

F I N A L R E P O R T

LAND USE POLICIES STUDY COMMITTEE

December, 1974

House Concurrent Resolutions 66, 131, and 159, introduced during the Sixty-fifth General Assembly, requested that the Legislative Council establish a study of land use policies and procedures in the state, laws relating to regional, county, and city planning agencies, and the annexation of land by cities and towns, and make recommendations to the First Session of the Sixty-sixth General Assembly. In response to these resolutions, the Legislative Council reestablished a Land Use Policies Study Committee and assigned the three study resolutions. The Legislative Council appointed the following fourteen legislative members and five nonlegislative members to the Study Committee:

Representative Andrew Varley, Chairman
Representative Dale M. Cochran, Vice Chairman
Senator Irvin L. Bergman
Senator Eugene Hill
Senator Elizabeth Miller
Senator William Palmer
Senator Elizabeth Shaw
Senator Bass Van Gilst
Senator William Winkelman
Representative LaVern Harvey
Representative James Middleswart
Representative Mary O'Halloran
Representative Wendell Pellett
Representative Semor Tofte
Mr. Sherry Fisher, State Soil Conservation Committee
Mrs. Barbara Koerber, City Councilwoman, Ames, Iowa
Mr. Carl Gavin, County Supervisor, Polk County, Iowa
Mr. Burl Parks, Iowa State University Cooperative Extension Service
Mrs. Arthur Vetter, Iowa League of Women Voters

1971-1972 LAND USE POLICIES STUDY COMMITTEE

The 1973-74 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 a 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 27 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 the Legislative Council in December, 1971, summarized some of the basic reasons given in the testimony favoring 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 policies conference in Des Moines and conducted five regional public hearings at Atlantic, Storm Lake, Oelwein, Mount 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 Policies 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 to create a land use policy commission. The bill was introduced during the First Session of the Sixty-fifth General Assembly as H.F. 65.

1973 LAND USE POLICIES STUDY COMMITTEE

During the 1973 interim, the Land Use Policies Study Committee held nine meetings. At its first meeting, Representative Andrew Varley was elected Chairman and Representative Dale Cochran was elected Vice Chairman. During its initial meeting, the Study Committee agreed to the appointment of four nonlegislative members, reviewed the work of the 1971-72 Study Committee, and reviewed the provisions of S. 268, "The Land Use Policy and Planning Assistant Act" which had been passed by the United States Senate. 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, Home Builders Association of Iowa
- Mr. R. Deane Conrad, National Legislative Conference,
Washington Office
- Professor Vernon P. Stone, Iowa Chapter, American
Institute of Architects
- Professor Alan Vestal, Law Faculty, University of Iowa
- Mr. Robert Hilgenberg, Johnson County Regional Planning
Commission

Mr. Richard Lanning, Chairman, Humbolt County Zoning
Commission

At the conclusion of its second meeting, the Study Committee agreed that its primary objective should be to prepare 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 government, except in the case of large scale developments, key public facilities and areas of critical concern which, because of their size and impact, affect several political subdivisions or the state as a whole.

During subsequent meetings, the Study Committee appointed three subcommittees to study and prepare recommendations as to the structure, powers, duties, and the membership of a state land use policy commission and department, to define and protect historic, natural, or fragile land areas, and to define the structure, powers and duties, and membership of local land use policies commissions and agencies.

After completing the proposed bill draft, the Study Committee held four public hearings in January, 1974, at Sioux City, Council Bluffs, Iowa City, and Waterloo-Cedar Falls. The purpose of the public hearings was to receive testimony on the proposed bill draft before it was introduced during the Second Session of the Sixty-fifth General Assembly. 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 the proposed bill was completed and recommended for enactment. The proposed bill was introduced as H.F. 1422.

Copies of the minutes of the 1973 Study Committees, including written testimony, are available upon request at the Legislative Service Bureau.

1974 LAND USE POLICIES STUDY COMMITTEE

At its first meeting on September 19, 1974, the Study Committee concluded that a major objective of the Study Committee would be to review the provisions of H.F. 1422, as amended and passed by the House, and prepare draft legislation to create a state land use policy. The Study Committee also adopted a proposal to appoint two additional nonlegislative members, Mrs. Barbara Koerber, Ames City Councilwoman and Mr. Carl Gavin, Polk County Supervisor. The two new nonlegislative members were recommended by the League of Iowa Municipalities and the Iowa State Association of Counties, respectively. The Study Committee also receive testimony from the League of Iowa Municipalities, the Iowa State Association of Counties, the Iowa League of Women Voters, the Johnson County

Regional Planning Commission, the State Department of Soil Conservation, and the Office for Planning and Programming relating to proposed changes to H.F. 1422, which provides for a state land use policy; creates a department of soil conservation and land use, a state land use policy commission, an intergovernmental advisory board, a county land use policy commission, and specifies the powers and duties of such agencies.

At its second, third, and fourth meetings, the Study Committee reviewed the provisions of H.F. 1422 and directed the Legislative Service Bureau to incorporate the adopted changes in a proposed bill draft.

SUMMARY OF DRAFT LEGISLATION CONSIDERED BY THE STUDY COMMITTEE

This bill considered by the Study Committee 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 voting members consisting of the eight appointive members of the State Soil Conservation Committee and five additional members selected from three population categories of cities and towns and the public at large to be appointed by the Governor with the consent of two-thirds of the members of the Senate. The State Commission also has thirteen ex officio, nonvoting members, eleven of which represent state agencies involved in land use activities and two of which are members of county land use policy commissions. 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 \$40 and reimbursement for the necessary expenses.

