

PLANNING FOR RAPID GROWTH IN SMALL AND RURAL COMMUNITIES IN THE INTERMOUNTAIN WEST: IDENTIFYING CHALLENGES AND SOLUTIONS IN THE LAND USE CONTEXT

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I. INTRODUCTION

Small and rural communities in the Intermountain West, notably in Idaho and Utah, have experienced rapid, unprecedented growth over the past five years, with particularly rapid growth in the past two years. In many cases, the capacity and resources of local governments to address such growth has not increased at a similar pace. Often, this has resulted in new growth and development related challenges that small and rural communities are ill equipped to address. In this article, the authors—a professional planner for a community in southern Utah and

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an attorney who primarily represents developers—propose tools that small and rural governments can use to deal with the explosion in growth and new development.

II. IDAHO AND UTAH HAVE EXPERIENCED RAPID GROWTH

Growth is perhaps the most notable current characteristic of communities throughout the Intermountain West. (For purposes of this article, we use the term Intermountain West to mean Arizona, Nevada, Utah and Idaho. We focus, however, on Idaho and Utah.) Data from the U.S. Census Bureau indicate that during the years 2010 to 2020, Utah was the fastest growing state (by percentage increase in population), at 18.4% growth with Idaho close behind at 17.3%.¹

More recent data show that over the past few years, Idaho has eclipsed Utah in the pace of its growth.²

These statistics will come as no surprise to anyone familiar with development in the Treasure Valley. According to Census Bureau numbers, Ada County and Canyon County experienced more than 20% growth over the last ten years.³ Likewise, the counties in the Salt Lake metropolitan area (Salt Lake County, Davis County, Utah County) all experienced similar significant growth.⁴ Dramatic growth, however, has not been limited to the areas surrounding the two state capitals.

Washington County, Utah, which is known for larger cities such as St. George but also includes the formerly sleepy hamlets of Santa Clara, Hurricane, and Springdale also experienced more than 20% growth in from 2010 to 2020.⁵ In fact, at certain points during that period, Washington County was the fastest growing county in the United States.⁶

Smaller counties in western Idaho, including Valley County, Gem County, and Adams County, all experienced rapid growth over the past ten years, as did such counties on the east side of the state such as Bonneville County, Jefferson County,

1. Matt Canham & Tony Semerad, *New Census Numbers Are Staggering. We Know Utah is Growing. See by How Much and Where*, SALT LAKE TRIB. (Sept. 22, 2021, 12:00 PM), <https://www.sltrib.com/news/2021/08/12/new-census-numbers-are/>.

2. *Idaho Leads the Country in Population Growth*, U.S. NEWS (Dec. 25, 2021, 12:29 PM), <https://www.usnews.com/news/best-states/idaho/articles/2021-12-25/idaho-leads-the-country-in-population-growth>.

3. *Percent Change in County Population: 2010 to 2020*, U.S. CENSUS BUREAU, <https://www.census.gov/content/dam/Census/library/stories/2021/08/more-than-half-of-united-states-counties-were-smaller-in-2020-than-in-2010-figure-1.jpg> (last visited Apr. 15, 2022) [hereinafter *Population Change*].

4. *Id.*

5. *Id.*

6. David DeMille, *St. George, Utah, Is Nation's Fastest Growing Metro Area, Census Says*, USA TODAY (Mar. 22, 2018, 12:14 AM), <https://www.usatoday.com/story/news/nation-now/2018/03/22/st-george-utah-nations-fastest-growing-metro-area-census-says/448197002/>.

Teton County, and Madison County—with Madison County leading the way at more than 20% growth from 2010 to 2020.⁷

The reasons for rapid growth may vary state by state, or even county by county. The Pew Trust, a think tank which provides analysis for policy makers, has observed that “[s]tates with fast-growing populations typically have strong labor force growth, which fuels economic activity and helps generate tax revenue to fund any increased spending on infrastructure, education, and other government services.”⁸ Utah and Idaho have both experienced significant economic growth over recent years—bearing out the Pew Trust’s observations. In fact, a recent study published by Forbes found that Utah has the fastest growing economy in the nation.⁹ The same study found that Idaho’s economy was third in recent growth.¹⁰ Like the Pew Trust, Forbes found that Idaho’s economic growth corresponded to an increase in its population which “grew noticeably when the pandemic hit and urban workers on the West Coast relocated to the state in droves.”¹¹

In addition to strong economies, many observers suggest that reasons for recent population growth in Utah and Idaho include proximity to natural amenities such as national parks and the “zoomtown” phenomenon. This population growth is driven by “amenity migrants”—a new term referring to workers relocating to and working virtually from rural, amenity rich regions with high quality of life and low cost of living.¹² Idaho and Utah are both filled with natural amenities which act as a magnet attracting these amenity migrants.

