

THE NEED FOR AN APPROPRIATE SYSTEM OF URBAN DEVELOPMENT CONTROL IN SOUTH AFRICA: ARGUMENTS AND CHARACTERISTICS

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Urban development control in South Africa has of late come under attack from a number of sources. This has led to a lively debate on the future of urban development control as such. In this article the need for a system of urban development control for South Africa is argued with the emphasis on the appropriateness of such a system. Six arguments in support of this view are presented. This is followed by a discussion of some of the characteris-

tics of what is deemed to be an appropriate system, or should otherwise form the basis of such a system.

Stedelike ontwikkelingsbeheer in Suid-Afrika het die afgelope tyd vanuit verskeie oorde onder skoot gekom. Dit het tot 'n lewendige debat oor die toekoms van stedelike ontwikkelingsbeheer as sodanig aanleiding gegee. In

hierdie artikel word die behoefte aan 'n stelsel van stedelike ontwikkelingsbeheer vir Suid-Afrika bespreek, met die klem op die toepaslikheid van so 'n stelsel. Ses argumente ter ondersteuning van hierdie mening word aangebied. Dit word gevolg deur 'n bespreking van die eienskappe waarvoor 'n toepaslike stelsel behoort te beskik, of wat andersins die grondslag van so 'n stelsel behoort te vorm.

1 INTRODUCTION

Over the years the system of urban management and urban planning practice in South Africa has been severely criticised on a number of issues by mostly academics at English universities (Oranje, 1993:12-5). These critiques, as is the case with most critical academic works, never had much impact beyond the walls of academia. In the case of South Africa this situation was exacerbated by the close link between the system of Apartheid and urban management. In the absence of changes to the Apartheid system, transformation of the planning system remained nothing more than a topic of academic discourse.

In recent times the policy of land use management has come under fire once more. This time, however, the attack came from the side of the members of the new government (Shiceka, 1994 and Weekend Star, 16/7 July 1994). Other than what was the case in the past, the real possibility of change to the system has come with the latest wave of criticism. Discussion and draft documents on a new Environmental Law, a new Development and Planning Act, the proposed Development Facilitation Bill, Coordinated Development and Environment Man-

agement Policies for Provincial Governments bear testimony to the seriousness of these criticisms.

Subsequently this has brought about an intense debate and discussions in various arenas on the existing policies of land use management. In many instances this debate has gone to the pillars of the policies, i.e. the need for land use planning and development control. This article has as its aim a contribution to this ongoing debate, by providing some perspectives on the latter issue i.e. the need for development control.

2 THE CONTEXT FOR DISCUSSION OF THE ISSUE

2.1 Introduction

In order to create a framework in which the issue at hand can be discussed, the events that led up to it, need to be expounded.

The election-victory of the ANC-alliance can be seen as the first event in the chain. Not only did it bring the country's first democratically elected government to power, but it seems to herald another first for the country, i.e. a style of government management based on the successful principles of

strategic planning. If strategic planning in general is defined as "a disciplined effort to produce fundamental decisions and actions that shape and guide what an organisation (or other entity) is, what it does and why it does it" (Bryson and Crosby, 1989:5) and strategic planning by governments as "a disciplined effort to produce fundamental decisions shaping the nature and direction of governmental activities within constitutional bounds" (Bryson and Roering, 1987:9), it is clear that this is the process that the government has embarked on with the formulation of the RDP. As strategic planning is bent on action and implementation (Gilfoyle, 1989:iii and v; Kaufman and Jacobs, 1987:25-6), it was inevitable that development control, as an inhibiting activity, should become an issue. For the sake of the discussion on the issue that is to follow later in this article, the steps in the strategic planning process leading up to it, need to be elaborated on.

2.2 The strategic planning process

There is general agreement that the strategic planning process normally consists of eight steps which follow in a sequence as set out in Figure 1 (Bryson and Roering, 1988:995-7; Bryson and Crosby, 1988:5-7; Kauf-

man and Jacobs, 1987:24). The first two steps, viz (1) an initial agreement or “plan for planning” among decision makers whose participation is imperative for successful plan formulation and implementation and (2) the provision of a mandate (i.e. the election result) have been concluded. The government is now seen to be developing goals and objectives from the mission statement and values as embodied in the RDP and Chapter 3 of the Interim Constitution (Act 200 of 1993) (Step 3 in the process). What are these goals and objectives?

The opening paragraph (par. 1.1.1) of the RDP states that “the RDP is an integrated coherent policy framework (which) ... seeks to mobilize all our country’s resources toward the final eradication of apartheid and the building of a democratic, non-racial and non-sexist future”.

In subsequent paragraphs of the RDP these goals and objectives are articulated in detail. Combined with the relevant sections of the Interim Constitution, the goals and objectives of the strategic planning process can be summarised as an open, democratic and caring society, in which:

- universally accepted freedoms and equality are constitutionally guaranteed;
- basic needs are met in a sustainable and achievable fashion;
- all the country’s people, especially women and children are empowered;
- the environment is managed in a way which is inter-generationally justifiable;
- past wrongs are corrected;
- rights to property and an environment which is not detrimental to people’s health, are guaranteed;
- all structures of government are transparent, accessible and accountable and are structured to enable the participation of all sections of civil society and the private sector; and
- human settlements, settlement management and settlement forms facilitate the realisation of the other goals.

