

Interrelationships, Compatibility and Consistency

The Pa. Municipalities Planning Code requires Comprehensive Plans to contain statements that the plan is compatible with neighboring municipal plans and also that it is internally consistent. Internal consistency within this Comprehensive Plan was ensured by building all topical plans (Housing, community facilities, etc) around the land use plan. There is also a requirement in the MPC for compatibility of the plans of neighboring municipalities, and with the County. The most important aspect of this intergovernmental consistency is that fact that this document is a Multi-Municipal Comprehensive Plan as defined by the Pa. Municipalities Planning Code. This means that the plan is much more than a plan adopted by a multitude of municipalities. Article XI of the code empowers communities who have properly adopted a Multi-Municipal Comprehensive Plan to draft and enter into intergovernmental agreement with one or more of their municipal plan partners. Once a consistent agreement has been ratified, the municipalities can take advantage of planning powers normally not granted to Pennsylvania municipalities.

Because the term ‘multi-municipal’ denotes more than one municipality, it should be noted that the Pa. MPC definition includes Class II or III cities, Townships of all classes, boroughs, home rule municipalities, counties from class II through VIII, and Pennsylvania’s one incorporated town. Since the MPC regards most counties as “municipalities”, the partners in a multi-municipal plan can include the county. A county could thus be a partner with one or more townships, sign intergovernmental agreements, and function as an active equal partner with its constituent townships, boroughs and cities. In fact, this would be encouraged by section 1103(b) of the MPC.

The additional authorized planning powers authorized by Article IX of the MPC include:

1. The municipalities may plan for the accommodation of all categories and types of land uses throughout the geographic area which the plan covers. If properly implemented, local zoning ordinances would not need to then provide for all use categories-if another ordinance consistent with the plan did so. There is some very explicit protection from exclusionary zoning challenges from this process.
2. There is explicit power to establish growth areas which are a public utility priority and planned for levels of growth greater than one dwelling unit per acre. Conversely, the plan may designate "rural resource" areas, with densities there compatible with rural uses; this implicitly provides approval for densities of less than one dwelling unit per acre, if it is consistent with good planning.
3. Participants have the ability to plan for "Developments of area wide significance and impact," especially as they relate to transportation and community facilities. This section seems to provide for greater freedom to practically meet a community's future infrastructure needs, without undue worry to providing authority jurisdictions and service areas or municipal boundaries.
4. After the agreement is ratified, additional powers are granted to prepare and adopt a Specific Plan. The Specific Plan is meant to provide for the implementation of the Comprehensive Plan in a portion of the community. It must include text, implementing ordinances, and at least one diagram.

The Townships of Buffalo and Clinton had several work sessions to discuss how these multi-municipal tools might apply in their circumstances. The strongest interest was in the potential for some for of shared use zoning, with secondary interest in a Specific Plan.

Shared Use and Joint Zoning: Prior to the Act 67/68 amendments to the MPC, only a handful (perhaps 11-15) of Pennsylvania's 2,574 municipalities at any point utilized some form of joint zoning. Enabling legislation under the old MPC made this tool very difficult to use. Communities had to bind themselves for agreed periods, and actually would give up power to cooperate. Act 67/68 changed this by making it as easy to cooperate in zoning as it is to share a piece of road equipment (provided there is a multi-municipal plan and implementation agreement).

In Pennsylvania, courts have generally agreed that any municipality, whether zoned or un-zoned, cannot exclude a particular category use from their bounds. For example, a township cannot exclude multiple family dwellings, or light industry in their zoning ordinance from locating somewhere in the Township. Zoning power can certainly limit the place and extent of an activity, but it cannot completely exclude. This is a serious problem for many small boroughs and rural townships. Where should a rural township without any public sewer allow a shopping plaza? Multi-municipal implementation allows an alternative to this. Under the implementation agreements, the range of zoning uses can be provided under any area covered by the Plan. This widens the extent of the area. Towards this, both Buffalo and Clinton Township local leaders prepared a preliminary analysis of shared use zoning, the results of which are depicted on the next table. This is not intended as a final zoning scheme, but as a starting point for future discussions.

This table was created from a survey of committee members from each municipality. Each person made one choice for accommodating each land use example. Thus, the higher numbers indicate the majority choice about where to accommodate the land use.

