from banks or consortiums of banks. Long-term money is much more difficult to obtain. Insurance companies may be persuaded, depending on the stature of the developer and the amount of his equity. At least a 25 percent equity position is demanded, and higher levels will make the loan easier to obtain. Numerous non-U.S. sources have recently become more readily available for entertainment-oriented projects, both within the U.S. and abroad.

Smaller projects such as mini-parks, specialty parks, and single subject attractions cost less and are much more easily financed from traditional sources. In such cases, the developers are generally able to guarantee such loans.

The Bottom Line

A majority of the theme parks are owned by large corporations and clearly the only reason to do so is to earn a good net profit. Most do. The net after taxes can range from 5 to 15 percent, depending on numerous factors. There are a few parks, generally in somewhat marginal market areas, which are not returning an adequate amount on their investment. Quite probably, this was the result of inadequate market research, over-building, or unwise forcing of the development by the misguided exuberance of the developer.

The park business deals strictly in cash. Aside from the small percentage of group business which is generally with reputable companies and organizations, there are no receivables. A family of four can easily spend $75 a day in the park. As a result, large quantities of cash are handled and a well managed park can enjoy an excellent cash flow, even in the first year. Investment tax credit and locally negotiated tax abatement arrangements can also be very beneficial to the owner.

Properly located, properly sized to the available market, properly designed and built, and properly managed, a theme park can be an excellent investment. None of these criteria are easy to meet in this day of a comparatively crowded entertainment market, but if it clicks a theme park can be an exceedingly exciting and profitable business to be in.

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Public/Private Partnership for Downtown Development

Joseph G. Madonna

Across the country today there are major development efforts underway aimed at the revitalization of our cities' downtown areas. Two things are common in almost all of these undertakings. One is the use of the mixed-use, interrelated project as the basis for revitalization and the other is the significant roles which the private sector and the public sectors must play in bringing about the desired objective.

Mixed-use redevelopment projects consist of several major uses in one general project area tied together either through functional planning layouts or actual physical connectors. Multi-use complexes can have a great and positive impact on community development by:

- introducing residential, transient, and/or recreational activities to areas that are "dead" during nonworking hours;
- maintaining and improving their own environment over time; and,
- having a far greater catalytic effect on community development than single purpose projects.

Since mixed-use projects carry with them higher risks than single purpose projects, they are much more difficult to start and therefore will never be launched without active public sector assistance, such as land leasing, direct loans and/or guarantees, tax abatements, land write-downs, interest subsidies to the developer, special zoning, or other types of development incentives. Recognizing the benefits as well as the difficulties facing this type of an undertaking, the city government of Columbus, Ohio, made available a number of meaningful subsidies and inducements to persuade the private developer to build downtown rather than in the suburbs and the outlying areas. The multi-million dollar, mixed-use project known as Capitol South in Columbus illustrates a public/private approach used to revitalize downtown.

Capitol South

In November 1972, the Columbus mayor convened a task force of some of Columbus' most distinguished community leaders and charged them with the responsibility of assessing the city's development needs as they related to the southern part of the central business district. He further directed them to determine what specific area would be the appropriate focal point to initiate action necessary to best serve those needs, and then to decide what development vehicle, or vehicles, would best be suited to achieve the desired results. Equally important, the city's legislative branch was brought into the process and kept apprised of all the key deliberations along with those executive departments having a responsibility for planning and implementing major development in the city of Columbus.

The task force recommended a mixed-use project, and with the initial marshalling of key support in the public and private sector, the proposed Capitol South project was off to a running start.

The public sector then identified qualified developers or development vehicles, as well as potential investors and sources of funding (particularly in the predevelopment phases). The task force decided to use a development vehicle authorized under Chapter 1728 of the Ohio Revised Code. This section of the code authorizes community urban redevelopment corporations (CURCs), which may enter into a cooperative development program with the municipality in order to redevelop projects in areas the municipality has declared blighted. In July 1974 the Capitol South Community Urban Redevelopment Corporation was formed and charged with the responsibility of developing an interrelated mixed-use project in a 3-block area in the heart of downtown Columbus.

A statutory partnership between the city and the CURC was formalized through a "financial agreement." The municipality may exercise its power of eminent domain within the project area and the legislation permits the municipality to exempt improvements from the real property taxation for a specified time, up to the total redevelopment value added to the property. In the case of one, two, and three family residential improvements, the exemption may remain in force for up to 30 years, while the maximum exemption period for all other types of improvements in the project may be up to 20 years.

It is important to understand that the period for which the exemption, or abatement as it is more often called, may be granted and the amounts of abatement are negotiable features of the agreement between the municipality and the CURC. During the period of the abatement, semi-annual payments must be made to the county auditor as a service charge at least equal to the total tax assessment on the land and existing improvements prior to the redevelopment. In other words, the taxing district (Franklin County) does not lose any real estate tax revenues presently being generated by land and existing improvements on the site of the proposed project. While the developer may receive an exemption or abatement of taxes, either totally or partially on the new physical structure when completed, that developer will have to pay an amount at least equal to the amount of the total real estate taxes which were in place at the time of acquisition of the site. Upon completion of the tax abatement period, the land and improvements are taxed by the county auditor at their fully assessed value.

The city of Columbus declared through its legislative governing body in April 1976 that the 3-block project area of Capitol South was statutorily "substandard, blighted, underutilized, etc." This finding provided the basis for granting to the CURC the normal development

(Aerial view) Site of the Capital South Urban Redevelopment Project in Columbus, Ohio.

