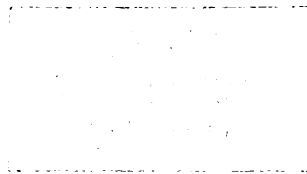




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ENHANCING WATERFRONT DEVELOPMENT
IN
MICHIGAN

by

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EXECUTIVE SUMMARY

This paper is a critique of waterfront development planning in Michigan. The pages which follow identify the key authorities which control and regulate development on the land-water interface in Michigan, and how these authorities interrelate. The chief authorities include those of the federal government (including the U.S. Army Corp of Engineers, Federal Emergency Management Agency, and the U.S. Fish and Wildlife Service), Michigan Department of Natural Resources, local government, and environmental groups. The paper examines what particular activities these authorities control, and the strengths and weaknesses of these powers.

Presented in the paper is a review of various waterfront development strategies and regulations around the nation. These examples illustrate how Michigan could enrich its vision and enhance waterfront design, aesthetics, and creative means of increasing the economic value of the waterfront to public, private, and citizen "stake-holders". These case studies are intended to stimulate more creative and proactive planning at the waterfront in Michigan. Implementation of urban design guidelines is emphasized as an area of planning which is lacking and necessary to enhance the waterfront in Michigan.

The paper concludes that the Michigan Department of Natural Resources is the single authority with the greatest control over waterfront development and planning in Michigan. The DNR maintains the balance of power to guide waterfront development activities and employs personnel with scientific and engineering expertise which is invaluable to waterfront development planning and permit review.

A weakness of the DNR is that clear guidelines have not been provided for developers to follow in their waterfront development projects. Additionally, the DNR should establish control and review policy over construction design, and ensure public access to the waterfront. The DNR should publish clear guidelines regarding these existing and new criteria which their personnel can use to review permit applications. This will enable developers to consider key aspects of waterfront design early in their development plans. The result will be savings in time and money in the permit application process, and will work to the betterment of the citizens and economy of the State of Michigan by encouraging more attractive waterfront development which better addresses concerns of the health, safety and public welfare.

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INTRODUCTION & OVERVIEW

From a legal standpoint, development of the waterfront is in disarray, fraught with numerous and often conflicting planning and regulating jurisdictions. Selected case studies will provide a means to review many concepts of waterfront development and touch upon historic background which gave rise to the present situation.

The presentation of case studies comprises a review of important waterfront planning activities across the nation. The selections emphasize a diverse range of possibilities for waterfront development design, aesthetics and access. These current waterfront planning and regulation activities are presented to stimulate Michigan to promote stronger waterfront regulations, particularly with regard to clearer permitting requirements and guidelines. It is proposed that the state enact more proactive controls over waterfront design and access.

Following the nationwide survey of case studies we will identify important aspects of waterfront development which could be applied specifically to Michigan. Not only are the statewide planning and permitting requirements unclear as to what the state agency looks for in its evaluation of permit applications, but

the state needs to ensure adequate sight-lines, set-backs, public access to the water, and perhaps enact a code mandating that architectural styles and bulk of new structures be compatible with the existing waterfront structures and complimentary to natural characteristics.

MICHIGAN TODAY

Analysis of the waterfront development scene in Michigan under the current regulatory and zoning powers reveals dominant interest groups which play a role in determining land use on the waterfront. Edward McArdle identifies five principal entities, although he stresses only four. These five are riparian-littoral land owners, local government, the Department of Natural Resources, the federal government, and environmental groups (McArdle, 1987). We will examine the roles which these entities play in controlling the waterfront.

The Michigan Department of Natural Resources (DNR) serves as the principal arm of state governmental review of all activities which are anticipated to affect the quality of the natural environment. The natural resources concerns which are most directly applicable, here, include water quality, land use and navigation. The DNR is fairly sensitive to the desire of local government to maintain firm control and power in local hands. However, the DNR's powers are statutorily defined such that

communities must receive approval of the agency prior to regulating any natural resource-related activity. If communities fail to acquire this approval, they are in a weak position should they be challenged in court upon the constitutionality of their action. This was the case with Hayes Township on the issue of denying a developer his permit application to build docks on Lake Charlevoix.

The recent court case of Fox and Associates, Inc. v. Hayes Township, et al. struck down the power of the Hayes Township Planning Commission to enact zoning controls against private dock space. Fox, the developer, filed suit alleging that the zoning regulations (1) were unconstitutional and invalid because they were not authorized under the Township Rural Zoning Act (MCL 125.271 et seq.), (2) deprived Fox of due process, and (3) were contrary to law as established in Order of the Attorney General 1981-82, No. 6070 (May 15, 1982). The case of Fox v. Hayes Township was denied review by the Michigan Supreme Court; hence, the Appeals Court decision in favor of the developer, decided solely on the first question of law, stands. The Appeals Court decision (September 8, 1987, Docket No. 91255) found that townships have no police power authority of their own, instead having only such authority to regulate as comes from state statute. The Court ruled that the Township Rural Zoning Act did not specifically include any reference to powers for limiting

access to navigable waters or the number of dock slips a riparian land owner may build or possess. As a result, the Court concluded that the Act is

limited to the regulation of land development and does not extend to the regulation of the riparian rights of a land owner, especially when such regulation attempts to limit access to navigable waters or the number of dock slips a riparian land owner may build or possess.

