

## FINAL REPORT

### LAND USE POLICIES STUDY COMMITTEE

January, 1974

House Conconcurrent Resolution 66, introduced during the First Session of the Sixty-fifth General Assembly requested that the Legislative Council establish a study of land use policies and procedures in the state and make recommendations for the development of a state land use policy to the Second Session of the Sixty-fifth General Assembly. In response to this resolution, the Legislative Council created a Land Use Policies Study Committee and appointed the following fourteen legislative members and four nonlegislative members:

Senator Irvin L. Bergman  
Senator H. L. Heying  
Senator Elizabeth Miller  
Senator George Milligan\*  
Senator William Palmer  
Senator Kenneth Scott  
Senator William Winkelman  
Representative Dale M. Cochran  
Representative LaVern Harvey  
Representative James Middleswart  
Representative Mary O'Halloran  
Representative Wendell Pellett  
Representative Semor Tofte  
Speaker of the House Andrew Varley  
Mr. Sherry Fisher, State Soil Conservation Committee  
Mr. Frank Mendell, Soil Conservation Service (retired)  
Mr. Burl Parks, Iowa State University Cooperative Extension Service  
Mrs. Arthur Vetter, Iowa League of Women Voters

\*Senator Leonard C. Andersen was appointed in October, 1973, to replace Senator George Milligan who resigned from the Study Committee.

### 1971-1972 LAND USE POLICIES STUDY COMMITTEE

The 1973 Land Use Policies Study Committee was preceded by a similar Study Committee created by the Legislative Council of the Sixty-fourth General Assembly in 1971. The 1971-72 Study Committee began its study by requesting testimony from representatives of private industry and governmental agencies concerning current land use practices in Iowa, current and potential land use problems, and the need for a state land use policy. After hearing testimony from twenty-seven persons representing federal, state and local governmental agencies, private industry and civic organizations, the Study Committee concluded that there is a strong opinion favoring the development of a state land use policy in Iowa

and, in its Progress Report to Legislative Council in December, 1971, summarized some of the basic reasons given in the testimony favoring the need for a state land use policy. A copy of the Statement of the 1971-72 Land Use Policies Study Committee is attached and by this reference made a part of this report.

During the 1972 interim, the Study Committee cooperated with the Iowa League of Women Voters in sponsoring a two-day Land Use Policy Conference in Des Moines and conducted five regional public hearings at Atlantic, Storm Lake, Oelwein, Mt. Pleasant and Des Moines to receive testimony from the general public on the need for a state land use policy. The public hearings were attended by 340 persons, of which 94 participated by giving oral and written testimony. Copies of the summary of the Land Use Policy Conference and the minutes of the public hearings are available at the Legislative Service Bureau.

The 1971-72 Study Committee concluded its study in December, 1972 and recommended the enactment of a bill for an Act to create a state land use policy commission. The bill was introduced during the First Session of the Sixty-fifth General Assembly as House File 65.

#### 1973 LAND USE POLICIES STUDY COMMITTEE

During the 1973 interim, the Land Use Policies Study Committee held nine meetings. At its first meeting Speaker Andrew Varley was elected Chairman and Representative Dale Cochran was elected Vice Chairman. The Study Committee agreed to the appointment of four nonlegislative members.

At its first meeting on August 23, 1973, the Study Committee reviewed the work of the 1971-72 Study Committee and S. 268, "The Land Use Policy and Planning Assistance Act" which has been passed by the United States Senate, and discussed the objectives of the Study Committee. The Study Committee also agreed to hear additional testimony from persons who are knowledgeable in the field of land use planning and who had not given testimony to the 1971-72 Land Use Policies Study Committee.