What these goals and objectives embody is a fundamental statement on the type of society South Africa’s people want to be and what type of country they want to live in. With special reference to human settlements this statement implies *inter alia*:

- a “humane city”, which Short (1989:112) defines as “the built form of the caring society”;
- transparent, accountable, inclusive and sustainable city/town/village management and development;
- social, economic, judicial, political and psychological empowerment of communities, households and their individual members (see Friedmann, 1992:33 for a definition of some of the various forms of empowerment);
- a system of land usage in which the fundamental right of acquiring rights in property and availing these rights in a way which does not lead to an unhealthy and unsafe environment, is adhered to;
- compacting human settlements in order to save on infrastructural

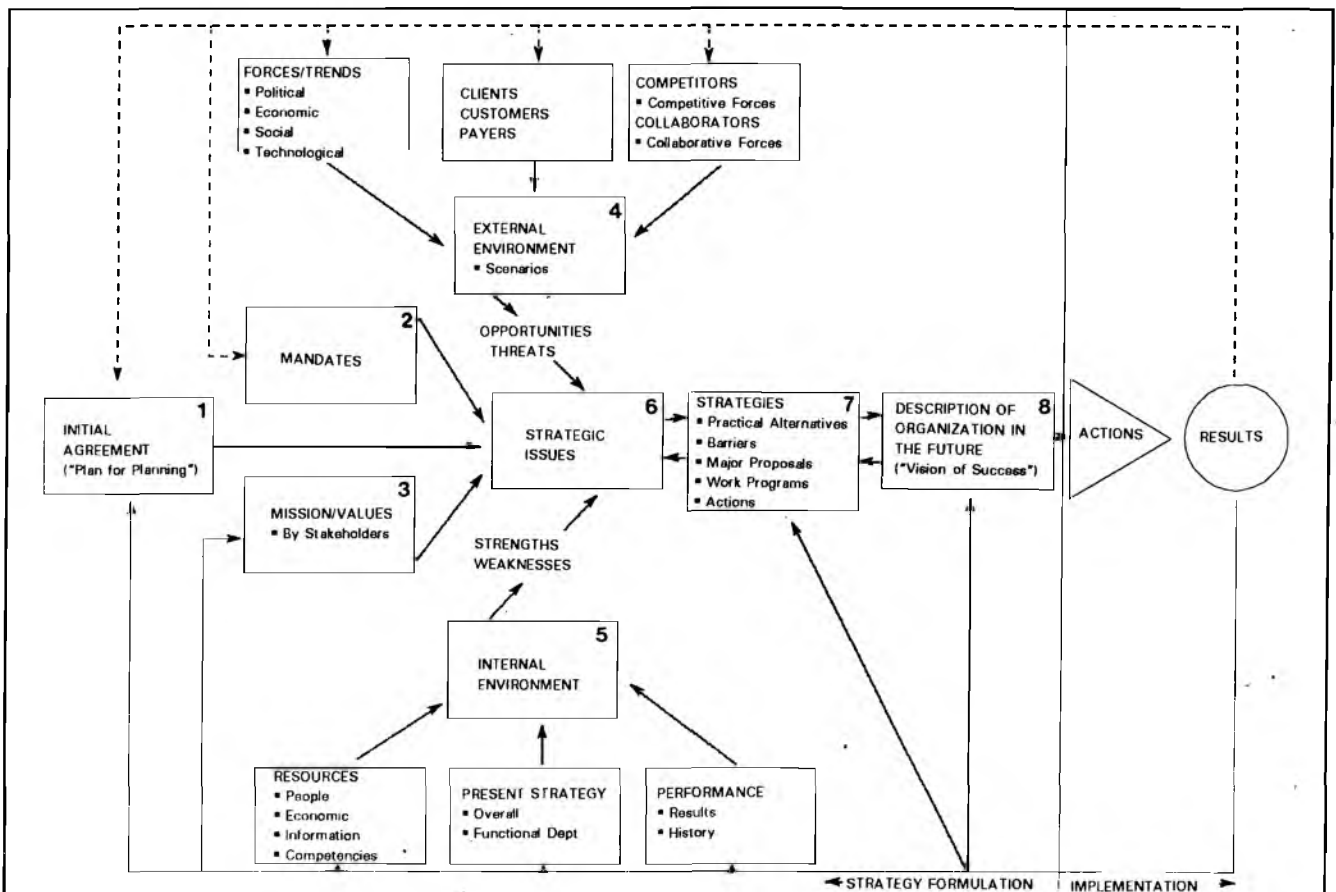


FIGURE 1: The strategic planning process (Source: Bryson and Roering, 1988:966)

investments, to protect valuable agricultural land and to minimise negative impacts on the ecology;

- better coordination between land use planning and transportation (especially public transport) planning; and
- better utilisation of existing infrastructure.

With the goals and objectives defined, the parallel steps of identification and analysis of the weaknesses and strengths in the external environment (Step 4) and the opportunities and threats in the internal environment (Step 5) in relation to the goals and objectives set in the previous step, the so-called "SWOT" analysis, followed. To my mind this is where development control became an issue. Measured in terms of the set goals and objectives, the present system of control was found to be wanting and from that verdict came forth the current debate.

The goals and objectives that are seen as having led to the debate are used here as a base from which two questions on development control are addressed. These questions are (1) Does South Africa need a system of development control? and (2) If so, what would an appropriate system look like?