Current land use plan for the Capitol South mixed-use development.

powers such as planning, designing, constructing, operating, and maintaining, as well as the tax abatement incentive for the developer. Equally important was the provision that the city's power of eminent domain could be used in order to insure the acquisition of the property within the project area. It is important to note that use of the power of eminent domain, as a last resort when all negotiations for acquisition break down, is a power exercised by the city and not by the Capitol South Redevelopment Corporation.

The ability of Capitol South to provide a tax abatement incentive and to assure the developers that the ultimate land acquisition tool will also be available (there are some 55 property owners in the Capitol South area) represents two of the great strengths of this mixed-use project—without which the chance for successfully undertaking this project would have been very limited.

While a CURC, such as Capitol South, may seem to have overcome very significant development obstacles by the use of eminent domain as a land assemblage tool and the provision for tax abatement to induce and offset the heavy competition from outside the downtown area, one of the key factors and obstacles to successful implementation of a downtown mixed-use project still remained: the ability to generate its own sources of predevelopment land acquisition financing. Normally, the CURC itself is unable to finance a project without adequate development commitments to support the issuance of revenue bonds. Capitol South was no exception to this problem. Thus, a crucial factor for the project was the identification of a significant source of funding—private and/or public. The question that faces all major mixed-use development projects in the predevelopment financing phase is whether the ultimate private developer of the project will make a firm commitment to participate prior to the time he is convinced that the land financing and land assemblage control can be met and successfully implemented. For Capitol South, and probably for many other mixed-use projects in downtown areas across our nation, the answer is "No." Therefore, who will take the risk involved in providing the necessary predevelopment financing in order to insure that the ultimate developer moves into the project with a firm commitment?

Federal Grants

Capitol South looked first to possible federal financial assistance through the federal Community Development Block Grant program. However, any significant or meaningful contribution toward the financing of a predominately nonresidential, mixed-use downtown development project was not available from the CDBG program due to the commitment by the city of Columbus (as is the case with most other cities in the country) to allocation of the lion's share of its yearly Block Grant Funding to the inner city residential area. Unquestionably, the thrust and intent of the CDBG program is toward the inner city neighborhood. The Capitol South project has been pursuing, through the city of Columbus, Urban Development Action Grants (UDAG) for financial assistance for various aspects of the 3-block project. While to date the redevelopment corporation has not been successful, there is a good possibility that a grant approval for some phase of the project will materialize in the future. A UDAG, where needed to make the developer's financial commitment feasible, will go a long way toward insuring the ultimate success of Capitol South in its implementation building phase, which is where the redevelopment corporation is presently. On the other hand, the amount of dollars that are available under the UDAG program would not cover the entire land acquisition financing cost for Capitol South, namely $18 million. Thus, Capitol South still needed to identify a source of major funding, particularly for the predevelopment phase.

One significant source of federal funding actually secured for Capitol South, although by no means the answer to all of the predevelopment financing problems which the project faced, was the U.S. Department of Commerce's Title I Public Works Program, administered by the Federal Economic Development Administration (EDA). In the eyes of many urban developers EDA is one place where they will not only find a "sympathetic ear" but will indeed have a better than even chance of securing significant funding for the various parts of nonresidential, downtown development projects. Critical predevelopment phases of urban projects, such as demolition, relocation, provision of the utilities, parking, and the like are eligible work items to be considered a proper subject of an application for funding for the EDA. And there is even one section of the EDA Title I Program which does permit use of its funds for land acquisition if the ultimate reuse to which that land is put is of a public nature. The $3.8 million Title I Public Works Grant which Capitol South secured from EDA was for the land acquisition, planning, engineering, design, and construction of a year-round urban activity center which features recreational and leisure activities, outdoor cafes, concerts, art exhibits, civic events, exhibitions, etc. The EDA grant was matched on a 20 percent basis by two private foundations in Columbus, the Battelle and the Columbus Foundations, and by the city of Columbus itself.

The Centrum, as the activity center is called, has been completed and has attracted incredibly high numbers of people back to the downtown areas on weekends and after 5 p.m., thus, bringing alive an

area that was previously "dead" after working hours. This facility has not only changed the environment of the Capitol South Project but also has encouraged private developers to make commitments. Within 6 months of ground breaking for this urban facility, Capitol South's first office building developer signed an agreement to begin construction in 1979 of Phase I of an office building complex.

This public urban center facility in the Capitol South project has become the gateway to the project and one of its cornerstones. In addition to the office development commitments secured subsequent to the groundbreaking for the activity center, agreements have also been entered into with developers of retail, hotel, and additional office building phases of the project. Of course, the Centrum also provides a key to the whole revitalization process for downtown Columbus in general. However, there was not enough funding available in this EDA program, as was the case with the UDAG program, to have financed the critical land acquisition predevelopment phase for the entire Capitol South project. Thus, the search for other financing options continued.

Private Financing

Recognizing the relatively low private sector interest in Columbus for downtown development on a large-scale mixed-use basis, Capitol South's expectations for the private sector (local or national) to meet the project's most critical predevelopment financing needs were not too high.

In general, the private sector's participation in this area should not realistically be expected since neither the financial institutions in this country, the major lenders, nor the major corporate entities are structured for or disposed toward becoming involved as a significant front-end lender for a mixed-use redevelopment in a downtown area. The involvement of large insurance companies or consortiums of large lenders participating in joint venture with actual developers for major urban projects is happening less and less frequently. These major equity lenders have all too often found that while they provided all the up-front predevelopment financing money for their joint venture partner, the development schedule dragged on for an inordinate amount of time, with the lender responsible for holding land at considerable cost without the corresponding productive income yield. While there may be a few major urban areas whose commercial market is so strong that the private sector would feel confident enough of the ultimate success of a major project that it would provide private dollars in the predevelopment financing state, the Capitol South project could not attract such up-front participation by the financial community, either locally or nationally.