During subsequent meetings, the Study Committee received testimony from the following persons:

- Mr. David W. Kudej, Upper Explorer Land Resource Conservation and Development Project
- Mr. Edwin C. Kirkestue, Upper Explorer Land Resource Conservation and Development Project
- Mr. Alvin Clare Russie, Iowa Center for Regional Progress, Midwest Research Institute
- Mr. Pete Hamlin, Office for Planning and Programming
- Mr. Duane Hanson, Homebuilders Association of Iowa
- Mr. R. Deane Conrad, National Legislative Conference, Washington office
- Professor Vernon F. Stone, Iowa Chapter, American Institute of Architects

Professor Allen Vestal, Law Faculty, University of Iowa  
Mr. Robert Hilgenberg, Johnson County Regional Planning  
Commission  
Mr. Richard Lanning, Chairman, Humboldt County Zoning Com-  
mission

At the conclusion of its second meeting on September 17, 1973, the Study Committee agreed that its primary objective should be to draft legislation to provide for the preparation and implementation of a state land use policy to guide state agencies, cities, counties, and special districts in making decisions relating to the use of land. The Study Committee further agreed that, because most decisions affecting the use of land are of local concern only, the administration and enforcement of land use decisions should be left to local governments, except in the case of large scale developments, key public facilities and areas of critical concern which, because of their size or impact, affect several political subdivisions or the state as a whole.

To facilitate the study and preparation of legislation to accomplish the study objective, Chairman Varley appointed three subcommittees as follows:

1. Subcommittee on State Implementation, Representative Dale Cochran, Chairman. This Subcommittee studied and made recommendations as to the structure, powers and duties, and membership of the state land use policy agency.

2. Subcommittee on Critical Areas, Senator Elizabeth Miller, Chairwoman. This Subcommittee studied and made recommendations concerning special provisions needed to define and protect historic, natural or fragile land areas or facilities usually referred to as critical areas.

3. Subcommittee on Local Implementation, Representative Wendell Pellett, Chairman. This Subcommittee studied and made recommendations concerning the structure, powers and duties, and membership of local land use planning agencies and its relationship to cities, counties and special districts.

Copies of the minutes of the Study Committee, including written testimony, are available upon request at the Legislative Service Bureau.

#### RECOMMENDATIONS

The following are the recommendations of the Land Use Policies Study Committee including a summary of the recommended bill draft:

I. The Land Use Policies Study Committee recommends to the Legislative Council for the consideration and enactment by the Sixty-fifth General Assembly, Second Session, a bill for an Act to provide for a state land use policy, to create a department of soil

conservation and land use, a state land use policy commission, an intergovernmental advisory board, and a county land use policy commission, and to specify the powers and duties of such agencies.

This bill reorganizes the Department of Soil Conservation into the Department of Soil Conservation and Land Use and creates a State Land Use Policy Commission with thirteen members consisting of the eight appointive members of the State Soil Conservation Committee and five additional members selected from the public at large and appointed by the Governor with consent of two-thirds of the members of the Senate. The five appointive members of the State Commission are appointed to six-year terms, the same as the members of the State Soil Conservation Committee and are entitled to a per diem of forty dollars and reimbursement for necessary expenses. The principal powers and duties of the State Commission are as follows:

1. Prepare and recommend for adoption by the general assembly a state land use policy and state land use policy guidelines based on the state land use policy objectives specified in the bill, for the guidance and direction of state agencies, county land use policy commissions, cities, counties, and special districts on matters relating to land use. The State Commission must hold at least ten regional public hearings while formulating the state land use policy and the state land use policy guidelines. The state policy and guidelines are to be completed by January 1, 1976.

2. Provide for the preparation and revision of a state inventory of land and natural resources.

3. Provide for the compilation and revision of data related to population densities, population trends, economic characteristics and projections, environmental conditions and trends, and the directions and extent of urban and rural growth.

4. Provide, where appropriate, technical assistance and training programs for state and local governmental personnel who are concerned with the development and implementation of state and local land use guidelines and comprehensive plans.

5. Recommend for adoption by the general assembly the designation of state areas of critical concern which include fragile or historic lands, natural hazard lands, or renewable resource lands of more than local concern. Each recommendation shall specify the criteria developed and reasons for the proposed designation.

6. Recommend for adoption by the general assembly the designation of key facilities such as major airports, public utilities, major highway interchanges, and major recreational lands. Each recommendation shall specify the criteria developed and reasons for the proposed designation.