3 DOES SOUTH AFRICA NEED A SYSTEM OF DEVELOPMENT CONTROL?

Given the goals and objectives as discussed above, my answer is a definite "yes". In support of my opinion six simple arguments are assessed under the following headings, viz (1) the goal of successful strategic urban management; (2) the goal of the sustainable urban development; (3) the creation of a climate conducive for capital investment; (4) the peaceful resolution of negative externalities and territorial disputes; (5) the implications of fundamental rights as enshrined in the Interim Constitution; and (6) the experience of localities without systems of development control. Under this latter heading Houston, a city without a comprehensive system of development control is analyzed, as well as a couple of developing coun-

tries that have unenforced systems of development control. This renders them to be without development control for all practical purposes.

3.1 The goal of successful strategic management

The RDP and recent discussion papers on planning, development and the environment are rife with the word "strategic". It would only be logical to conclude that strategic planning will be the urban management tool of the future. The wide application of the tool by urban governments as far afield as Lilongwe, Malawi (McGill, 1994), the UK (Gilfoyle, 1989; Breheny, 1991) and the USA (Hamilton, 1986; Wheeland, 1993; Mier et al, 1986; Bryson and Roering, 1988) is proof of its versatility and increases the probability of its future use locally.

If this is the case, the same basic steps as have been discussed earlier in this article, will be followed in the local urban strategic management process. This implies that "SWOT" analyses will be done, strategic issues identified and strategies devised "to correct weaknesses, take advantage of opportunities, deal with threats and build upon strengths" (So, 1984:17). In the absence of development control, uncertainty will be the norm. This in turn will render the "SWOT" analysis meaningless. Furthermore, the implementation of strategic strategies will be very problematic if the base from which a strategy was formulated and on which it is to be implemented, were to be in constant flux. The probability of success under such conditions will be minimal.

3.2 The goal of sustainable urban development

Michael Welbank, in an article on sustainable development notes that "The concept of "sustainable development" has now entered the environmental jargon and, consequently, the vocabulary of everyone concerned with the environment, development, conservation and planning" (1994:14). That this concept has also entered local discourse is evident in the RDP and various local discussion papers in

these fields. Recent articles by one of the leading British academics in the field of planning theory, Patsy Healey, all have sustainability, environmental concerns and the incorporation of these topics in planning, as their theme (Healey, 1993, 1994; Healey and Shaw, 1993). These developments all point to the important role that sustainable development - per definition "the maintenance of environmental capacity over time" (Welbank, 1994:15) - will play in urban management in the future.

With the local approach to sustainability most probably being "shallow green" - this approach being an approach which "sees a potential for constructing, transforming and replacing the natural world in a manner which is consistent with the inherent life protecting functions" and "has sustainable development as its organising principle" (Gibbs, 1994:100-1) - various policies and strategies can be implemented in order to achieve this form of development. Some of the well-known strategies and policies are:

- placing bounds on urban sprawl and supplementing this with in-fill strategies to off-set rises in house prices as supply of land for development is curtailed (Chintz, 1990:7);
- mixing land uses by which employment opportunities are located closer to and in residential areas and in doing so reducing energy-consumption as well as government spending on travel subsidies;
- empowering and enabling people to take control of the management of their environment;
- coordinating land uses and public transport programmes, to not only lessen the need for individual travel, but also the desire to do so;
- requiring environmental impact assessments for potentially environmentally-hazardous land uses.

How sustainable development is to be achieved in the absence of development control is unclear. For each of the above simple policies, development control is needed to make the policy itself sustainable. For one,

more compact cities and in-fill strategies will inevitably imply higher densities, and higher densities without adequate control, is a sure recipe for the overloading of infrastructure and essential public services. This in turn often results in unhygienic conditions comparable to those that existed in the industrial cities of England a hundred years ago (Hall, 1982:19-30) and today exist in the cities of many developing countries. Even the policy of empowering and enabling people will necessitate development control to make a community's wishes binding on "outsiders" or to provide a framework in which the community's own rules for controlling development in their locality can be entrenched.

With regards to potentially environmentally hazardous uses a system is needed whereby Environmental Impact Assessments are required for such uses, strict conditions set under which they may operate (if at all) and authorities provided with the necessary police power to act against transgressors. In the same vein a system of control will be needed which will render the effecting of "NOPEs" ("Not On This Planet" uses) (Hoffmann, 1992:25) impossible.

3.3 The creation of a climate conducive for capital investment

In the early 1980's a school of planning thought, defined by one of its strongest proponents, Anthony Sorenson, as "Libertarian Planning" came to the fore. Its intellectual basis lay in 18th century liberalism, "which stresses individualism, freedom and *laissez faire* capitalism" (Albrechts, 1994:20; Sorenson, 1982, 1983; Sorenson and Day, 1981). For the proponents of this school of thought the role of planning and development control was to provide a "suitable regulatory context ... for the satisfactory operation of markets in an urban and rural context" (Begg, 1988:2). Whether one agrees with this rather narrow view of the role for planning or not, is of no real concern to the discussion at hand.

What is important is that the era in which we are living is one in which capital is footloose and is looking globally for the best returns on invest-

ments (an era referred to by Manuel Castells (1992:77) as "the brave new world of wild capitalism"). If local cities and towns are to be competitive in this global game of attracting capital (something which South Africa needs), they will have to be able to provide capital with the "suitable regulatory context" proposed by the Libertarian planners. This entails *inter alia* stable conditions (certainty), security of investment and infrastructural services and a land use system with a legal basis and the possibility of a recourse to the Law. In order to provide these attributes, local cities and towns will need a system of development control.