The principal powers and duties of the State Land Use Policy 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 policies 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 initial state policy and guidelines are to be completed for submission to the General Assembly not later than 18 months after the effective date of the Act.

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 relating to population densities, population trends, economic characteristics and projections, environmental conditions and trends, and the direction and extent of urban and rural growth.

4. Provide, or appropriate money for, 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 criteria for the designation of state permit areas which include fragile or historic lands, natural hazard lands, or renewable resource lands of more than local concern.

6. Recommend for adoption by the General Assembly criteria for the designation of key facilities such as major airports, public utilities, major highway interchanges, and major recreational lands.

7. Recommend criteria for adoption by the General Assembly for the designation of large scale developments.

8. Recommend for adoption by the General Assembly a definition of "confined feedlot operation."

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

10. Hear appeals from political subdivisions, county land use policy commissions, or aggrieved persons pertaining to land use actions or comprehensive plans which are alleged to be in violation of the state land use policy or state land use policy guidelines.

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

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 a state permit area. These areas include state critical areas, key facilities, mining operations, and large scale developments. The State Commission, through the Attorney General, may enjoin any person from using or developing a state permit area in a manner which violates the plans submitted when obtaining a permit or a restriction imposed by the State Commission. In cases where a land use activity or development is presently regulated by a state agency, the state agency must receive approval of the State Commission to insure that the activity or development is in compliance with the state land use policy and state land use policy guidelines.

The bill also creates a County Land Use Policy Commission in each county consisting of equal representation from members of the board of supervisors, mayors and city councilmen, and 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 have 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 of the Code of Iowa for the purpose of creating multi-county planning commissions or to contract with regional or metropolitan planning commissions or councils of government to carry out its planning duties. The County Commissions are to retain their policy-making authority.

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 which are in compliance with the state land use policy 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.
4. Hear appeals from a city council, board of supervisors, special district, or aggrieved person relating to a comprehensive plan provision or zoning, subdivision or other ordinance or regulation adopted, or land use action taken that the aggrieved person considers to be in conflict with the county land use policy guidelines.

Any party to a review proceeding before the state commission or the county commission who is adversely affected or aggrieved by the order issued by the state commission or county commission in the matter may appeal the order of the state commission or county commission to the district court of the county in which the alleged violation or action appealed from occurred. The appeal to the district court shall be tried de novo.

The bill provides that county land use policy guidelines shall be adopted not later than 30 months after the effective date of the Act. Comprehensive plans for land use must be prepared, adopted, and promulgated by state agencies, counties, cities, and special districts not later than three years after the effective date of the Act unless the state commission grants an extension of time for compliance.

RECOMMENDATIONS

1. The Land Use Policies Study Committee makes no recommendation to the Legislative Council, relating to the bill to provide for a state land use policy, to create a department of

soil conservation and land use, a state land use policy commission, and a county land use policy commission, and to specify the powers and duties of such agencies. The vote of the Study Committee was six ayes and three nays. Five legislative members were absent. A recommendation of the Study Committee requires eight affirmative votes for adoption.

2. The Land Use Policies Study Committee makes no recommendation relating to the powers and duties of metropolitan or regional planning agencies created under chapter 473A of the Code or councils of government created under chapter 28E of the Code.

3. The Land Use Policies Study Committee makes no recommendation relating to the annexation of land.

Respectfully submitted,

LAND USE POLICIES STUDY COMMITTEE
Representative Andrew Varley, Chairman

Statement of the
LAND USE POLICIES STUDY COMMITTEE
December, 1971

The Land Use Policies Study Committee, after hearing more than twenty-five persons, including representatives from state and county governments, private organizations and groups found that there is a very strong opinion favoring the development of a land use policy in Iowa. It was noted by most of those appearing before the Committee that any land use policy should be based on "using the land for the purpose it is best suited to provide the needs and desires of the people today and in the future."

It is obvious that as Iowa continues to grow there will be increasing pressure on the land for various purposes, public and private. To assure Iowans of an orderly growth and development of the state consistent with a desirable environment, a more complete understanding of land uses is necessary.

Some reasons given for a land use policy are: (1) to provide for the use of land for the purpose for which it is best suited, i.e., agriculture, industry, recreation, residential, etc.; (2) to protect those areas that have special geologic, aesthetic, scenic, scientific, and historic values; (3) to protect landowners from having their property taken for purposes other than for which it is best suited; (4) to encourage state, county, city and other local agencies to include land use planning in developing their programs; (5) to provide for adequate study of the long-term and short-term effects (ecologic, economic, and social) of land conversions from present use to another use, especially any nonreversible use, before such conversions are made; (6) to coordinate the manner in which public agencies make decisions concerning land use.

It is the consensus of the Land Use Policies Study Committee that the general public should be informed of the purpose and progress of the land use policy study and should be given the opportunity to participate in the study. Therefore, the Land Use Policies Study Committee plans to hold regional hearings throughout the state to give any interested citizen the opportunity to express his views on the desirability of land use legislation and, if legislation is deemed desirable, to suggest guidelines and methods of implementing such legislation.