The closest national parks to eastern Idaho, Yellowstone National Park and Grand Teton National Park, were among the most visited parks in 2021 as was Zion National Park, located in Utah’s Washington County.¹³

Visitation to these, and other, Parks has increased dramatically over the past ten years, as shown in the following table.

7. *Population Change*, *supra* note 3.

8. Barb Rosewicz et al, *Western, Southern States Gain Residents the Fastest*, PEW CHARITABLE TRUSTS (Feb. 27, 2019), <https://www.pewtrusts.org/en/research-and-analysis/articles/2019/02/27/western-southern-states-gain-residents-the-fastest>.

9. Andre DePietro, *2021 U.S. States by GDP and Which States Have Experienced the Biggest Growth*, FORBES (Aug. 4, 2021, 10:43 PM), <https://www.forbes.com/sites/andrewdepietro/2021/08/04/2021-us-states-by-gdp-and-which-states-have-experienced-the-biggest-growth/?sh=3855d019846c>.

10. *Id.*

11. *Id.*

12. Mark Johanson, *The ‘Zoom Towns’ Luring Remote Workers to Rural Enclaves*, WORKLIFE (JUNE 8, 2021), <https://www.bbc.com/worklife/article/20210604-the-zoom-towns-luring-remote-workers-to-rural-enclaves>.

13. *Visitation Numbers*, NAT’L PARK SERV. (Feb. 16, 2022), <https://www.nps.gov/aboutus/visitation-numbers.htm>.

Park	State	2011 Visitation	2016 Visitation	2021 Visitation	Percent Increase 2011- 2021
Grand Teton	WY	2,587,437	3,270,076	3,885,230	50.2
Yellowstone	WY	3,394,326	4,257,117	4,860,242	43.2
Arches	UT	1,040,758	1,585,718	1,806,865	73.6
Bryce Canyon	UT	1,296,000	2,365,110	2,104,600	62.4
Zion	UT	2,825,505	4,295,127	5,039,835	78.4

Table 1: Annual Visitation Statistics for Selected National Parks in Utah and Wyoming¹⁴

High numbers of visitors correlate to increased demand for services in surrounding communities, which correlates to an increased need for labor – and residents. For example, in Springdale, Utah, the gateway community located at the entrance to Zion National Park, one of the authors has observed a doubling of the number of hotel rooms, going from approximately 600 in 2012 to over 1,200 in 2022. According to the Census Bureau, the City of Hurricane, located a mere 20 miles from Zion National Park, grew in population from 13,748 in 2010 to 20,036 in 2020, a whopping 45.7% increase.¹⁵ Even more staggering, Rexburg, Idaho, one of the closest cities to Yellowstone’s western entrance grew from a population of 25,484 in 2010 to 39,409 in 2020, an increase of more than 54.6%.¹⁶

Further, the combination of technology (which makes remote working possible in many industries) and a global pandemic (which saw many industries shutter their offices, at least temporarily) contributed to the growth of zoomtowns. One prominent observer of technology trends describes a zoomtown this way: “A town within the U.S. that increased in population due to the COVID-19 pandemic. As remote work became commonplace, many people moved from the big cities to small towns nearby, to towns with a lower cost of living as well as to vacation destinations.”¹⁷ The same source identifies Boise as a prominent zoomtown.¹⁸

14. *Id.*

15. *QuickFacts: Hurricane City, Utah, U.S. CENSUS BUREAU*, <https://www.census.gov/quickfacts/hurricanecityutah> (last visited April 17, 2022).

16. *QuickFacts: Rexburg, Idaho, U.S. CENSUS BUREAU*, <https://www.census.gov/quickfacts/fact/table/rexburgcityidaho/BZA110219> (last visited April 17, 2022).