3.4 The peaceful resolution of negative externalities and territorial conflicts

Negative externalities in relation to land uses are costs which are incurred by one party (land user) on another for which the suffering party is not compensated, or in other words, for which the party responsible for the cost does not pay (Chung, 1994:81).

The prohibition of negative externalities has always been a popular motivation for planning and development control (Chung, 1994:77-81; Klosterman, 1985:8; Pearce, 1981:47-9; Faludi, 1987:159). (Obviously the prohibition of externalities contains elements of exclusionary zoning, a topic which will be addressed later in this article.)

Over and above the "normal" role of development control of avoiding situations in which negative externalities can emerge, another matter in this regard and with special reference to the South African context, needs to be raised. As has been discussed earlier on in this article, the South African city is to undergo major structural changes in order to render it sustainable and equitable. This process will entail the "bringing together" of land uses and land users in a way which might not always be conflict-free. In the absence of a broadly accepted system of development control in which land uses, conditions, (possibly compensation), etc. can be debated, parties perceiving themselves to be victims of externalities might resort to

violent vigilante action. This has only been too evident in past attempts at settling low income housing in the vicinity of more affluent communities. This form of territorial behaviour commonly known as the "NIMBY" syndrome is a universal phenomenon and one which in the USA has also been described in a recent White-House Advisory Commission report as a barrier to the provision of affordable housing (Hoffmann, 1992:24 and 1991:29).

Locally the proposed Development Facilitation Bill will go a long way in addressing this problem, but it should only be seen as a last resort and not as "quick-fix" solution. A system of development control will still be needed in which conflicts over land use can be debated timeously and resolved peacefully. Such a system, with its normally prescribed set of procedures, will also render decision-making by local governments more transparent than what will be the case if *ad hoc* crisis-decisions are taken.

3.5 Fundamental Rights as enshrined in the Interim Constitution

Even though the Constitutional Court has as yet not given substance to the Fundamental Rights, two sections of the Constitution are sure to have an impact on the question under discussion and have implications for systems of land management and development control.

Section 26(1) of the Interim Constitution gives "every person ... the right freely to engage in economic activity and to pursue a livelihood anywhere in the national territory". Subsection 26(2), however, curtails this right if and when "measures to promote the protection or the improvement of the quality of life, economic growth, human development, social justice, etc." are enacted. It appears that it was the intention of the lawmaker that there should be some form of curtailment of this right and a counter-performance effected for it and the right to acquire and hold rights in property (Section 28), in order to render the right to private property subject and in service to *inter alia*, broader community goals (via a system of develop-

ment control). In doing so, provision is made for a society in which individual rights and community concerns/public interest are in tune. (The German model with its written constitution and a similar right to private property has a proviso which provides that these "private property rights have to serve the public interest" (Hooper, 1988:183-6). (Compared to the local example, this obviously presents a much sounder case for a system of development control).

Section 29 of the Interim Constitution gives every person the right to "an environment which is not detrimental to his or her health or well-being". It is hard to see how this right can be guaranteed/protected in the absence of a system of development control. Incidentally modern urban planning had its origins in the smog-cluttered and cholera-ridden cities of Western Europe (Hall, 1982:19-30). Furthermore, a system of development control could avoid numerous costly and time consuming legal actions to the Constitutional Court to contest this right in the absence of such a system.

3.6 The experience of localities without systems of development control

3.6.1 Houston

Houston, the only major city in the USA without a zoning ordinance, has long been held by many proponents of the unrestrained free market as "a developers' paradise" where "unrestrained capitalism was the major mode of business organisation" (Bullard, 1984:87). Except for a brief spell of citywide zoning between January 1991 and November 1993, when Houstonians rejected it once more in a referendum (Barna, 1991:22; Casella, 1994:34), Houston has been a city without zoning. (For the sake of completeness it must be noted that in 1982 the city of Houston enacted an ordinance that contained some limited measures aimed at setting standards for minimum building setbacks, block lengths, distances between sex-oriented businesses, etc. (Peters, 1985:5; Fisher, 1989:153).)

Many fallacies on Houston exist, one being that Houston is a shining exam-

ple of the superiority of the "free" market over the "mixed economy" system. The truth of the matter is that Federal Aid (public funding) has, as Feagin (1985:1217) puts it "been very broad" for a city "dominated by a free enterprise and anti-federal government ideology (Feagin, 1988:5, 149, 157 and 176; Kirby and Lynch, 1987:588-9). It (Federal Aid) was especially instrumental in the provision of infrastructure and the expansion of the port during the first half of this century (Feagin, 1985:1211-7). These infrastructural investments in effect laid the base from which the so-called free market could operate. (An indication of the size of the Federal assistance is the figure provided by Feagin (1984:453) of Houston in the 1940's being only the 25th largest city in the USA, but being the 6th largest receiver of Federal Aid.)

Another fallacy is that Houston has no form of development control. The reality is that it just isn't done by the public sector, but by deed restrictions which are administered by private "civic clubs" and expire 25 years after their creation, but can be extended via an expensive legal process (Peters, 1985:7-8; Fisher, 1989:152-3). As Peters (1985:8), Bullard (1984:90-1) and Babcock (1982:22) note, lower income groups are not as successful in the creation and extension of deed restrictions as the more affluent neighbourhoods, mostly due to cost factors and a preoccupation with economic survival. This in essence leaves most lower income neighbourhoods unprotected.