The township was later able to establish regulations over the water's edge only by ensuring that the DNR reviewed and approved a land use plan pursuant to the Inland Lakes and Streams Act (1972 P.A. 346, MCLA 281.951 et. seq.). The implication is that the DNR holds the balance of power at the water's edge.

McArdle notes that all the state acts regarding natural resources call for significant local involvement and control on water-land interface issues (note: a list of some of these acts is included in the appendix). It seems that local governments perform a state-mandated key participatory role, even retaining power over the final process by holding veto power. However, McArdle fails to emphasize that the local entities usually cannot enforce their local regulations without the DNR's participation and approval.

Individuals who plan a development on the waterfront normally must seek approval from the local jurisdiction pursuant to that locality's zoning ordinance. Either prior to going to

the local zoning board, or simultaneously, the developer must submit a permit application to the DNR and the U.S. Army Corp of Engineers. The DNR and Corp of Engineers now have a joint permit review process in which the DNR usually takes the lead. This review process typically is a lengthy one. It can take three months from the date of submitting plans before the application is first reviewed. In conjunction with the review there is public notice and a public comment period of twenty days, followed by a public hearing. The public has an additional opportunity to file comments during the fifteen days following the hearing. A permit is granted only when the development proposal emerges successfully from the public review and when it meets all the qualifications of the DNR and Corp of Engineers.

Permit applications to the DNR and Corp of Engineers must be very specific and detailed. Various city and small community planners in Michigan note that once a plan is approved and permitted, the plans are absolutely inflexible: a proposed change of even the most minute detail will necessitate a new iteration of the entire permitting process. Obtaining a permit from the local jurisdiction, on the other hand, may be accomplished relatively quickly and easily.

Despite the lengthy review required, all the planners and developers contacted in Michigan support the review process in light of the benefits it brings to citizens of the state. They

emphasized the importance of promoting water quality controls, wetland preservation, and erosion control measures as key interests of the state. Given the broad spectrum of issues involved, the planners are unanimous in their support of the role which the DNR carries out in routing each submitted permit application through the hands of various specialists within the department who have expertise in water and land use planning activities. This thorough review ensures that developments are constructed in a manner which is in the best interest of preserving the quality of the state's waterfront resources.

One important complaint is that DNR regulations have been characterized as terribly vague. Developers characterize the permit application process as a game of roulette: when developers submit a permit application in good faith they are unable to discern the objectives which they must meet and the criteria by which plans are measured. Some developers say that too often the DNR simply tells them to submit a permit application, and subsequently--once time and effort have been invested--the DNR will evaluate whether the plan is adequate. This aggravates wise planning and is contrary to a proactive planning process which should guide development proposals in the interest of minimizing costs and environmental impact.

Another complaint was related to district office personnel at one DNR field office who are noted as being "sticklers" for

detailed enforcement of rules and regulations. The focus should instead be upon meeting goals and objectives. Regulations should be viewed as guidelines toward attaining the goals, and under certain circumstances the regulations should be flexible to the specifics of the particular waterfront situation.

As noted above, regulatory powers are held by the city or community, the DNR, and the U.S. Army Corp of Engineers. Additional authorities involved in the planning process on the waterfront in Michigan include the federal government, through the U.S. Fish and Wildlife Service and the Federal Emergency Management Agency (FEMA)--which monitors flood plains but usually defers to the stringent DNR regulations.

City planners in Michigan indicate that there are no codes, ordinances, or guidelines which specifically direct that development on the waterfront meet aesthetic design standards. Some communities incorporate design review into the planning and permitting process, whereas others, such as Traverse City, own the entire waterfront (with the exception of a residential area and two hotels which comprise non-conforming existing uses). However, none of the entities contacted had any design regulations for aesthetics written into the permitting process; although, informal design reviews often preceded formal planning board review. This may be acceptable in some cases, but it allows developers a legal means of side-stepping this informal

design review. It is in the best interest of the communities of this state to develop formal guidelines regarding set-backs, height limits, architectural compatibility and public access to the water. Formal guidelines are legally defensible and ensure continuity of design review when changes in city planner personnel occur.

Keeping in mind the the legal authorities involved in waterfront development, and the lack of aesthetic guidelines in Michigan, what follows is an examination of how other communities in the nation guide waterfront development.

WATERFRONT DEVELOPMENT: AN ALLURING OPPORTUNITY NATIONWIDE

The waterfront is increasingly being recognized as a potential socio-economic asset to communities of all sizes. From small communities along lakes and streams to large cities which have developed harbor and riverside ports, the waterfront is an alluring opportunity for increased social and economic development. However, the waterfront also poses the dilemma of having accumulated a contingent of regulatory powers with contradictory jurisdictional oversight policies and regulations. A result of this melee of jurisdictions is to discourage redevelopment efforts which otherwise could enhance cooperation amongst communities along the water and dramatically improve decaying waterfronts.

In urban areas, downtown waterfront land is becoming available for new uses as historic trends run their course: containerizing of shipping products has altered the use of shipping docks and loading facilities and the industrial-commercial mix of uses has changed or moved to the distant suburbs. Jonathan Barnett writes, "Downtown waterfront land no longer needed for shipping and disused railway yards near urban centers (along the waterfront) have already attracted much attention from developers. There seems to be acceptance of the principle that such large land assemblages should be planned as new urban districts, not as collections of individual parcels" (Barnett, 1989). Planning efforts for an entire waterfront area or district would serve as an initial step toward unifying the urban waterfront under one comprehensive plan with one oversight body stipulating regulations and ensuring their implementation.