Clinton/Buffalo Townships
 Shared Land Use Survey Results

December 2004

<i>Land Use(examples)</i>	<i>Best Accommodated in Buffalo Township</i>	<i>Best Accommodated in Clinton Township</i>	<i>Best Accommodated in Each Municipality</i>	<i>No Response</i>
Standard Agriculture	0	6	10	0
Confined Animal Feeding Agriculture	0	10	5	1
Single-Family Dwellings	1	4	11	0
Medium-Density Multi-Family (duplexes to quads)	5	3	7	1
Higher-Density Residential (garden apartments, townhouses, etc)	5	2	7	1
Mobile Home Parks	5	4	6	1
Elderly Housing (mixed type, personal care, nursing homes, apartments, etc)	2	2	11	0
Detention Homes, Halfway Houses (for non-permanent non-handicapped persons)	8	3	5	0
Small Retail Businesses (less than 20,000 square feet—Sheetz, Dollar General)	6	1	9	0
Medium Retail Businesses (up to one acre under roof- Trader Horn, 84 Lumber Shop N Save)	12	2	2	0
Large Retail (shopping plazas, malls, Target, Wal-Mart, etc)	14	1	1	0
Regional Retail (Prime Outlets Grove City)	15	1	0	1
Light Industry - Small buildings (1 acre or less under roof)	3	6	7	0
Light Industry - Large buildings (1 acre or more under roof)	1	12	4	0
Office Parks	4	5	7	0
Heavy Industry (smelting, power plants, etc)	4	10	1	0
Transportation/Warehousing Truck Terminals	0	13	3	0

<i>Land Use(examples)</i>	<i>Best Accommodated in Buffalo Township</i>	<i>Best Accommodated in Clinton Township</i>	<i>Best Accommodated in Each Municipality</i>	<i>No Response</i>
Mineral Extraction (cannot be limited in every case)	1	2	11	2
Sanitary Landfills	6	1	9	1
Recreational Campgrounds	0	4	10	1
Outdoor Commercial Recreation (stadiums, racetracks, concert halls)	8	0	5	1
Sexually Oriented Businesses	8	4	3	1
Junkyards	6	6	3	1

The table shows a trend that there may be a sensible basis for some land use agreements between the two townships.

Specific Plan: The Specific Plan is defined as a sub municipal form of plan that is innately accompanied by implementing ordinances. The content must detail:

- a. The distribution, extent, and standards for land uses and facilities, including design of water sewer and drainage.
- b. Location class and design of all transportation systems and facilities.
- c. Standards for population density, land coverage, building intensity and supporting services.
- d. Standards for preserving conserving developing or using natural resources
- e. A program of implementation that includes regulations and financing of capital improvement.

While very powerful, no specific plan has yet been adopted in Pennsylvania. The enabling legislation is only 4 years old. There are thus no court cases and interpretations vary. It is understood that the municipality gains a lot of power; including the power to prepare aspects of the preliminary site or subdivision plan. The developer is understood to gain the right to proceed directly to final plan, so he potentially saves both money on preliminary design, and time

waiting for initial plan and possibly zoning approvals. What is not understood is the application of the Specific Plan to both residential and nonresidential development, due to ambiguity of language. Section 1106(a) of the MPC states that the specific plan may be adopted for implementation of the Comprehensive Plan for “any *nonresidential* part of the area covered by the plan” and later states that the Specific Plan shall specify *all of the following in detail*.....Subsection (3) includes the phrase *Standards for Population Density*. A common interpretation of this is that a Specific Plan could only apply in a non-residential setting, primarily an area identified for future non-residential development by the Comp Plan. An alternate interpretation is that the “*nonresidential part of the area covered by the plan*” means an area not yet developed for residential purposes or not presently being used for residences, otherwise having a requirement to have a standard for population density is impossible to achieve, as population density strongly implies residential use. Therefore, The Specific Plan can apply to any area within the municipalities not yet developed for residential uses at the time of the Comprehensive Plan, because the Specific Plan must contain a standard for population density (so it certainly may include future residential uses).