After opening in December 1979, the Centrum, Capitol South's year-round, multi-purpose activity center, drew 35,000 ice skaters in its first 1½ months of winter operations.

This is not to say, however, that the private sector in Columbus did not come forward in a meaningful way to assist in the structuring of the Capitol South development project. Indeed, in Columbus, the Capitol South project is a striking example of the private sector's channeling significant dollars for preplanning and general and administrative operating costs into a mixed-use project through a nonprofit development vehicle, such as the Capitol South CURC. Through a series of grants and loans beginning in 1974, the private sector in Columbus has made available an amount in excess of $750,000. To date no public dollars have been used for the general and administrative operating expenses of the Capitol South project and this type of significant commitment from the local business community has been one of its most important assets.

City Bonds

As the Capitol South CURC and the city continued their search for the critical fiscal ingredient to successfully launch this vast downtown project, it became clear that only one resource remained as a viable alternative. That was the city itself and it was in this regard that Columbus made one of the most significant and meaningful commitments to successfully launching this downtown project. Having exhausted all other avenues of financing, as indicated above, officials of Capitol South met with Columbus Mayor Tom Moody, M.D. Portman, president of Columbus City Countil, and Michael Gable, the city's finance director, and devised a unique, innovative, and simple process of financing the cost of the 3-block, 16-acre land area of Capitol South through use of the city's unvoted bonding capacity. The economic health of the city was so strong that it could afford to commit $18 million of its unvoted bonding capacity to finance the cost of the land in Capitol South without jeopardizing the future development of any capital improvement projects either in process or on the drawing boards. The acquisition program worked as follows:

> The Capitol South CURC, with a representative of the city negotiates the acquisition of land with the property owner involved. When agreement is reached, a closing date is set and the city council, through administerial action, authorizes the issuance of a councilmanic bond or note in the agreed upon amount. Within 30 days of such councilmanic authorization the closing is held with the city, presenting the funds to the property owner, and the property owner itself turning land title over to the city together with any income stream which that particular property generates. In turn, the city leases the land to the Capitol South CURC for an initial 5-year period during which time the Capitol South CURC not only has the obligation to seek out the developer and/or developers to build the facility or facilities for that parcel of land but also pays rent to the city in an amount equivalent to the interest rate which the city had to pay on its councilmanic borrowing, times the purchase price. This obligation (as well as the obligation to maintain the property and pay existing real estate taxes on it) is assumed by the Capitol South CURC until such time as the land is actually transferred to the developer. In this way the city's risk is minimized to the extent that the carrying costs on the borrowings involved in this land financing process are assumed by the Capitol South CURC and are primarily paid for through the income stream which is generated as the result of the interim uses as they exist today in the Capitol South area. (It is interesting to note in this regard that there are some 1,840 parking spaces in the Capitol South project area which generate a significant amount of revenue with very little maintenance charge.) The city, finally, will not relinquish title to any land it has financed until such time as the funds it has made available are fully paid either by the Capitol South CURC and/or the developer, as the case may be.

Unquestionably the city's commitment to make available, even on a loan basis, the funds needed to finance the cost of the land turned the corner for the Capitol South project. For up to that point in time, developers, local or national, and property owners in the 3-block area showed no interest in participating in the Capitol South project or in selling the land, on their respective parts. Once the land financing arrangement was established in the city's financial agreement with Capitol South in January 1977, the redevelopment corporation was able to commence meaningful negotiations with the multitude of property owners and was able to begin an earnest search for appropriate developers to actually construct the various facilities contemplated in the Capitol South project. When Columbus stepped up and took the risk when no one else could or would, one of the most meaningful and true partnerships in major downtown development in this country was formed. It was the city's own funds generated through its own revenue producing mechanisms, and not federal grant or state grant programs, which provided the wherewithal to successfully launch the key predevelopment phase of the Capitol South project. This commitment has gone a long way toward convincing private developers that Columbus is genuinely committed to successful implementation of the project to which they were being asked to commit significant private dollars for the actual construction of the hotel, retail, office, and residential phases.

Since the initial commitment by the city to make the $18 million available for land acquisition financing on a loan basis, Columbus has made two additional developmental tools available to the prospective developer. The first is to advance additional money in order to front-end the cost of utility relocation and demolition and the second, and perhaps more important, is to make available to the developer, if he wishes, the opportunity to finance land acquisition and related costs on a 30-year long-term basis. The mechanism for this is simply converting the initial short-term, 5-year unvoted concilmanic bonds or notes into 30-year, long-term,

The project's first private new office complex, under construction, containing 216,000 square feet.

general obligation city bonds. This process works as follows:

If the developer wishes, he may request that the cost of land acquisition for, let us say, a tract of land costing $1 million be financed by utilization of the city's 30-year general obligation bonds. If this request is made, the city will automatically honor it by converting the short-term councilmanic bonds or notes covering the $1 million land tract into its 30-year general obligation bonds, thereby relieving the developer of the obligation of adding the million dollars to his development equity requirements and also providing the developer some savings on the interest rate which can be achieved through the utilization of city general obligation bonds rather than conventional financing on the land acquisition. If the developer wishes to use this tool, the developer must be willing to pay an additional one-half percent interest over and above the rate for the city's general obligation bonds which are in force at the time of the long-term conversion. Again, the developers with whom Capitol South has been working are most anxious to take advantage of this and the small price that has to be paid to the city, namely the one-half percent over and above the going rate, is certainly a worthwhile cost to the developer. As a matter of fact, the developer who has already commenced construction of the first office building in Capitol South did indeed take advantage of this option and elected to use the 30-year conversion. Again, the city of Columbus took advantage of its relatively strong economic health—it enjoys a AA Moody's bond rating at the time of this writing—and is in a position to make this kind of inducement available to developers under attractive conditions.