HISTORIC DILEMMAS

HISTORIC DEVELOPMENT

Today, as cities and developers continue their attempts to turn piecemeal visions into reality, they have discovered a morass of obsolete building codes and approval processes that delay and alter their plans... In New York, a former deputy-mayor inventoried at least 50 federal, state, regional, borough, city, and community bodies with power over the shore. (Buttenweiser, 1987)

Unfortunately, New York City's waterfront melee is not the exception. A 1979 survey of the 50 largest cities in the country found none with comprehensive waterfront construction codes, although ad hoc regulations were found in Marin County, California; Seattle, Washington; and Miami, Florida (Breen, 1984). Both large and small cities across North America suffer from lack of uniform waterfront construction and development regulations, a problem which implementation of a comprehensive waterfront plan could overcome (Breen, 1984; Wrenn, 1983).

Multiple jurisdictions are a result of the historic development of North American cities. Early settlements utilized the waterfront for such functions as commerce, ship building, transportation, commercial fishing, and defense. Recreation was rarely considered a function of the working community's activities, and as a result, open space gradually was monopolized by transportation and commerce facilities.

Growth of waterfront settlements into cities was accompanied by the appearance of railroad yards and facilities along the shore during the late nineteenth century, usually adjacent to growing shipping facilities. At the turn of the century, the waterfront became the center of the commercial railroad and the industrial life of the city. Development of railroads decreased the dependence of cities on the waterfront to provide the basic functions of transportation and commerce. With the exception of

cities which were dependent on international trade, in the early twentieth century, rail service attained greater influence than shipping service. As a result, wharves, docks, and other waterfront facilities were turned into storage areas and locations for industry. Growth of the automobile industry subsequently spurred development of expressways alongside, or elevated above, waterfront land. This was accompanied by conversion of waterfront land into vast parking lots. Major commercial airports were also built on the waterfronts, often on land created to extend the width of the shoreline (Wrenn, 1983).

The late 1960's and early 1970's marked a period of environmental concern. During this era some industrial operations relocated away from central waterfront locations, the quality of the shoreline environment was improved, and numerous parkland and recreation areas were introduced (Wrenn, 1983).

Throughout these evolutions of the urban waterfront, jurisdictional responsibilities were being redefined. The net result was a proliferation of jurisdictional responsibility.

NEW YORK--HISTORICAL PERSPECTIVE

New York City serves as an example of jurisdictional proliferation. In the 1860's, repairs of New York's port facilities were under the jurisdiction of both the Bureau of Wharves, Piers and Slips of the City Street Cleaning Department and the State Board of Commissioners of Pilots. The State Board

of Commissioners of Pilots could build and repair if the city failed to do so, whereas the Bureau depended upon periodic state bond issues and a three-quarters vote of the city's Common Council for any significant funds. Rents collected from berthed vessels also paid for pier improvements, but the state set the wharf rates, whereas the city and individual dock owners collected the fees.

Administration of the port was no less confused. City inspectors of Incumbrances on the Wharves, and a Common Council Committee on Wharves, Piers, and Slips performed many of the same tasks as did the state appointed Captain of the Port and his eleven Harbor Masters.

In the face of jurisdictional conflicts, it was clear that reform was needed. New York City's reform efforts began in the 1860's, with numerous reports and surveys recommending the creation of an independent body of waterfront overseers. In 1870, the City Charter mandated a formal mechanism, totally within the city government, to address the physical problems of the waterfront. It included a permanent body of overseers, legal recourses and financing provisions. This mechanism consisted of an administrative staff and Dock Board with five commissioners. Together they had "exclusive charge and control" of all waterfront property--slips, piers, bulkheads, and structures--belonging to the city or to be acquired in the future. The

state also deeded to the city all remaining ungranted lands under water encircling Manhattan, and the board received authority either to buy, or to initiate proceedings to appropriate, any wharf property not publicly owned. The financing section of the charter served as the only obvious restraint on the Board's powers, requiring the Board to apply to the City Comptroller to issue dock bonds to pay for all expenses. These bonds were limited to three million dollars annually.

New York City's Dock Board was composed of both laymen and a professional staff in charge of physical improvements. As was common in the era, the most important of the professional staff positions was that of the Engineer-in-Chief, due to the engineer's skills in testing material scientifically, estimating construction costs, and coordinating several modes of transportation (Buttenweiser, 1987).

CALIFORNIA--RECENT HISTORY & PROACTIVE PLANNING POLICY

An example equally steeped in confusion, but one which has proved more successful in arriving at sound waterfront development policy is that of California. The urban waterfront policy of California encompasses federal, state, local government and private jurisdictions, with the state government dominating the planning and approval process. California's program gained sufficient critical support when partial funding was extended through the federal Coastal Zone Management Act, enacted in 1972.

In the same year, a citizen-initiated referendum, Proposition 20, was approved by voters to protect California's coastal resources. This led the Legislature to adopt a program in 1976 for the protection and enhancement of the California coast. The legislation of 1976 created the Coastal Commission to plan and regulate coastal development and The Coastal Conservancy to restore coastal resources. The Legislature expanded this program five years later when it adopted the "Urban Waterfront Act of 1981" and authorized the State Coastal Conservancy to undertake and fund restoration of the state urban waterfronts "to provide excellence of design and...stimulate projects which exhibit innovation in sensitively integrating man-made features into the national coastal environment."