7. Establish criteria for adoption by the general assembly for the designation of large scale developments.

8. Establish by rule procedures for the review and approval of county land use policy guidelines.

9. Hear appeals from political subdivisions and aggrieved persons on land use actions or comprehensive plans of state agencies alleged to be in violation of the state land use policy or state land use policy guidelines.

The director of the department is to be appointed by the State Land Use Policy Commission and the State Soil Conservation Committee at an initial salary not exceeding \$25,000 per annum. He will be responsible for administering the policies of the State Land Use Policy Commission and the State Soil Conservation Committee.

For the purpose of advising the State Land Use Policy Commission, the bill also creates an Intergovernmental Advisory Board consisting of eleven members appointed by the Governor from among mayors, members of the boards of supervisors, directors of special districts and members of metropolitan or regional planning commissions. The advisory board is to advise the State Commission in the development and revision of the state land use policy and state land use policy guidelines.

A state planning and siting permit system is provided to allow the State Land Use Policy Commission to control the development and use of land designated as an area of state concern. These areas include state areas of critical concern, key facilities, mining operations and large scale developments. The State Commission, through the Attorney General, may enjoin any person from using or developing an area of state concern in a manner which violates the plans submitted when obtaining a permit or a restriction imposed by the State Commission.

A County Land Use Policy Commission is created in each county consisting of equal representation from members of the board of supervisors, the mayors and city councilmen, and the directors of the soil conservation district of the county. The three groups of elected officials, by agreement, determine the membership of the County Commission which shall not be less than nine members nor more than fifteen members. The members are appointed to four-year overlapping terms and are entitled to reimbursement for necessary expenses. The County Commissions are authorized to join with other County Commissions under Chapter 28E for the purpose of creating multicounty planning commissions or to contract with metropolitan planning commissions or councils of government to carry out its powers and duties. The principal powers and duties of the County Commission are as follows:

1. Inventory and evaluate on a continuing basis the physical, social, and economic resources of the county.

2. Adopt county land use policy guidelines in compliance with state land use guidelines and the state land use policy and to

direct the county, cities and special districts in the preparation and implementation of comprehensive plans for land use.

3. Review and approve the comprehensive plans of cities, the county and special districts.

The bill provides that county land use policy guidelines must be prepared and adopted by December 31, 1976. Comprehensive plans for land use must be prepared, adopted, and promulgated by state agencies, counties, cities, and special districts by July 1, 1977, but the State Commission may provide a time extension. If a state agency, city, county or special district fails to comply within the time provided, the State Commission shall provide for the preparation, adoption, and implementation of a comprehensive plan for land use in behalf of the state agency, city, county or special district.

An aggrieved person, city council, board of supervisors or the directors of special districts may appeal to the State Commission relating to the establishment of a comprehensive plan provision, regulation or land use action of a state agency which is considered to be in conflict with the state land use policy and state land use policy guidelines. Appeal procedures and the appointment of hearing officers by the State Commission are also provided. A decision or action of the State Commission may be appealed by an aggrieved party to the district court of the county in which the order or decision applies. The appeal shall be heard de novo.

An appeal relating to a comprehensive plan, action, regulation or ordinance of a city, county, or special district may be taken to the County Commission and, thereafter, to the district court.

II. The Land Use Policies Study Committee recommends to the Legislative Council that the Second Session of the Sixty-fifth General Assembly provide for a public hearing on the provisions of House File 417 relating to the disposition of railway right-of-way abandonments.

#### CONCLUSION

This concludes the Final Report of the Land Use Policies Study Committee. The Study Committee held four public hearings in Sioux City on January 2, Council Bluffs on January 3, Iowa City on January 4 and Waterloo-Cedar Falls on January 7, 1974 to hear testimony on the bill draft which was introduced during the Second Session of the Sixty-fifth General Assembly as House File 1422. The comments and recommendations of the participants at these public hearings were discussed by the Study Committee at its final two meetings on January 17 and 21, 1974, before the final draft of House File 1422 was completed and recommended for enactment by the Study Committee.

Respectfully submitted,

LAND USE POLICIES STUDY COMMITTEE  
Speaker of the House Andrew Varley, Chairman