17. *Zoomtown*, PCMAG, <https://www.pcmag.com/encyclopedia/term/zoom-town> (last visited April 17, 2022).

18. *Id.*

Whatever the sources, rapid population growth leads to significant challenges for the cities, towns, and counties trying to manage – or at least accommodate – the growth.

III. RAPID GROWTH CREATES CHALLENGES SMALL AND RURAL COMMUNITIES

It is a long-settled principal of American law that local governments can regulate growth through the planning and zoning process, so long as regulations adopted are not arbitrary or unreasonable.¹⁹ Indeed, cities and counties in Idaho are required to exercise planning and zoning powers.²⁰ Cities and counties use their regulatory authority to, among other things, “ensure that adequate public facilities and services are provided to the people at reasonable cost”²¹ and “facilitate orderly growth and allow growth in a variety of housing types.”²² In order to achieve those goals, cities and counties are empowered to regulate many aspects of development including uses, density, open spaces, structures, buildings, infrastructure, and public facilities.²³

Many cities and counties attempt to use their regulatory land use, planning, and zoning authority effectively to the benefit of their residents. Local governments must make judicious use of the limited resources available to them, and many carefully balance the amount spent on planning and zoning with competing needs in other areas—public safety, public works, etc. Municipal and county governments with large budgets or large staff are able to provide sufficient resources to make all these functions work well, even in the face of rapid growth and development. However, recent rapid growth in Idaho and Utah has presented challenges for some smaller and rural communities.

A. Smaller and rural communities have limited resources.

While cities and counties have the *authority* to exercise planning and zoning powers, practically speaking they often do not have the *ability* to do so. Establishing and enforcing effective planning guidelines requires resources, both in terms of finances and personnel.

Although cities and counties are required to exercise planning and zoning authority either directly through the legislative body or through a planning commission,²⁴ in our experience, the exercise of that power can be often less effective in small rural communities which lack resources such as a professional planning staff or planning consultants. Planning commissions in these communities are made up of volunteers who, in many cases, have little or no land use experience. While these volunteer citizen planners are usually dedicated to their work and exhibit concern for the welfare of their communities, they lack the knowledge and

19. *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 365 (1926).

20. IDAHO CODE ANN. § 67-6503 (West 2022).

21. IDAHO CODE ANN. § 67-6502(b) (West 2022).

22. UTAH CODE ANN. § 10-9a-102(1)(j) (West 2022).

23. UTAH CODE ANN. § 10-9a-102(2) (West 2022).

24. IDAHO CODE ANN. § 7-6504 (West 2022); *see also* UTAH CODE § 10-9a-301(1)(a) (West 2022); UTAH CODE § 17-27a-301(1)(a) (West 2022).

technical skills of planning professionals. This forces them to learn on the job. Because there is intentional turnover in both planning commission and legislative offices, there is frequently an inability to develop broad proficiency and expertise in basic planning functions.

Smaller or rural communities who have no professional staff, or limited professional staff, face a number of challenges in administering the complex process of land use regulation, even without the pressure of rapid development. These communities may often struggle to respond timely and effectively to land use applications. They may further struggle with enforcement of regulations once land use applications have been granted. In many instances, recent rapid growth – with attendant increase in development – has exacerbated these issues.

As noted above, larger communities are also experiencing rapid growth. However, they have the advantage in many instances of a larger professional staff. Indeed, one planner working in rural Utah has observed there are “two Utahs”: one being the urban Utah with access to resources and capital, the other being the rural Utah, lacking resources and infrastructure necessary to address basic government functions.²⁵ For example, in many larger jurisdictions, the roles of application review, building or infrastructure inspection, and code enforcement are separated into different departments or among different individuals. In smaller and rural communities, these tasks are often performed by the same person or same department which can, in many cases, prevent the community from giving adequate focus to the relevant components of those tasks. As mentioned above, this person may be a citizen planner with no professional training or experience.

These small communities sometimes struggle just to react to new development instead of proactively mitigating the impacts of current growth and planning for future growth. Instead of establishing plans to accommodate and manage future growth, communities with limited planning resources find themselves simply trying to keep up applications for new development as they are proposed.