The State Coastal Conservancy has the mandate of protecting, preserving, and restoring coastal resources through programs of land acquisition, waterfront restoration, wetland enhancement, public access, agricultural preservation, open space protection, and aid to local land trusts. This state agency works with local governments, nonprofit organizations, citizen groups, and other public agencies. An important reason for its formation was to resolve coastal land use conflicts which are not readily amenable to regulation and to help coastal communities implement coastal development projects beneficial to the public. These projects' focus within urban areas is upon increasing public access,

shoreline amenities, and marine-oriented activities consistent with protection of sensitive habitat, open space and scenic areas. Further confirmation of California's commitment to waterfront restoration was extended through the Legislature's authorizing sale of \$650 million in bonds in 1983 to fund the program (Petrillo, 1985).

PROACTIVE PLANNING POLICY

Whereas regulation is often reactive, recent efforts in California promote sound, environmentally sensitive design through positive action. Such policy has usually been initiated by public agencies in efforts to restore the waterfront through provision of site improvements and public amenities, and through collaborative public-private sector arrangements. Such public investment has been initiated as a catalyst to attracting further private investment to urban waterfronts. Public investment and intervention have also proved necessary to mitigate the high costs of waterfront redevelopment in the interest of ensuring that redevelopment plans include facilities for public access to and use of the waterfront (Petrillo, 1985).

The Northeastern Waterfront Plan of San Francisco is an example of positive public action. This plan was provoked by a highly controversial proposal by U.S. Steel to erect a 550-foot high-rise on the waterfront. The building proposal was denied

mainly by the Bay Conservation and Development Commission (BCDC), the primary regulatory agency of San Francisco Bay. In 1980, the Department of City Planning issued the Northeastern Waterfront Plan, following a collaborative planning effort of the BCDC, the Port Commission, the Planning Department, and the Redevelopment Agency.

San Francisco's waterfront is a maze of overlapping and competing jurisdictions primarily represented by the BCDC, CalTrans (a transportation planning authority primarily responsible for general highway planning), San Francisco Port Commission, and the Redevelopment Agency. As a result, the process of developing a plan for the waterfront was highly complex and painfully slow. A significant aspect of the plan was that an advisory committee with citizen participation helped in its formulation. Additionally, in response to growing preservationist sentiment an architectural firm commissioned a survey of the historic resources worth preserving in the area (Petrillo, 1985).

The resulting plan divided the waterfront into four sub-areas and introduced a multi-use program of public bay-oriented amenities and maritime uses, as well as commercial development. The plan recommends policies that "contribute to the waterfront's environmental quality, enhance the economic vitality of the Port and the City, preserve the unique maritime character, and provide

for the maximum feasible visual and physical access to and along the Bay" (Petrillo, 1985).

Remaining as the greatest problem confronting the Northeastern Waterfront Plan is the clear absence of any coordinating agency. The plan is ultimately only a statement of policies and objectives, of which there will be frequent violations. Actual realization of projects is achieved only after seemingly endless meetings of bureaucratic coordinating committees. The Plan's existence and strength (and flexibility) can be attributed primarily to regulatory pressure of the BCDC (Petrillo, 1985).

The California Coastal Conservancy has demonstrated that a state agency can act as a mediator and facilitator in the resolution of complex land use problems. Cities have developed economically feasible projects that maximize public amenities while creating opportunities for needed private investment.

The City of San Francisco maintains a waterfront multi-use design through coordination and guidance of the Bay Conservation and Development Commission. The policy provisions of this regulatory agency thread together various jurisdictions and stimulate creative design solutions, while they simultaneously inhibit unwanted development through the threat of imposed constraints (Petrillo, 1985).

The California State Coastal Conservancy's experience

demonstrates that regulatory methods must be supplemented with mediation authority. This approach provides government with a more supportive economic role in a variety of contexts. The mediation process, which has broad applicability, should be written into the regulatory policy as a means of alleviating conflict and implementing desirable waterfront design.

POLICY FINANCE

One of the most important planning constraints to attractive waterfront development is the financial one. Reduced public sector revenues at all governmental levels has encouraged greater public-private interaction. The public sector has experienced continuing reductions in its ability to make purchases or assist in urban waterfront preservation and restoration efforts. Public-private mixed development provides an alternative approach for waterfront development which promises benefits to both sectors. Before examining how each of the sectors benefit, it is important to note three factors which stand out as vital to successful waterfront development: (1) firm commitment of the city to urban revitalization, (2) development of public amenities, and (3) a viable public-private partnership.

The public sector usually bears the initial responsibility to prove, through action, that it is firmly committed to enhancing the waterfront. A developer will assess a city's

commitment toward revitalization in the form of the amenities which the city is providing. After the developer is convinced that the city is earnestly pursuing an action plan--backed with sound financial support, and that the citizens have mobilized in support of waterfront development, the private sector will be ready to take the financial risk of investing additional funds in the waterfront. The result will be a more profitable waterfront for the developer and the city, and a more attractive urban place for the citizens.