Development Negotiation

Having attracted a developer to participate in a particular phase of the Capitol South project, how then does CURC bring about a more formalized working relationship with that particular developer?

The process being used in the Capitol South project is basically a two-phase development relationship:

Phase I contemplates a working development agreement which provides, over a definite and specified period of time, that the potential developer will have "exclusive right" to put together the necessary predevelopment package for the facility or facilities planned for the particular land tract or tracts in which it is interested. The developer's obligations in this regard would include preparing preliminary schematics, preparation of initial and final economic pro formas, securing of preliminary and final mortgage and equity commitments, preparation of construction drawings, and entering into the final and legally binding land transfer agreement with Capitol South CURC. On the other hand, Capitol South CURC's responsibilities would include finalizing and perfecting land acquisition proceedings (if that be necessary), preparing and completing a satisfactory parking program on an interim and permanent basis, conforming to the developer's as well as the overall project's needs, serving as laision for the developer with all federal, state, and local agencies and governing bodies, providing the developer with written approval or rejection of his plans, specifications, or economic proposals in a timely fashion, and applying for all appropriate public funding—federal, state, and/or local—in order to make the development economically feasible.

In this way the potential developer is protected during his "exclusive time frame" while he is expending funds to meet the various obligations under the agreement and at the same time Capitol South is protected from a "hunting expedition" by the developer since the exclusivity is keyed to a specific time and action work schedule to be met within a specified time period.

Phase II of the development relationship between Capitol South and the developer culminates with the negotiation and execution of the actual land transfer agreement. It is at this point in time that the interest in land passes to the developer, construction of the facility or facilities planned actually begins, and the heretofore discussed obligation of reimbursing the city for the land acquisition financing costs passes to the developer.

At the present time Capitol South is working with developers of office buildings, hotel, and retail facilities in Phase I working development agreements, while it is in a Phase II land transfer agreement with the developer of the first 216,000 square foot office building. This system has worked quite well in showing the public sector that developers are willing to commit their own funds, time, and effort to work in the Capitol South project in both the predevelopment and execution phases.

When the public/private partnership in Columbus's Capitol South project is viewed from an overall perspective, it becomes quite apparent that the two sectors began working together at the earliest time in the life of the project and continue today through execution and implementation phases. Project conceptualization began with the city of Columbus and the private sector through a task force working together to create the Capitol South Community Urban Redevelopment Corporation and to sanction the use of an imaginative state statute to implement a much needed downtown mixed-use project. Initial feed money funding for the private, nonprofit corporation found its source in the private businesses, small and large, while the key and crucial high-risk predevelopment and land acquisition financing needs were met by the city itself. The federal government has entered the picture in a most meaningful way in supplying the major portion of the funds necessary to build the gateway center known as the Centrum. The federal government's participation of course will continue to play a key role in the actual developmental phases of various portions of the project. The state has not only provided one of the bases for development implementation through Chapter 1728 of the Ohio Revised Code but also has undertaken an in-depth analysis and study for the provision of the critical parking needs of the project, without which no developer would be willing to commit his participation.

Thus, the private sector and the public sector at the local, state, and federal levels have joined hands in a most meaningful and innovative way to revitalize downtown Columbus.

Joseph Madonna is Executive Director of the Capitol South Urban Redevelopment Corporation in Columbus, Ohio.

Regulating Competition of Shopping Centers

Annette Kolis

The developer's quest for land available for commercial use has become increasingly difficult in recent years. Sufficient time has elapsed since the post World War II building boom of suburban shopping centers to allow analysis of the economic, social, and environmental impacts of these regional centers on community welfare. The impact on many communities has been that downtown business areas have become vacant or decayed as business relocated in outlying regions. Many communities which have viewed detrimentally the decentralization of commercial areas have begun to limit the availability of outlying land for regional shopping center development. In addition, many communities have begun (by implicit or explicit policy) to focus on the revitalization and redevelopment of central business districts.

This focus has recently been emphasized by the Carter administration under the President's Urban Conservation Policy. The "primary objective" of guidelines issued in a memorandum by the White House on November 26, 1979, entitled "Community Conservation Guidance," is to:

> . . . encourage, through appropriate federal, state, and local action, the targeting of limited resources on the redevelopment and/or development by the private sector of older commercial areas. In order to accomplish this, [the guidelines] are aimed at discouraging major federal actions that will directly lead to the construction of those, and only those, large commercial developments that clearly and demonstrably weaken existing communities, particularly their established business districts.

The guidelines outline a process by which federal agencies are required, when requested by "the chief elected official of an affected community," to "prepare a community impact analysis of pending federal actions." The "community impact analysis" will be a document in form and content similar to environmental impact statements required under the National Environmental Protection Act (NEPA). When both reports are required for a project, one document may not, however, necessarily be used in lieu of the other. The "Community Conservation Guidance" document does not have the force of a law such as NEPA, yet the impact of a presidential policy can nevertheless be great.

The International Council of Shopping Centers (ICSC) president, Edwin N. Homer, responded to the President's policy in the following terms: "There is an insidious wind of change blowing across the United States. It has the message, 'Stop the development of suburban shopping centers.'. . . . [G]rowing support . . . for downtown revitalization is creating an unfair and unwarranted backlash." (*Shopping Centers Today,* May 1979). An impact is already being felt by shopping center developers, and the policy debate between those promoting downtown revitalization and those promoting suburban shopping centers will likely intensify in the future.