One planner working in rural Utah observed that it is common for small rural communities to put off updating and implementing planning and land use regulations due to lack of resources.²⁶ With a surging wave of new development applications associated with the recent rapid development these communities find themselves further behind, struggling to meet the bare statutory requirements associated with land use application review. In Utah, for example, the Legislature has adopted a timeframe for local governments to evaluate and act on

25. Personal Communication with Michael Bryant, Regional Planning Manager, Southeastern Utah Association of Local Governments. (March 9, 2022).

26. Personal Communication with Zac Covington, Planning Director, Bear River Association of Governments. (March 11, 2002).

development applications.²⁷ Communities with limited planning staff are often unable to review applications within the statutory timeline.²⁸

Ultimately, this lack of resources results in communities where the goals of the planning process—such as facilitating orderly growth, preserving community character, promoting efficient and functional transportation networks, providing affordable housing—are left by the proverbial wayside. This leads to a self-perpetuating downward cycle where rather than anticipating the needs and impacts of new development and planning accordingly a community is stuck reacting to whatever new development is proposed, which may or may not be in keeping with the community's long-range vision. This moves the community further away from its ability to control its ultimate fate.

B. Increased Demand for Additional Level of Service

In our experience and based on the reports of planners working in rural Utah, smaller and rural communities have, in recent years, seen an increased demand from residents for increased or additional municipal services. For example, the zoomtown phenomenon has created the need for reliable high-speed internet in rural communities.²⁹ The combination of being geographically removed from large urban centers and the lack of sufficient customer density in these communities makes it unprofitable for communications companies to service these areas. Yet new residents demand high-speed internet. Because there is not an effective market-based solution to providing this service, residents look to their overburdened governments to fill the need.³⁰

New growth also creates additional need for services traditionally provided by location government: infrastructure maintenance, snow removal, and other basic government functions.³¹

In our experience new residents in small rural communities may have less tolerance for minor nuisances on property (used vehicles, outdoor storage, etc.)

27. See, e.g., UTAH CODE ANN. § 10-9a-509.5 (West 2022). The statute says that each municipality must determine whether a development application is complete within in a “timely manner.” If, however, the applicant believes that the municipality has not done so “within a reasonable period of time,” the applicant can give the municipality written notice and the municipality thereafter has thirty (30) days to either accept the application as complete or identify any deficiencies “with respect to a specific, objective, ordinance-based criterion.” Once the application is complete, the same process is repeated with respect substantive review and action on the application except that the municipality has forty-five (45) days after written notice to take final action approving or denying the application. The process for counties is the same but is codified at Utah Code § 17-27a-509.5.

28. Personal Communication with Michael Bryant, Regional Planning Manager, Southeast Utah Association of Local Governments, via email March 9, 2022.

29. Amanda Eggert, “Come Home Montana” push collides with housing angst, MONT. FREE PRESS, May 6, 2022 <https://montanafreepress.org/2022/05/06/come-home-montana-reception-mixed/>.

30. Eric Dietrich, *State unveils broadband access map, solicits grant applications*, MONT. FREE PRESS, Feb. 7, 2022 <https://montanafreepress.org/2022/02/07/montana-broadband-access-map-unveiled/>.

31. Emails from Michael Bryant, Regional Planning Manager, Southeastern Utah Association of Local Governments, and Zac Covington, Planning Director, Bear River Association of Governments (Mar. 9 through Mar. 14, 2022) (on file with author).

than existing residents, resulting in a demand for more code enforcement activity from the local government.

C. Budgetary Challenges

Small and rural communities are not unique in experiencing budgetary constraints, but those constraints are often more acute in times of rapid growth. New growth typically pays a share of the administrative cost burden to review and approve applications. New development also pays impact fees for new infrastructure. However, aside from one-time initial development revenue, local governments typically spend more in the long-term on providing services to residential development than the government receives in property tax revenue.³² For small rural communities facing rapid development and the need to provide additional services, it is particularly challenging to “scale up” to provide enhanced services since doing so may double or even triple the personnel resources required (for example, going from one public works employee to two or three). These types of budgetary dilemmas put further strain on a community’s ability to provide resources to planning functions.³³