It is this last state of affairs which is one of the not so often quoted results of Houston's policy. Not only have minorities' neighbourhoods suffered most from encroachment by business and industrial uses with noise, litter and crowding of facilities as a result (Bullard, 1984:85 and 92-3; Kirby and Lynch, 1987:590), but these neighbourhoods have also been last on the list when infrastructure was to be provided or maintained (Fisher, 1989:149-51). Furthermore these neighbourhoods have disproportionately been the sites of waste disposal facilities in the city (Bullard, 1984:94-8; Fisher, 1989:150). As Bullard notes "While blacks comprised just under 28 percent of Houston's population, over

three-fourths of the city-owned waste disposal facilities were operated in black neighbourhoods" (1984:95).

While the fate of the minorities has been anything but rosy, the rest of the city has also suffered severely. This has happened as "the city of Houston has placed the interests of residents and the environment at risk by protecting development interests" (Kirby and Lynch, 1987:590). Flooding, subsidence, traffic congestion, pollution, a sewage and toxic waste crisis, a lack of neighbourhood stability, a lack of coordination between transportation and land-uses and infrastructural investments and land uses, vulnerability to hurricanes, poorly maintained roads and services such as street lighting and telephone lines, limited public transportation, a lack of park space, neighbourhood decay, inadequate housing and reckless land speculation are some of the severe problems Houston has experienced (Kirby and Lynch, 1987:589-93; Fisher, 1989:149; Peters, 1985:5; Barna, 1991:22; Moorhead, 1991:50; Dillon, 1991:16; Feagin, 1988:6, 228 and 1984:455-56). The way these problems were dealt with was to pass them on to a higher level of government after they had occurred (Kirby and Lynch, 1987:595). While all the above may not directly be the result of the policy of non-zoning (see Peters (1985:9) for the views of Ephraim Garcia, the then head of the city's department of planning and development, on this matter), the view is widely held by most of the commentators on Houston referred to in this article, that more comprehensive planning and zoning could go a long way in addressing these problems. Strangely enough, as a few commentators have pointed out, in the last decade some of the loudest voices for zoning and the predictability it would bring to the environment, have been those of big business and property developers (Barna, 1991:22; Peters, 1985:5).

3.6.2 Countries with unenforced systems of development control

Simon (1992:140) states with regard to urban planning practices in post-colonial Sub-Saharan Africa that "paradoxically, the rhetoric of African nationalism, Pan Africanism, African social-

ism or Marxism-Leninism which accompanied and followed decolonialism, has generally had little impact on inherited formal town planning codes. This has serious implications for the relevance and appropriateness of current practice and the ability of urban authorities to cope with the rapid rates of population growth and urbanisation in Sub-Saharan Africa". This state of affairs, coupled with a lack of skilled personnel, corruption and in many cases the lack of political will to act (Simon, 1992:147-55; Okpala, 1982:47-8; Mosha, 1989:221-2), has in many developing countries led to a situation in which there might just as well have been no urban planning or development control at all (see Turner (1985:151) for a similar view in this regard). Suffice it to note that while this state of affairs has led to a wastage of effort and funds in countries with severe budgetary constraints (Simon, 1992:147). The reason for including the section in this article is to highlight the consequences of an absence of development control in the cities of developing countries, to which the discussion now turns.

In the literature consulted on developing countries and in which development control is for all practical intents and purposes absent, some of the undesirable effects that were identified, are the following (interestingly enough there is a large degree of overlap between these conditions and the malconditions in Houston discussed earlier):

- deteriorating conditions in poorer neighbourhoods (Simon, 1992:149 and 150 with reference to Nigeria and Sudan; Nwaka, 1992:95 with reference to Nigeria);
- sprawling low density uneconomical urban development (Simon, 1992:150; Haywood, 1985:192 with reference to Sudan);
- an inability to control the density and height of development which overloads the existing infrastructure (Simon, 1992:150; Haywood, 1985:192-3 with reference to Sudan; Mosha, 1989:222 with reference to Tanzania);
- "considerable" conflict between existing and illegal, new uses

(Simon, 1992:150 with reference to Sudan);

- uncontrolled dangerous urban expansion into water catchment areas and flood plains (Turner, 1985:153 with reference to Madras);
- overcrowding of existing houses and illegal extensions of buildings (Wekwete, 1989:62 with reference to Zimbabwe);
- unserviced residential, squatter and slum areas (Turner, 1985:153 with reference to Madras, India; Mosha, 1989:225 with reference to Tanzania; Nwaka, 1992:100 and 104 with reference to Nigeria);
- non-existent, out-dated and/or unhygienic methods for disposing of human waste and household refuse (Nwaka, 1992:109 with reference to Nigeria; Mosha, 1989:224 with reference to Tanzania);
- the keeping of pigs, cattle, goats and chickens on residential premises (Mosha, 1989:221 with reference to Tanzania);
- the loss of agricultural land on urban edges (Mosha, 1989:221 with reference to Tanzania; Haywood, 1985:194 with reference to Khartoum, Sudan);
- inconsistencies in infrastructural provision leading to an inefficient infrastructure system (Mosha, 1989:222 with reference to Tanzania);
- insufficient provision of parking facilities resulting in vehicles being parked on carriage-ways, entrances, roundabouts, etc. (Mosha, 1989:223 with reference to Tanzania);
- poor or no restoration of historic buildings or buildings of architectural merit (Mosha, 1989:224 with reference to Tanzania);
- urban growth through "a process of accretion rather than true urbanisation" (Haywood, 1985:196 with reference to Khartoum, Sudan).