The term "public amenities" may be loosely defined to include a variety of incentives, physical buildings and infrastructure, or support services provided by the government or local jurisdiction. Public sector financial support provided early on indicates the form of commitment to waterfront planning for which private sector developers keenly watch. Private sector developers will bear great financial responsibility for waterfront development and restoration if they are convinced of public sector endorsement of the waterfront activities. In this way, a small initial financial commitment by the public sector is likely to leverage a large private sector commitment and, ultimately, a cost savings to the community. These savings and benefits are in the form of direct economic returns from the waterfront activity and construction, as well as the increased monetary flow throughout the community (known as the economic

multiplier effect). If the natural amenities are identified and enhanced, the city will find waterfront development to be a means to enhance the city's economic health. In addition to extending to private developers such conventional incentives as tax abatements, moratoriums, write-offs, financial packaging, site acquisition and development, public agencies are now using amenities as economic development tools.

Waterfront development usually requires that the government take an overall management role in design and development. The public sector's role is crucial if compatible waterfront design is to be achieved. This requires that the public "lead" agency carefully prepare the way for introducing political and financial proposals for the comprehensive waterfront plan, as well as individual elements of the plan.

WATERFRONT AMENITIES AS A TOOL: FACTORS & EXAMPLES

Amenities have become an essential primary waterfront development tool for local officials. They have the power to attract private development, which in turn attracts new businesses, jobs, and tax revenues, while simultaneously enhancing the urban waterfront shoreline (Petrillo, 1985). This power of public amenities as leverages for private development can be seen in the example of Baltimore's Inner Harbor development. Only a decade ago the Inner Harbor was an abandoned

wasteland of no interest to developers. In an effort to revitalize the area, Baltimore introduced amenities: it planned activities such as festivals, concerts, and boat races, it constructed public playing fields, a promenade, and a marina, and it brought historic ships to the waterfront. Fairs and ethnic festivals brought people to the waterfront, and developers began to see the profit potential of development.

Baltimore's efforts at "pump-priming" payed dividends in excess of the city's expectations. The Rouse Company built Harborplace, a commercial and retail "festival marketplace" which boasts impressive sales and created over 2,300 jobs, more than 800 of which were filled by the city's jobless. During the first year alone, the project generated \$3 million in state sales tax revenues and \$1.5 million in city property tax revenues (Petrillo, 1985).

Baltimore used public funds to pay for the amenities it provides. The promenade, marina, and finger piers were constructed with state and local funds and urban renewal block grant money. The National Aquarium, which opened in 1981, was built with money from the U.S Department of Commerce and a city bond issue. The aquarium exceeded first year revenue projections within the first four months of operation. Initial development of the Baltimore City Fair was funded by the National Endowment for the Arts. The city provides police and sanitation services

for festivals, and other festival operating funds come from private-sector donations and booth rentals. The Department of Recreation and Parks is responsible for maintaining the public spaces and infrastructure, and the Rouse Company maintains its own pavillion areas. All these items which enhance the development project, but for which the private developer is relieved of organizational and financial responsibility, are considered "amenities."

The amenities are a popular attraction to Baltimore citizens and also draw people from outside the city. A 1980 study by the Real Estate Research Corporation showed that two of three people attending the fairs and festivals were from outside the city--and that they spent \$125 million while visiting the city. The new facilities meet the economic and social needs of the community, are compatible with the natural resources of the water and shore, and take advantage of unique historic features of the city (Petrillo, 1985).

Similar projects which have been highly successful in transforming deteriorating waterfronts into safe, popular and profitable waterfront developments include New York City's South Street Seaport area; Toronto, Ontario's mixed-use Harbourfront; Portland, Oregon's Waterfront Park; and Toledo, Ohio's Maumee River waterfront and Promenade projects.

FINANCING DESIGN AMENITIES: FACTORS & EXAMPLES FROM PORTLAND, TOLEDO, AND BOSTON

PORTLAND & TOLEDO; PUBLIC-PRIVATE FINANCING

Portland, Oregon's Waterfront Park development, under the direction of the Portland Development Commission, is unique in its initial public sector provision of development amenities, to the exclusion of private development. The City of Portland excluded private investment to ensure absolute City control over the development design and implementation. It could do so because there was a high demand for all downtown property in the city. Enhancement of the waterfront, which involved removal of a riverside highway in favor of a park, was correctly expected to enhance that demand. By retaining absolute financial control, the city was able to redesign the waterfront and later control commercial development with stringent design standards and siting requirements (Petrillo, 1985).

Toledo, Ohio's waterfront development has been unique in a different way. In a period of fiscal austerity, Toledo entered into a cooperative redevelopment project with the Owens-Illinois Company. The Owens-Illinois Company demonstrated its commitment to Toledo's Maumee River waterfront revitalization efforts in the design of a new headquarters building surrounded by a park complete with numerous amenities. In return, the city agreed to renovate the adjacent existing Promenade Park, using a federal

EDA grant and Toledo general obligation bonds. Owens-Illinois helped fund an elevated overlook that connects with the headquarters.. The company included gallery space in the building's lobby. Outside the headquarters, the company provided a yacht harbor, a reflecting pool, skating rink, and a public sculpture. A trust arrangement between the company and the city supports maintenance of these public areas.

The city, in addition to refurbishing the Promenade Park, programs events for the public spaces, provides public transportation and finances landscaping and continued maintenance of an adjacent three block riverfront area. The Owens-Illinois Company dominated control and design of this project, but the citizens of Toledo have remained the principal benefactors. (Petrillo, 1985).