Although much of the debate will be political, some legal questions are raised by the issue since there are limits to governmental authority to control commercial competition. Local governments authorized to zone land uses may do so only for proper police power purposes—to protect the general public health, safety, and general welfare. The courts have been less than unanimous in deciding whether control of competition is a legitimate police power purpose which will justify zoning controls. One commentator categorizes the range of judicial conclusions in the following manner:

1. Control of competition is *ultra vires* and unconstitutional in zoning.
2. Businesses may not be licensed under the zoning power.
3. Control of competition may not be the dominant purpose in zoning, though control of competition may be a factor in zoning.
4. Zoning powers cannot be used to confer a monopoly. (Mandelker, "Control of Competition as a Proper Purpose in Zoning," *Zoning Digest,* February 1962).

Control of competition as an explicit police power justification for a local government's exercise of zoning power may have a bearing on the constitutional validity of the action. A city's choice to revitalize downtown business and discourage suburban shopping centers may be deemed an improper use of zoning powers when challenged by claims of competition restriction.

Another possible legal challenge to emphasis on downtown revitalization is public official violations of Federal Antitrust Acts (15 U.S.C. §§ 1-7 and 15 U.S.A. §§ 12-27). The acts prohibit "contracts, combinations, or conspiracies" in restraint of interstate commerce. The Supreme Court has held that the act may be applicable to local governments in *Lafayette* v. *Louisiana Power & Light Co.,* 532 F.2d 431 (5th Cir. 1976), *aff'd.* 435 U.S. 389 (1978). In *Lafayette* the Court held that unless the state legislature has "directed or authorized" local actions which substantially restrict interstate commerce, municipal actions are subject to the antitrust act prohibitions.

A situation in which this claim has arisen may be illustrated by a United States District Court decision in *Mason City Center Associates* v. *City of Mason City,* 468 F. Supp. 737 (N.D. Iowa 1979). The plaintiffs in *Mason City* planned to build a regional shopping center on the west side of the city which required a rezoning from agricultural and mining use. They brought suit alleging antitrust violations by the city corporation, individual council members, and developers proposing a regional shopping center for downtown Mason City. Defendants moved to dismiss the case for failure to state a claim. The court in *Mason City* denied the motion; whether defendants are liable will be decided in a subsequent suit.

The facts which brought the *Mason City* case to court are outlined by the district court and are relevant to the discussion here. Plaintiff alleged that defendant developers "entered into an agreement with the city to organize and plan the Downtown Center upon the express condition that the city prevent any person or firm from planning or constructing a regional shopping center that would compete with the Downtown Center." Plaintiffs further alleged that rezoning of its property was denied "pursuant to and in furtherance of [the agreement] to exclude competitive shopping developments from Mason City. . . ."

Defendants primary contention in moving to dismiss the case was that refusal to rezone plaintiff's property was "protected as a matter of law by the 'state action' exemption to the federal antitrust laws. . . ." The district court first noted that under recent Supreme Court decisions, (e.g., *Lafayette, supra*) municipalities "are not automatically exempt" unless " 'anticompetitive activities [are] compelled by direction of the state acting as sovereign.' " The court stated that the Iowa state zoning law should not be interpreted to compel anticompetitive zoning such as that which Mason City exercised:

> [T]he more probable view is that the state would intend its municipalities to exercise their zoning powers in a manner consistent with the bounds imposed by the federal antitrust law. . . .

The court explained that the decision was based not on any "anticompetitive effect" of rezoning refusal, but on use of zoning powers to further the alleged "anticompetitive agreement" "Clearly, the city . . . could adequately and effectively exercise its legislative-delegated zoning powers without entering beforehand into anticompetitive agreements with private entities."

The court's distinction between anticompetitive effects of zoning and affirmative agreements is an important one because "the essence and effect of every zoning ordinance is almost inevitably to limit and restrict the free market." (Banta, Duerkson, and Jordan, "The Supreme Court and Land Use: Some New Twists," *Environmental Comment,* July 1979). Municipal zoning powers would be seriously curtailed if anticompetitive effects of zoning actions would be deemed prohibited by federal antitrust laws. Yet if a community chooses to revitalize downtown business districts, it is likely some analysis of available private developers will be made in order to determine the feasibility of such a plan. Under *Mason City,* it is clear that public officials should not affirmatively enter into anticompetitive agreements with private developers. The question the decision does not answer is what other types of negotiations or contacts between public officials and private developers will give rise to an antitrust cause of action.

Recent antitrust and zoning competition case law suggests future problems for central business district revitalization policies. It is likely that many courts will follow the *Mason City* decision in holding anticompetitive agreements with private developers a possible violation of antitrust laws. One commentator suggests a remedy for this limitation of local power: "State legislatures [should] amend their enabling legislation so as to explicitly recognize the focusing of commercial . . . development into a single central district . . . as a legitimate planning and zoning goal." ("Comment on Mason City," *Zoning and Planning Law Report,* July-August 1979). Even if antitrust implications are not present in a case, constitutional attacks challenging the legitimacy of police power purposes can still be thrust at revitalization policies. There are those, however, who suggest that the common law need not and should not be interpreted in such a limiting manner:

> If the facts in a particular situation convince municipal officials and planners that there is not a sufficient market to support both existing business districts and a new shopping center, it seems the height of folly to say they must allow the shopping center to be built so that the free market forces can decide whether the shopping center or the central business district will survive. (Weaver & Duerkson, "Central Business District Planning and the Control of Outlying Shopping Centers," *Urban Law Annual,* 1977).