While some of these conditions are not life-threatening, many of them can and have, as Bartone (1991:412) notes, led to severe public health and environmental problems in developing countries. As noted at the outset of this section, even though there was a system of development control on paper, it was as if it did not exist. This is the same fate as the majority of South Africa's urban dwellers had to suffer under Apartheid, and one which they will surely not wish to suffer any further. Most of these conditions are exactly what the RDP intends to address and to avoid. The need for a system of development control, but then an appropriate one, is thus evident. But what is an appropriate system?

4 THE CHARACTERISTICS OF AN APPROPRIATE SYSTEM OF DEVELOPMENT CONTROL

4.1 Introduction

South Africa's resources are already stretched too far to be able to afford a system of development control that exists only in name and on paper, as has been the case in so many other developing countries (see paragraph 3.6.2) and of which the "greatest achievement (was) to provide employment for a considerable number of officials" (Turner, 1985:152) and private consultants. What is thus called for is a system of development control that serves and facilitates the broader societal goals and objectives as discussed earlier. Such a system will need to have five characteristics. These are: (1) it must be coordinated and integrated with the goals and objectives of the particular city and region in which it is to function, as well as with higher plans in a national hierarchy of plans; (2) the focus of control must be on strategic rather than on petty matters; (3) it must make empowerment and engagement a real possibility and give acknowledgement to the postmodern world we live in; (4) it must avoid being exclusionary; and (5) it must be applied creatively.

In the following paragraphs I will elaborate on these characteristics and point out where the present system is

in my opinion not up to scratch in each instance. Where applicable I will discuss a few broadly categorised alternatives or alterations to the present system that I believe could be of merit. Before I proceed I need to state that in making suggestions on alternatives from abroad I am not proposing that the system as a whole must be replaced with a system developed abroad. As Short notes "It is a mistake to assume that radical ends are always achieved by radical means" (1989:73). The use of selected sections, elements of systems that are in use and successful abroad should, to my mind, be investigated. Research into such systems, the contexts in which they function, their costs, the administrative bounds within which they operate, etc. must, however, first be done.

4.2 Coordination and integration with the goals and objectives of the particular city and region in which it is to function, as well as with higher plans in a national hierarchy of plans

One of the most important goals of local authorities will in the very near future be integrated and coordinated urban management. Our present system of urban management on a local level i.e. structure plans and town planning schemes does as yet not form an interrelated whole, nor is development control tied up with the goals and objectives of higher authorities i.e. provincial legislatures. Cullingworth, (1993:59-60) in a similar vein describes American zoning as "planless, rudderless, fragmented, uncoordinated - the very opposite of planning". Admittedly structure plans are supposed to fall within a national framework of planning (see Physical Planning Act of 1991 (Act 125 of 1991)), but town planning schemes "stand alone". The reason for their existence is stipulated in provincial ordinances, with no link between these schemes and the structure plans. Clause 18(1) of the Transvaal Town-Planning and Townships Ordinance, 1986 (Ordinance 15 of 1986) for example reads as follows:

"A local authority -

- (a) may, of its own accord;

- (b) shall, if directed to do so by the Administrator, within such period as the Administrator may determine, prepare a town planning scheme in respect of all or any land situated within its area of jurisdiction ...".

In essence it becomes development control via town planning schemes for the very arbitrarily defined utilitarian goal of the "health, safety, good order, amenity, convenience and general welfare ..." of the area to which it relates (Clause 19 of the Transvaal Town Planning and Townships Ordinance, 1986). No reference whatsoever is made in this definition to higher plans or broader societal goals. As so often happens in the absence of properly defined, specific goals, it can become development control for the sake of development control.

The meshing of development control at local level, be it town planning schemes or any other form of control, with the goals of the city or town, as well as with the goals of provincial legislatures, will have to receive serious attention. (Examples of countries where this is achieved are the Netherlands (Davies, 1988), Germany (Hooper, 1988), France (Punter, 1988) and Denmark (Edwards, 1988). The British development control system, very similar to our own, stands alone at local level and is not tied up in a hierarchy of higher plans (Rydin, 1994:87-94; Davies, 1988). It therefore does not hold much promise in this regard). Not only will such a coordination with higher plans make development control serviceable to the goals of reconstruction and development, but will also prevent "territorial mercantilism" from occurring (This term which was coined by Fainstein and Fainstein (1982:388) entails that neighbouring local authorities try to convince investors that they have the best locality by offering all sorts of incentives. As Albrechts (1994:21) notes with regard to Europe, this "easily turn(s) into an exhaustive struggle for survival which (is) often at the expense of the local population").

4.3 A focus on strategic rather than on petty matters

As is well known our town planning schemes focus strongly on minute detail ("petty development control"). This is a result of the present system being largely derived from British and American systems (Dewar and Uytenbogaardt, 1991:10; Muller, 1982). These detail matters seldomly have any reference to the health and safety of those concerned. This state of affairs makes the system's rules not only hard to comprehend by those affected, but also to adhere to financially (Mosha, 1989:153) and is bound to lead to a shunning of the schemes in general. With this, "grand development" issues are sure to fall by the wayside as well, as has happened in many other developing countries (Mosha, 1989:222-5; Turner, 1985:152-5; Haywood, 1985:194) and with this has often come "the occupation and degradation of ecologically-sensitive lands as well as hazard-prone areas" by the poor (Bartone, 1991:413).