A second phase of the development in Toledo involved a Rouse development project called "Portside" which includes private developments of the L' Hotel Sofitel and the Webstrand (Four SeaGate) building, both backed by Toledo-secured UDAG loans (Center for the Great Lakes, 1986).

The contrasting approaches of Portland and Toledo demonstrate that different successful public-private relationships are available. However desirable it may be for cities to retain absolute control of their waterfront development programs, the recent national and local budget cuts have led city

governments to think more carefully and favorably about an increased private-sector responsibility in public-private mixed development activities. The trend is a general movement away from examples such as Portland and more closely toward those of Toledo.

Many of the earlier federal programs enabled local governments to finance waterfront development projects through the public sector. This situation continued through the late 1960's and the mid 1970's, in large part utilizing urban waterfront renewal grants. However, in 1973 the urban renewal grant project as it was then known was suspended, and although prior commitments were honored, new waterfront projects must now be incorporated as part of an inclusive city plan in order to qualify for the block grant program (Stephens, 1975).

The most critical implication of the limited public funding is the new reliance on the private sector to plan waterfront development. As the example of Toledo demonstrates, this is a viable alternative. However, planners must guard against the corresponding tendency of waterfront development to be piecemeal. The best safeguard against incompatible waterfront design of numerous private entities is to enact a flexible but definitive comprehensive waterfront development plan which will be monitored by one coordinating agency with regulatory powers.

BOSTON: ADAPTIVE RE-USE AS A DESIGN AND FINANCING STRATEGY

Boston's redevelopment policy is a good example of adaptive re-use of existing waterfront infrastructure. In the 1960's Boston's adaptive re-use activities pre-dated the economic situation which later popularized re-use in other cities. Through its activities it has gradually reclaimed the waterfront for recreational, residential, and commercial-office uses, concurrently emphasizing a design vision of retaining the historic infrastructure. Individual rehabilitation projects on the wharves and in the Custom House block have provided for apartments, condominiums, offices, and restaurants.

A 1960 study of Boston's urban waterfront renewal plans led to the formation of the Downtown Waterfront Corporation and a plan funded by the federal government. The emphasis of the planning effort was to strengthen the tax base while maintaining the historic character of the area, as well as providing housing downtown. The 104 acre site was given a budget of \$28 million (50% from the local government). Eventually the corporation became part of the Boston Redevelopment Authority (Stephens, 1975).

The adaptive re-use plan allowed for renovating existing buildings and including historic buildings in the urban renewal area. In this way the renewal agency could acquire land, set design standards and uses for the property, and then sell the

land to developers at a fair market price.

Difficulties arose, however, particularly with regard to equity issues. New construction called for high-rise residential structures with only limited open space. This worried lower income residents nearby who feared that only young affluent people would be able to afford the new housing. When the Boston Redevelopment Authority (BRA) tore down a row of warehouses near the north end, waterfront residents sued the BRA. The judge ordered a re-study. Heights and densities subsequently were scaled downward, and a larger proportion of the new units, both new and renovated, were reserved for low-income and elderly residents. Additionally, a road was realigned away from the water to permit a four-and-one-half acre park, and an office tower was redesigned to include apartments in a building limited to fifteen floors (Stephens, 1975).

Examples from Boston's waterfront adaptive re-use efforts demonstrate how important it is to have a comprehensive plan which will unify single development sites; in this case, principally numerous finger piers and their warehousing structures. Boston sought and achieved unity by emphasizing historic adaptive re-use of the existing wharf structure. Although it stumbled over equity issues in some cases, the resulting policy successfully provided continuity and a degree of flexibility.

REGULATING THE WATERFRONT: FACTORS & EXAMPLES FROM NEW ORLEANS, PORTLAND, AND NEW YORK

Regulating the waterfront is addressed next in this waterfront survey. Not unlike other comprehensive planning efforts, zoning has the potential to serve as an instrumental tool in the planning enforcement and regulating process. However, the tradition of piecemeal accumulation and construction along the urban waterfront is such that implementing a waterfront zoning policy now will often be wrought with frustration and require numerous exceptions for out-of-character existing uses. Despite these difficulties, implementation of a single zoning policy provides the developer with a consistent guideline to acceptable uses of waterfront property. Developers face less risk and wasted effort (time and money) if they know beforehand what waterfront uses are acceptable to the city.

NEW ORLEANS

New Orleans' waterfront policy demonstrates how a city may analyze its waterfront needs and arrive at a supportive zoning policy. Although New Orleans has some unique characteristics (both the Mississippi River and the levees separating the river from the city are actually higher than street level) many of the zoning provisions it has established are similar to those in other urban waterfront cities of North America.

In 1975, New Orleans hired a firm to develop a growth management program for the city and its waterfront. The resulting proposal recommended a general downgrading of the floor area ratio from 20-24 in the central business district, and near the waterfront to a maximum floor area ratio of 14. The proposal also recommended that waterfront amenities include arcades, build-to pierhead lines, and visual corridors to the waterfront. A 50-foot esplanade was proposed to stretch along the river, at grade where possible. Additionally, open space along the water was planned to link a system of open spaces, parks, and pedestrian paths to the downtown areas (Stephens, 1975).