The President's Urban Conservation Policy is an attempt to recognize the waste of duplicative land uses, and financial incentives under the policy may have the greatest impact on the issue. There is one certainty: as land becomes a scarcer resource and as energy problems increase, the debate between those promoting downtown revitalization and those promoting suburban shopping centers will intensify.

Annette Kolis, the former Assistant Research Counsel for ULI, is currently working as a consultant.

LAND USE ABSTRACTS...

State Land Use Control

Healy, Robert G., and John S. Rosenberg
LAND USE AND THE STATES: SECOND EDITION
The Johns Hopkins Press, Baltimore, MD
1979. 284 pp. Indexed. $18.00 Hardback, $4.95 Paperback

The frenzied activity in state land use control that marked the mid-1970s has died down and lost its momentum. Or so it might seem. Settled down and matured might be a more accurate statement. The active role of states in land development policy and regulation is still very much alive. More importantly, it is continually evolving as experience with these early programs is gained and lessons are learned.

In the second edition of *Land Use and the States*, Robert Healy and John S. Rosenberg examine the experience states have had in implementing land controls and participating in what used to be purely local decisions.

Their book has three strengths to commend it. First, it reviews state intervention in land use comprehensively, drawing on a wide array of different types of approaches from state permit programs to land tax policies. Second, it analyzes the results of three leading programs in depth—Vermont's Act 250 adopted in 1970, California's Coastal Act of 1976, and Florida's Environmental Land and Water Management Act of 1972. Third, based on this analysis of practice, it presents a balanced and thoughtful discussion of the key political, economic, and social issues which concern both the regulators and the regulatees.

The three case studies of Vermont, California, and Florida are well chosen. These three states combine the most far reaching state authority with the longest record of experience and innovation. In each case the authors recap how the laws came about, how they work, their advantages and disadvantages, and the effects they have had.

The findings are rich in detail. Vermont, for example, after more than 8 years of operation under Act 250 (at the time of writing) had processed over 3,000 applications for land use permits. Only 78 of these were denied and roughly twice that many were withdrawn. The authors report, however, that there is a consensus of opinion that the quality of development in Vermont has significantly improved as a result of the Act 250 permit process. Virtually all of these permits were granted subject to conditions. Furthermore, Act 250 appears to have had the effect of improving the sophistication and quality of local planning and development regulation, as well as improving the quality of projects proposed by developers. Of course, the cost of development and construction has risen as a result, which the authors point out in some detail.

In spite of its success, there are still some development problems Act 250 has not been able to handle. The act has not been effective in controlling commercial strip development, for example, due to the 10-acre minimum threshold figure. Still, the scope of the Act 250 process has evolved significantly over the years, dealing with a broader range of issues than originally conceived. The best example of this is the Pyramid Companies' regional shopping mall project which threatened the economic stability of downtown Burlington and was denied a permit. The limits of Act 250 are still unresolved in this case, which will soon be heard by the Vermont Supreme Court.

Chapters 4 and 5 provide similarly detailed reviews of the far reaching powers of California's Coastal Commission and Florida's experience in protecting critical areas and reviewing large-scale projects called developments of regional impact (DRIs). The Florida case should be particularly interesting to other states since the DRI process was built around existing governmental structures, giving everyone a role in the process without significantly changing their traditional powers. The results of the DRI process have been mixed. Critics feel that many large-scale developments have avoided DRI designations. Also, the authors claim Florida's liberal vested rights provisions create a loophole which has exempted many projects planned earlier but not yet built out. Still, the DRI process is credited with improving the factual bases of local decision making.

Two other chapters should be mentioned. Chapter 6 draws on the experiences of other states beyond the three case studies and presents a good overview of the alternative approaches to state land use control which have been tried or considered. It includes information on what types of development these controls deal with, as well as brief descriptions of how these programs have worked.

Chapter 7 is one of the best. Here the authors step back from their analysis of practice and focus their attention on the larger political, economic, and social issues involved in the design and implementation of state land use policies. The political concerns of public officials, bureaucrats, and citizens are discussed. A section on economic issues reviews the impacts of regulation on states' overall economies, as well as their effects on land prices and development costs. The costs and investment risks caused by procedural delay are also addressed, as are social equity issues such as housing opportunities and discrimination.

Healy and Rosenberg are strong advocates for broader state roles in setting land use policies. Their final chapter proposes a set of criteria for designing them. The positions they take are reasonable, politically sensitive to local interests, and based on a good analysis of past experience.

Most of the issues which first stimulated states to get involved in land use control still persist. Some tough new ones like energy development and hazardous waste management loom on the horizon. For those concerned about how we go about managing our land resources and resolving these issues, this book is well worth reading.

David R. Mosena

David R. Mosena is Director of Research for the American Planning Association. A current project underway at APA is studying the laws mandating consistency between planning and zoning in California and Florida.