What is proposed by many authors in this regard is that "the extent of control should be reduced to manageable and realistic proportions, with a concentration on strategic rather than detailed aspects" and on "matters clearly seen by everybody to be necessary of control" (Turner, 1985:155; Mosha, 1989:226; Nwaka, 1992:111). A possible way of achieving this is to move away from the present prescriptive system, in which is stipulated what can be done in an area, to a proscriptive system in which it is only stated what cannot be done (Faludi, 1987:197-9).

4.4 Making empowerment and engagement a real possibility and acknowledging the Post-modern world we live in

Empowerment and engagement will without doubt be two of the most important goals of future local authorities. Empowerment has an "emphasis on autonomy in decision-making of territorially organized communities, local self-reliance (but not autarchy), direct (participatory) democracy, and experiential social learning" (Friedmann, 1992:vii). Engagement has as

its aim the involvement of people in the making and implementing of decisions that guide their lives (Short, 1989:76). Both these concepts are encompassed by the Postmodern worldview, which “celebrates” *inter alia* complexity, diversity, plurality and difference (Beauregard, 1991:192-3; Milroy, 1991:183-4). This worldview and the two concepts, place a question mark over our town planning schemes which *inter alia*:

- ignore the differences, i.e. desires, wishes, incomes, cultures, religions, etc. in their regulations and definitions and in effect treat the urban landscape as if it were a homogeneous plain, devoid of meaning;
- allow people only limited input in the drawing up of regulations and codes which bind them and in the making of decisions about the future of their city/town and their immediate locality;
- have no place for creative, local solutions to conflicts in people’s turf (for an interesting anarchistic view on this matter see Sennett’s classic work “The uses of disorder” (1972)).

Changes to our present system of development control will be needed if the concepts of empowerment and engagement are to be more than hollow shells. One alternative which has already been mentioned is the replacement of the present prescriptive system with a proscriptive one. While specifying the broad uses which are not allowed in an area, it will allow communities to add to these restrictions their own set of prescriptive or proscriptive uses or performance standards. Hakim, in a research report on Arabic-Islamic cities notes how the fact that laws on development control are understood by both users and builders, and are administered at neighbourhood level, have led to a unified, but diverse urban landscape (1987:132).

An attempt at acknowledging the differences between people (in this instance with reference to income) was introduced in Sudan. The system, differentiated on the basis of standards, designates housing areas into

four classes. Class 1 is a typical Western-type neighbourhood with high standards and Class 4 a very low income area with no prerequisite standards. Redesignation is possible once a neighbourhood complies with the standards of a next class (Simon, 1992:150; Haywood, 1985:189). Calls for a similar system to be implemented have also been made by a commentator in Nigeria (Nwaka, 1992:107). Such a system, if it were to be applied locally could however be interpreted as perpetuating the system of Apartheid by creating and maintaining pockets of prosperity and thus leading to the exclusion of certain people from certain areas.

4.5 Avoidance of exclusionary zoning

Zoning as an instrument of exclusion (discrimination) has been a popular topic of American discourse on zoning and the reason for numerous court cases (Cullingworth, 1993:63-75; Freidheim, 1981; Schlay and Rossi, 1981:704-6; Fleischmann, 1989:338). As Cullingworth (1993:63) notes “Though all zoning is by definition exclusionary, some is more exclusionary than others” and “As with so many similar issues, there are no easy answers, and continued debate can be guaranteed”.

Three types of exclusionary zoning leading to discrimination can be identified:

- Large-lot zoning whereby minimum stand/erf sizes are laid down. This in effect excludes lower income people from certain localities on grounds of affordability (Cullingworth, 1993:63-75; Freidheim, 1989).
- Restrictive definitions of “family” and “household” in zoning schemes, coupled with definitions restricting only these narrowly defined groups to dwelling forms such as “dwelling-house”, “flat”, etc. Such definitions make it impossible for people with alternative household forms and lifestyles (e.g. two or more divorced women with or without their children - the so-called “nouveau poor”), group homes for disabled people, ex-

tended families (including more than one married couple), families who would wish to take in tenants to supplement household income, etc.; to legally reside or take in tenants in such dwellings (Netter and Price, 1983; Ritzdorf, 1988, 1990; Lee, 1989).

- The restriction of the amount of land zoned for a certain land use, for instance low cost housing. In the process the price of such development is driven up by artificially limiting supply. The probability of certain land uses occurring in certain localities, is thus minimized (Carter, 1988/89).

That all three of these forms of exclusionary zoning are practised in our present system of development control is evident. Firstly, most town planning schemes have a “density table” whereby erf sizes are fixed. Secondly, the typical definition of a “family” excludes most alternative household forms from residence in areas under the jurisdiction of town planning schemes. (Interestingly enough Toffler (1980:221) and Ritzdorf (1990:388) note that only 7 per cent of Americans still live in a nuclear family defined as “a working husband, a house-keeping wife and two children”.) Thirdly, the prevalence of large informal settlements in and around our cities can partially be attributed to a lack of adequately zoned land. These forms of exclusionary zoning, wherever they may exist in our present system, need to be removed or balanced by counteractions, if the goals of equality and empowerment of women are to be taken seriously.