PORTLAND

Returning to Portland, Oregon, the initial zoning proposals for the waterfront redevelopment project established "development regulations" which included such preliminary provisions as establishing floor area ratios (with a low of 4 FAR nearest the waterfront), bonuses for amenities or air rights transfers from historic sites, height limits and sight lines. Citizen groups were instrumental in reviewing and guiding the proposal, and their interest generated three additional waterfront developments, including conversion of warehouses into offices and shops, and the creation of new housing (Stephens, 1975).

NEW YORK CITY

New York City has taken a different approach to regulating its waterfront. The city has chosen to use special district zoning. The alternative to special district zoning would have been to formulate a comprehensive plan legislating priority of uses, densities and amenities that should occur on all of the shoreline of the City and Manhattan (encompassing, respectively, 578 and 28 miles). The public authorities and private developers viewed such a plan as burdensome to implement and enforce. Special district zoning was chosen instead. New York City's special zoning districts determine planning and design objectives for each new large-scale, multi-use development; areas which often total 100 acres. The city has chosen this policy as a means to address the characteristics of the unique situation it has created: the city has leased underwater land to developers on the condition that they build decks or fill in land between the bulkhead (shoreward end of the pier) and the pierhead (outlying) lines. In this manner, although the developers pay the costs, they obtain land for only \$40 per square foot plus land rent, as compared to \$100-\$250 per square foot inland. The city gains tax revenues from the new land and additional open space for the public to use for picnicking, bicycling, and for boating access. The landfill or decked waterfront sites lack mapped streets, normally the basis for height and setback regulations.

This is the rationale for substituting performance standards. New York City planners have left the streets unmapped to allow developers some flexibility, but use the performance standards to require that developers meet city criteria for waterfront amenities (Stephens, 1975).

POLICY FOR NEW DEVELOPMENT DESIGN

Cities are enacting new plans to guide and control the planning process, as in the examples above. As they do so, they should recognize the opportunity to incorporate into the regulations a guideline which will unify and enhance the physical and structural design characteristics of the waterfront, as well as promote and protect visual and physical access to the water's edge.

California's coastal program is drafted to be sensitive to the difficult question of differing personal taste in coastal construction. Hence, new urban waterfront construction is simply required to be compatible with the type and scale of existing structures and uses. The Coastal Act requires new development to preserve and encourage traditional coastal activities--fishing, shipping, water-oriented recreation, and other activities that are dependent on coastal location. More specifically, urban development must be compatible with such primary coastal attributes as; (1) historic structures, (2) scale of the

community in relation to coastal scenic qualities, and (3) water-related uses such as fishing piers (Petrillo, 1985). The result has been both to preserve the aesthetic diversity of the waterfront and to enhance its economic diversity.

Waterfront development planning should take into consideration the importance citizens today feel for retaining open space and parks, and maintaining view corridors and physical access to the water. Where structural development is to take place, it should be within a well-planned framework and it should serve the community as a whole, providing amenities for persons of all income levels and physical-ambulatory abilities: the waterfront must not be exclusive. Additionally, as the California coastal plan aptly identifies, new waterfront development must relate to the scale and design of the existing buildings nearby (Stephens, 1975).

The responsibility of enacting a comprehensive waterfront plan is immense. Planners must be careful about how they draft regulations and policies to enforce their plans. Architect Charles W. Moore warns of the dangers of believing "that a single set of standards might apply, for instance, to the whole [] coast." He writes,

We must protect the shore--but not by destroying the variety that makes the waterfront such a special place. What we need is a positive force which introduces and interlaces the widest variety of public and private uses and densities and forms, rather than negative restrictions which limit those uses. (Petrillo, 1985)

SUMMARY

The State of Michigan has in place a strong means of regulating activities on the waterfront. Conversations with officials from the Michigan House of Representatives and the Michigan Department of Natural Resources (DNR), city planners, and private sector consultants identifies the DNR as the key leader in land use management at the water's edge. In communities along the Great Lakes, inland lakes, and rivers, the DNR wields immense power as a regulator with unparalleled scientific expertise in the numerous areas of scientific knowledge of water quality, recreation, and land use preservation, development and control as it pertains to the State of Michigan. Through the DNR, Michigan has attained many of the goals identified throughout this paper regarding planning on a state level, having one dominant agency serve as mediator and facilitator, and exercising regulatory strength with a degree of flexibility.

It is not enough to accept what the state already has, however. This state has great interest in its water resources and tourism industry. There is a real need to encourage planning of development along the water's edge so as to ensure that the very best consideration of the health, safety and public welfare is promoted.

This paper has emphasized that although planning and development activity along the land-water interface in Michigan is guided by adequate controls, there is potential to develop a more proactive planning policy which would favorably affect the natural resources, citizens, businesses and the economy of Michigan. The case survey of waterfront planning activities in various parts of the country has been presented to facilitate a broad-vision approach to enhancing waterfront planning in this state. Public-private investment is an area in which development is encouraged by an initial commitment from the public sector, and a partnership with the private sector--which shoulders a large portion of the costs. The Toledo projects were highlighted in support of this manner of waterfront development. In addition, height limitations, building set-backs, public access, and building compatibility design with the existing structures and natural resource features have been exemplified by activities in Portland, New Orleans, and Boston. Historic design preservation and re-use was highlighted by redevelopment in Boston. From each of the case studies planners can learn ideas about how they might enhance waterfront planning in Michigan.