Savitch, H. V.
URBAN POLICY AND THE EXTERIOR CITY: FEDERAL, STATE, AND CORPORATE IMPACTS UPON MAJOR CITIES
Pergamon Press, Maxwell House, Fairview Park, Elmsford, NY 10523
1979. 359 pp. Index. $30.00

The author conceived this book out of his perception that external factors seem to be increasingly important for cities, that "multinational corporations and official delegates from the state capital and Washington seemed as important to the fate of the city as what its own mayor could do." Savitch's thesis is that national growth patterns and politics have ensnared cities in complex relationships, that city hall has steadily lost control over its own affairs, that real power has shifted to the federal government, "middle" governments, and private corporate interests. National policy in recent times has been either "meliorist" (intervening to compensate sectors or areas that have fallen from privatism's grace by means of a variety of circumspect policies to entice corporate investment) or "reinforcing" (using public policy to further the direction which privatism is already pursuing). Under Roosevelt and Truman the foundations for meliorist policy were laid with mortgage guarantees, public works, and slum clearance programs. Eisenhower steered public policy toward a reinforcing role; privatism was to be allowed greater discretion while still benefiting from public investment; government programs were not seen as a means for prodding privatism toward national goals but rather as a way of freeing privatism up to pursue its own ends. Kennedy and Johnson, with their "politics of urban promise," took the meliorist path and Nixon and Ford, with their "politics of urban disengagement," the reinforcing path. State governments are also shown to affect the exterior city to an extraordinary degree. Another externality that cities are faced with is their outlying suburbs. Savitch likens city/suburban relationships to colonialism, where a dominant power (suburbs) exacts value from a subordinate area (city) without giving much in return. *Urban Policy and the Exterior City* examines various federal, state, and local policies that are either directly aimed toward cities (spatially relevant) or that have an impact on cities. It looks at governmental programs in political terms, in terms of either their meliorist effect or their reinforcing effect on privatism, which is seen to be the primary shaper of urban areas.

Seldin, Maury
THE REAL ESTATE HANDBOOK
Dow Jones-Irwin, 1818 Ridge Road, Homewood, IL 60430
1980. 1186 pp. Tables, index. $37.50.

This is a reference book on a broad range of real estate subjects. Sixty-seven chapters are divided into five sections: (1) real estate transactions, focusing on the business and legal consequences of buying, selling, borrowing, and lending; (2) real estate analyses, covering appraisals, feasibility analyses, and other studies pertinent to investment decisions; (3) real estate marketing, covering regular business aspects and regulatory issues; (4) real estate financing; and (5) real estate investment for different types of property.

Vaughn, Roger J. and Mary E. Vogel
THE URBAN IMPACTS OF FEDERAL POLICIES, Vol. 4, POPULATION AND RESIDENTIAL LOCATION
The Rand Corporation, 1700 Main St., Santa Monica, CA 90406
1979. 132 pp. Tables, bibliography, index. $7.00.

This report examines the effects of federal actions on population distribution and residential location. Federal policy impacts on the local public sector of the urban economy were examined in vol. 3, *Fiscal Conditions*, and impacts on the private sector in vol. 2, *Economic Development*. The findings of the three reports are summarized and integrated in a fourth report, vol. 1, *Overview*. The emphasis of these reports is on synthesizing findings from previously conducted studies.

This report examines both inter-urban trends in residential location and suburbanization in all regions of the country. The most important federal influences on inter-urban migration have been through policies supporting regional differences in economic growth and through federally supported transfer payments. "Federal policies have encouraged the rapid growth of employment in the South and West at the expense of the Northeast, and in newer, smaller metropolitan areas at the expense of older, larger ones. This consistent direction of influence, often inadvertent, has been the result of policies favoring growth and new development over rehabilitation and repair. The bias extends from expenditure policies and the federal tax structure to regulatory activities. Firms in growing areas have received federally subsidized new infrastructure and tax breaks, allowing rapid expansion. Firms have moved away from older areas to take advantage of these growth incentives."

Much of the movement of households from central cities to suburbs can be attributed to five factors: "Transportation improvements have allowed them to do so without sacrificing accessibility to downtown employment and shopping, rising incomes have stimulated the demand for single-family homes, jobs have moved to the suburbs, suburbs offer an escape from many of the unattractive aspects of city life, and suburbs offer lower tax rates and better quality public services than central cities."

The suburbanization process is also aided, if unintentionally, by a number of federal policies, most importantly the array of housing programs, highway construction, new development subsidies, and certain regulatory policies. "The overriding conclusion of this report is that federal policies have contributed and continue to contribute to the urban crisis. They have reinforced regional and urban population deconcentration and the growing concentration of the economically and socially disadvantaged in central cities. These are not the desired outcomes of social policies but have arisen inadvertently because federal programs tend to encourage new development at the expense of maintenance or redevelopment. Many of the factors that have contributed to the central city problem are out of the hands of local governments and are embedded in the structure of federal programs and policies. A federal strategy to assist cities in becoming healthier business and residential centers must embrace not only explicitly urban programs but the complex web of social and economic policies that have affected location decisions."

Windsor, Duane
FISCAL ZONING IN SUBURBAN COMMUNITIES
Lexington Books, 125 Spring Street, Lexington, MA 02173
1979. 160 pp. Tables, index. $19.95

In three landmark cases (*Robinson*, *Mt. Laurel*, and *Madison*) the New Jersey Supreme Court adopted two strategies to deal with suburban exclusionary practices—state aid to public education and least-cost zoning. These strategies appear to rest on fundamental assumptions which underline the widely accepted theory of fiscal zoning:

- metropolitan housing markets are significantly affected by local restrictive zoning practices
- restrictive zoning practices are based on strong and well-defined fiscal incentives created by the local property tax system

Windsor uses zoning, fiscal, and census and construction data to investigate these assumptions in the New Jersey context. "For the exclusionary zoning hypothesis to be valid, local restrictions must be widespread enough to affect metropolitan housing markets and must be binding, without simply reflecting developers' preferences (and hence market demand). For the fiscal zoning hypothesis to be valid, income segregation and residential location decisions ought to be significantly influenced by local fiscal variables, and such fiscal considerations ought to outweigh nonfiscal factors. The fiscal implications of alternative land uses must be well known or calculable, with the specific result that large lot zoning is fiscally superior to multifamily development."