One principal advantage of a specific plan is the ability to prepare aspects of the preliminary plan that a developer would normally prepare. This would allow a township to indicate exactly where new streets, curb cuts or open space should be. This is a very great exercise of municipal power, but could also be somewhat expensive. The advantage to a private developer whose land would be subject to a specific plan is that he could move directly into final plan approval, saving both the time and expense of preparing his own preliminary plan. The disadvantage to this developer is that the preliminary plan specifications in the Specific Plan, may not present the most profitable configuration (in the short term).

INTERGOVERNMENTAL ACTION PLAN

Both Townships should offer the Multi-Municipal Plan as an amendment to the Butler County Comprehensive Plan. Upon the adoption of this amendment by the County, the two Townships can explore the legal extent of protection from exclusionary zoning challenges over a larger area. For example, if some uses are accommodated in other areas of the County, within a reasonable service area, neither Buffalo or Clinton Township may need to accommodate those uses. The initial action should be to explore the legal extent of protection from exclusionary zoning challenges over a larger area.

Codify the Standards of the Buffalo Township Zoning Ordinance into a new zoning ordinance document with a modern format. Though the Standards may be different from Clinton Township, the structure and text of the ordinance should be similar.

Negotiate an agreement between Buffalo and Clinton Township to utilize appropriately zoned areas within Buffalo Township as the only places where large size retail/commercial developments would be accommodated in the two townships.

Consideration might be given to designate the Regional Business Park in Clinton Township as the single appropriate place in the region for true heavy industry. This could be the subject of an intergovernmental implementation agreement as well.

Clinton Township should consider some of the new zoning techniques adopted by Buffalo Township (effective agricultural zoning. Access management overlay districts)

It is possible that the Transfer of Development Rights will work better if both a larger sending area and receiving area is present. The Townships may wish to enable inter-municipal TDR.

Consideration may be given to a specific plan in the areas of Route 228 in Clinton Township and Buffalo Township, especially the Smart Growth Target Area identified by Buffalo Township within sewer service areas with good road access to both 228 and 356.

Compatibility and Consistency outside the Multi-Municipal Plan Project Area: To examine the effect of This Comprehensive Plan upon that of any neighboring municipalities, a number of other plans were consulted. Clinton and Buffalo Townships share borders with the following municipalities:

Winfield Township, Butler County
Jefferson Township, Butler County
Saxonburg Borough, Butler County,
Middlesex Township, Butler County
Freeport Borough, Armstrong County
South Buffalo Township, Armstrong County
Fawn Township Allegheny County
Harrison Township Allegheny County
West Deer Township, Allegheny County

In a cursory analysis of adjacent municipal plans, there seems to be general consistency. For example, the 2000 West Deer Comprehensive Plan recommended a corridor approach to major route development. Large border areas in most cases in Middlesex, Winfield, and South Buffalo Townships have been planned or zoned for rural, low density uses. There are however, two potential intergovernmental challenges:

1. A large area of Winfield Township is zoned for commercial and/or light industrial development along the Route 356 Corridor. At this point in time, the area has no public sewer service. If the area were to be served by either Buffalo Township public sewer or another community system, there is a potential for exacerbated traffic problems in Northern Buffalo Township. There should be a coordinated approach to access management before infrastructure is extended.
2. There is a small area of open space in southern Saxonburg Borough on the Clinton Township line. There should be careful coordination between the Township and Borough on how this area develops to ensure the protection of the Borough.
3. Buffalo Township should ensure that Fawn Township or Upper Allegheny Joint Municipal Authority systems coordinate any future service area extensions based upon the Clinton-Buffalo Townships Land Use Plan. This is also true with regards to activities of the Saxonburg Area authority in Clinton Township.
4. Opportunities for Buffalo Township to build further partnerships with Freeport Borough should be examined. Clinton Township may wish to examine further partnerships with Saxonburg. Though there are differences in government structure, older core communities can be a natural partner with a growing township.

Epilogue:

Over 37 years have passed between completion of the 1968 Comprehensive Plan and the 2006 Plan. The need to update a planning document is consistent with the rapidity of change. The longer the time between updates, the more work will be required to update the plan. It is thus recommended that the Townships create subcommittees of their planning commissions to annually review the Comprehensive Plan, note progress, and suggest targeted amendments. The amendments could be completed and adopted on a 2 year basis. This will help make the plan a real tool to invent the future and implement the vision.