A few examples of such counteractions are the following:

- redefining the restrictive definitions of “family” (Netter and Price, 1983:179);
- making use of performance standards rather than restrictive definitions to regulate the number of people occupying a property (Ritzdorf, 1988:274); and
- setting “fair share” quotas. This entails that each local authority is given an order by a court to provide its quota or a “fair share” of

the low cost housing needs in a specific region (see Cullingworth (1993:63-75) and Freidheim (1981: 301-11) for a review and discussion of court cases, especially the Mount Laurel cases in which "fair share" housing was ordered by the New Jersey Supreme Court).

On the one hand the exclusionary nature of zoning is a reality. On the other rests the reality that South Africa will need upper-class suburbs like Houghton, Bryanston, Waterkloof and Bishop's Court for its more affluent citizens, diplomats and employees of foreign companies. Turning such suburbs into "normal suburbs" will really serve very little purpose. In the highly competitive world in which we live, the absence of suburbs for the affluent will only make this country less attractive to local and foreign capital. Such suburbs will have to remain, with the only way their existence can be motivated, in the light of their evidently exclusionary nature, through providing sufficient land and/or housing for the lesser advantaged groups and/or increasing the local tax on the inhabitants of such suburbs. (This matter justifies the discussion of the "two principles" of John Rawls' "Theory of Justice". Rawls' conception of a fair system is one in which "all primary social goods (must) be distributed equally unless an unequal distribution would be to everyone's advantage" (1973:150). If these principles are applied to the question of lot sizes, it could be argued that the exclusionary effect of such lot sizes is off-set by the wealth the inhabitants of these suburbs create and the taxes they pay. Both of which are, arguably of course, to everyone's advantage.)

4.6 Creativity

While creative developments are abundant in the American zoning system, locally these are absent. Two such examples in the American system are (1) negotiations on the granting of development rights and (2) the exaction of public facilities, infrastructural investments, low cost housing, etc. in such negotiations (Cullingworth, 1993:44-60 and 85-94; Dorius, 1993; Jones, 1989). Similarly there is the concept of "planning gain" in the

British system. This is also a form of "planning agreement" but it operates within more definite parameters than the American system. Notwithstanding, it has provided British local governments with additional funds to invest in the future provision of public facilities, to offset loss of amenity arising from the proposed development, etc. (see Rydin (1994:102-3) for a discussion of this concept). A call for the "selling of planning permission" in the UK, which some commentators argue "planning gain" has in any case become (Cowan, 1988), has also been made in the British planning literature (Curry, 1991).

Locally such concepts could be put to good use in realising the aims of the RDP and/or making the development control system pay for itself, provided they take place in a transparent way. Furthermore concepts such as "Simplified Planning Zones" and "Enterprise Zones" (Rydin, 1994:68-9 and 91-2) and the "fair share" allocation of "NIMBY" uses to middle class neighbourhoods, as has been proposed in New York City (Weisberg, 1993 and Rose's verdict on the proposal, 1993), deserve to be looked at and possibly even, tried locally.

4.7 Other Characteristics

The list of characteristics is definitely not extensive enough to cover all the needed characteristics. Affordability of the system, flexibility and speed in decision-making are all issues that could just as well have been discussed. Even though some of these issues are discounted in the five characteristics that have been discussed, they warrant a brief discussion.

Firstly, it is often said that the time authorities take to reach decisions is too long. This value judgement is relative to where one is standing. If one is a member of the community, more time, if that is what is required to thrash out a proposal, is definitely preferable to a lifetime of unhealthy conditions in one's immediate environment. Secondly, with regard to the cost of the administration of the system of development control, it is often criticised on being too costly. Once more, if the system helps in avoiding unhealthy and dangerous conditions

and in ensuring a better life for all, the expenditure has to be weighed against that result. Where the focus of the present system is possibly too strong on measly matters, a re-evaluation of the goals of the development control system, as has already been discussed, will go a long way in addressing this problem. Lastly, developers often ask for more flexibility in the system. Flexibility for the sake of flexibility is just as unwanted as development control for the sake of development control. Furthermore, the effect of flexibility on people's perception of the "teeth" of the system, must not be underestimated. Constant deviations from set paths do not always lead one to set goals.

5 CONCLUSION

In concluding, the following extract from an article on changes to the planning system in Great Britain in the early eighties (Pearce, 1981:59) is quoted: "It goes without much saying that in the end the system we choose must reflect our values and objectives. Planners and politicians will have to satisfy themselves that any new system of policy implementation will produce an overall improvement in the ratio of benefits to affordable costs before they give it full support. In particular, they may prefer to adopt gradualist changes in the administrative and political framework for development control rather than a foot and branch restructuring of the planning machine, with the end result being a compromise acceptable to most, rather than a pure and theoretical alternative which attracts the support of only a minority". Given the difference between the local context in which the debate has emerged and the British context, Simon's message in relation to post-colonial Africa warrants mention. Simon remarks that "just as national policies, alignments and structures should be transformed or modified in accordance with the new rulers' value systems, so the towns and cities, as the physical embodiment of all these variables, should reflect the new circumstances" (1992:144). If this does not take place it might very well happen that "the homeless will invade land and occupy vacant housing. They will bribe and threaten and bend the rules. They will create an alternative

housing "market" with its own rules and a de facto town "plan" dictated by their needs alone" (Collinge, *in* *The Star*, 5 August 1994:10). As planners we must pro-actively avert this from becoming our future.

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