The New Jersey investigation suggests that income segregation and fiscal disparities are explainable through market forces, and that while exclusionary zoning may reinforce these market patterns it is not necessary to them. Windsor finds it unlikely that the New Jersey Supreme Court strategy of least-cost zoning will alleviate the problem of housing supply and price for low- and moderate-income households.

The zoning practices of suburban communities involve complicated fiscal and nonfiscal considerations, and the typical cost-revenue studies prepared for these communities do not reflect most of these considerations. Fiscal factors usually ignored in local studies include population growth, development standards for site improvements, and the spatial distribution of new development with respect to capital facilities. This study indicates that "multifamily housing of lower value per dwelling unit is often fiscally superior and that suburban communities may ignore the direct cash-flow implications of development alternatives in their zoning ordinances. The fiscal mercantilism of such municipalities is more properly characterized as a combination of growth management (rather than fiscal zoning in the strict cost-revenue sense), reduction of fiscal uncertainty, preservation of environmental amenities, and anticipation of negative externalities or opportunity costs associated with poor households and multifamily development." If fiscal zoning is confused with growth management, the fiscal strategies adopted by the state could alter local fiscal incentives further in the direction of exclusionary practices. In any case, private housing production will not respond to zoning and fiscal reform without heavy subsidy (either directly to the developer or indirectly to the municipality for facilities and infrastructure) of low- and moderate-income housing.

The Urban Land Research Foundation is grateful to its many supporters for their enthusiastic response to the Urban Land Institute's expanding education and research programs.

Over $84,500 has been contributed since July 1, 1979 by the Members and Associates. These gifts represent a successful beginning toward achieving ULRF's development campaign goal.

The investment received from the corpus and $160,000 from ULI's operating budget will enable the Institute to meet the $350,000 needed annually to carry out its education, research, and publication activities.

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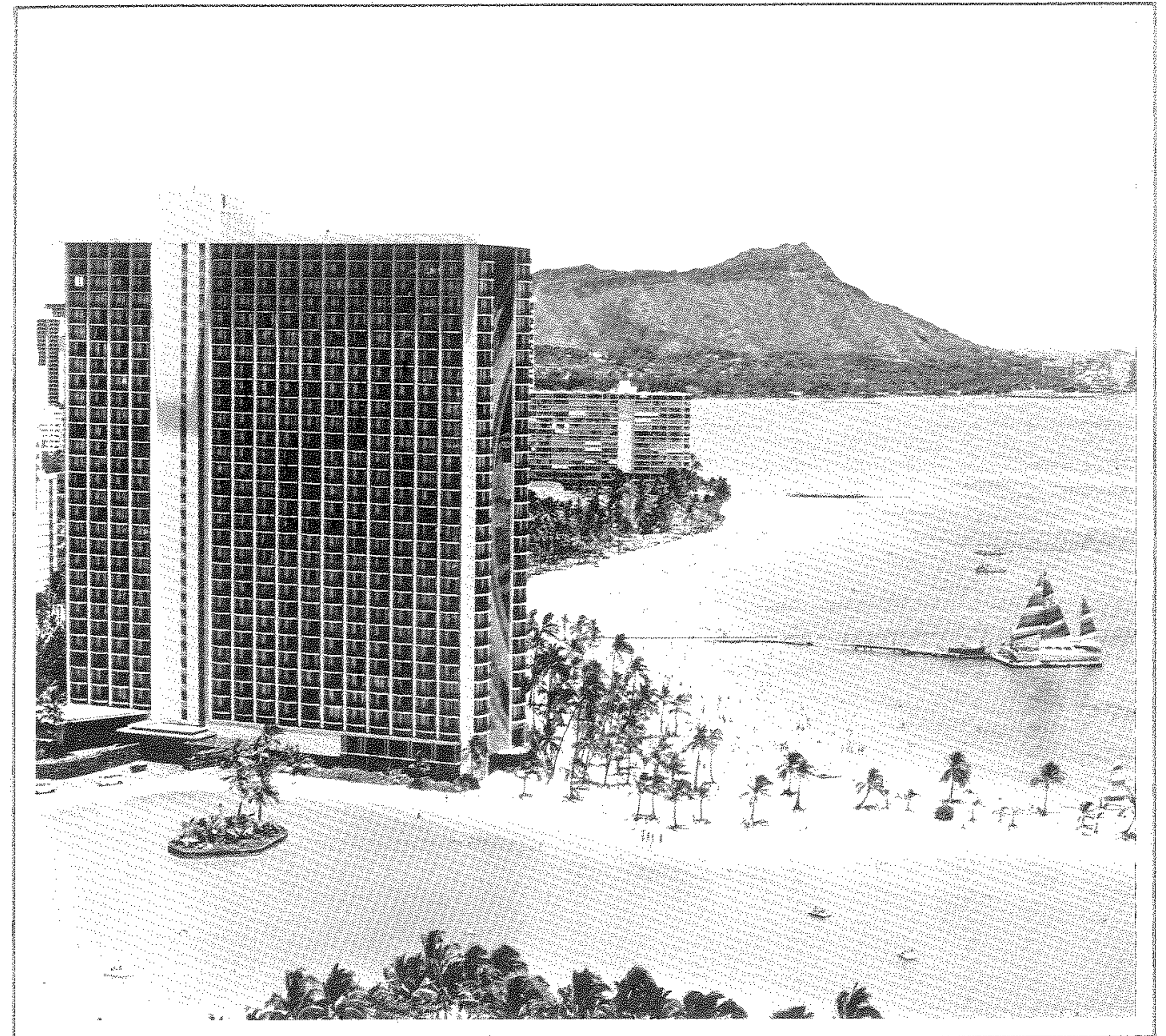

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