Cities such as Portland and New Orleans have proved that visual and physical access to the waterfront provide long-term economic gain to the cities as increases accrue to the value of property along the water, as well as to property within the city

which captures protected views. Protected public access and planned continuous walkways along the perimeter of city waterfronts, although difficult to implement, are gaining in popularity amongst citizens and developers alike. Examples include a coastal path skirting mansions of Newport, Rhode Island, public promenades around the Charleston's Battery, Rowe's Wharf in Boston, and Battery Park City in New York City (Breen, 1990).

This paper does not mean to leave the reader with the thought that Michigan's waterfront planning policy is weak, for that is not the case. A diverse public in Michigan enthusiastically supports existing waterfront policy, as do private interest groups. Additionally, strengths of Michigan's planning policy can be seen by drawing parallels to the successful planning authority in California. In California, the State Coastal Conservancy has the mandate of protecting, preserving, and restoring coastal resources through programs of land acquisition, waterfront restoration, wetland enhancement, public access, agricultural preservation, open space protection, and aid to local land trusts. The Michigan Department of Natural Resources has these same mandates (refer to Acts and Statutes noted in the Appendix). Authority to carry out these mandates is primarily vested in the Land and Water Management Division of the DNR. In California, the State Coastal Conservancy works with

local governments, nonprofit organizations, citizen groups, and other public agencies. The same is true of the Michigan Department of Natural Resources.

Identified as a weakness of the DNR, however, is the absence of clear design guidelines set forth for developers to follow and parameters for them to act within. Planning policy at the waterfront will enhance public enjoyment of this natural feature if the policy establishes clear guidelines limiting building height and bulk, and ensuring compatibility with existing structures and natural features.

The tragedy is that the longer we wait to implement a sound regulatory design policy, the more difficult and costly it is to implement. Short-sighted private gain in waterfront development costs citizens of this state access to a valuable resource, thwarts the public health, safety and welfare, and incurs economic losses to the state's important tourism-recreation industry.

Developers across the nation have come to realize that open, well planned waterfronts are a boon to their business. However, without a state policy protecting our shoreline, developers will be defenseless against adjoining haphazard development and competing businesses which fail to work together to enhance waterfront access and maximize business potential. As Breen and

Rigby note, in the long term, waterfront access MUST be protected for the public (Breen, 1990).

Waterfront planning in Michigan must continue to be directed by the DNR, acting under the guidelines of waterfront policy delegated pursuant to the current acts and statutes. The DNR continues to serve as an oversight agency to all action on the waterfront in such capacities as monitoring water quality, overseeing activity in waterfront parks and recreation areas and redevelopment of industrial areas.

To this policy should be added a dimension of protecting and enhancing the natural features of this resource through mandated design regulations. Comprehensive plans of the waterfront should be promulgated by the DNR as broad guidelines. Communities should be required to establish and, upon review and approval of the DNR, implement comprehensive plans which are at least as restrictive as those of the DNR. The DNR must further its responsibility of facilitating responsible local community waterfront planning. If DNR staff are less reluctant to take a position as arbitrator in inter-community planning, the benefits to the state of guiding and facilitating planning toward meeting a statewide comprehensive waterfront plan will be immense.

When the DNR furthers its responsibility of protecting, preserving and enhancing the natural resource of the waterfront by enacting clear design and development regulations (pursuant to its current mandate to protect the health, safety, and public

welfare), waterfront development will advance to new heights in the State of Michigan.

RECOMMENDATIONS

Activity on Michigan's waterfronts is important to the state's economic future. The natural beauty along the water's edge draws citizens from this and other states to enjoy passive and active recreation activities. Enhanced waterfront development planning guidelines will heighten economic returns to businesses and encourage the travel-tourism industry, and it will maintain and protect these natural resources of Michigan. Specific recommendations for attaining this goal of enhanced waterfront development in Michigan include:

- * that the DNR enact a comprehensive waterfront plan for all waterfront lands in Michigan.

- * that the DNR mandate and review community zoning plans for the waterfront.

- * that the DNR establish and publish waterfront guidelines which waterfront developers must follow in their development design plans.

- * that communities individually, and communities which share a common waterfront in concert, enact and implement a comprehensive waterfront plan.

- * that the DNR staff will work in a proactive manner with communities, facilitating inter-community relationships and partnerships for waterfront development control.

- * that the DNR staff share their expertise and serve as outside arbitrators and facilitators when community waterfront concerns arise.

APPENDIX

ACTS & STATUTES
PERTAINING TO WATERFRONT DEVELOPMENT
IN MICHIGAN

Flood Drainage and Beach Erosion Control Act, 1952 PA 278, MCLA 281.621, et seq.

Goemaere-Anderson Wetland Protection Act, 1979 PA 203, MCLA 281.701 et seq.

Great Lakes Submerged Lands Act, 1955 PA 247, MCLA 322.701, et seq.

Harbors, Channels and Navigational Facilities Act, 1952 PA 66, MCLA 281.541, et seq.

Inland Lake Improvement Act, 1966 PA 345, MCLA 281.901 et seq.

Local River Management Act, 1964 PA 253, MCLA 323.301 et seq.

Natural River Act, 1970 PA 231, MCLA 281.761 et seq.

Shorelands Protection Management Act, 1970 PA 145, MCLA 281.631 (amend 1974 PA 270), et seq.

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