D. Impacts on Affordable Housing, Employment, and Community Character

New development in rural communities is often triggered from in-migration of new residents from other regions. Especially in the zoomtown context, affluent buyers from other markets are often able to outbid local residents for housing, increasing the cost of housing and making the lack of affordable housing (heretofore mainly an urban problem) a significant challenge for rural communities.³⁴ All of the planners working in rural areas interviewed for this article highlighted the growing lack of affordable housing as one of the most pressing issues rural communities are currently struggling with.³⁵ Based on discussions and interactions with local business owners in Springdale, Utah, one of the authors has observed that an associated issue is a lack of resident workforce to fill increased employment needs in service sector jobs. This creates additional strain in the affordable housing market as service workers are unable to relocate to the community because of lack of housing. All of these challenges impact a

32. Daniel Herriges, *Impact Fees Don’t Mean Development Is Paying for Itself*, STRONG TOWNS (AUG 23, 2018), <https://www.strongtowns.org/journal/2018/8/23/impact-fees-dont-mean-development-is-paying-for-itself>.

33. Email from Nate Wiberg, Senior Planner, Five County Association of Governments (Mar. 14, 2022) (on file with author).

34. Conor Dougherty, *The Californians are Coming. So is Their Housing Crisis*, N.Y. TIMES (Feb. 12, 2021), <https://www.nytimes.com/2021/02/12/business/economy/california-housing-crisis.html>.

35. Emails with Michael Bryant, Regional Planning Manager, Southeastern Utah Association of Local Governments, Zac Covington, Planning Director, Bear River Association of Governments and Nate Wiberg, Senior Planner, Five County Association of Governments (Mar. 9 through Mar. 14) (on file with author).

community's ability to retain its own unique character. Further, affordable housing is a complex problem that even large cities with dedicated housing planners struggle to resolve.³⁶ Adding this problem to the workload of already overburdened planning resources in rural communities further detracts from the communities' ability to be proactive in planning.

IV. SUGGESTED TOOLS TO ADDRESS GROWTH CHALLENGES

Based on our experience, observation, and research, there are a number of strategies available to small rural communities to successfully address growth challenges. We believe that growth and development is neither inherently positive nor negative. Rather than view these challenges with either an "anti-growth" or "pro-growth" lens, we argue it is most effective to recognize the reality of growth in rural communities and to take advantage of the planning tools both authorized and required by local land use enabling legislation in both Utah and Idaho to manage the impacts of growth and leverage its benefits. This section presents several tools available at low or no cost to all small rural communities in Idaho and Utah.

A. Temporary Land Use Regulation – Moratoria

Idaho and Utah both have statutes authorizing local governments to adopt temporary land use regulations, colloquially referred to as moratoria.³⁷ Legislatures in both States have recognized that some situations warrant a temporary pause in approving all or select types of land use applications to allow the government time to respond to changing conditions. In Utah moratoria are generally limited to six (6) months.³⁸ In Idaho moratoria can be as long as one (1) year.³⁹ By enacting a brief pause on new development, a local government can break a downward cycle of reactionary land use administration and establish a proactive process of planning for the community's future.

There are, of course, limits to how this tool can be used and when it is justified. Therefore, we recommend local governments utilize this tool wisely and judiciously, and only when they are in a position to be serious about a pivot from being reactionary to proactive. However, when used wisely and appropriately a temporary land use regulation can give a community enough time to ensure it is on a development trajectory in keeping with its long-term vision. Communities can use this time to craft a specific and effective comprehensive plan (general plan in Utah), and enact simple, yet robust, land use regulations (see the following two sections).

36. Mihir Zaveri, *New York Has a Housing Crisis. How Would the Mayoral Candidates Fix It?*, N.Y. TIMES (June 13, 2021), <https://www.nytimes.com/2021/06/13/nyregion/affordable-housing-nyc-mayor.html>.

37. See UTAH CODE § 10-9a-504 (West 2022) (authorizing Utah municipalities to set temporary land use regulations); UTAH CODE ANN. § 17-27a-504 (West 2022) (authorizing the same for Utah counties); IDAHO CODE ANN. §§ 67-6523, 6524 (West 2022) (Idaho codes authorizing emergency and interim moratoria).

38. UTAH CODE ANN. § 10-9a-504(3)(b)(i) (West 2022); UTAH CODE ANN. §17-27a-504(2) (2022).

39. IDAHO CODE ANN. § 67-6524 (West 2022).

B. Specific Comprehensive Plan

Communities can most effectively manage new growth and development when they have a firm community-supported vision for the future of the community. The best way to establish this vision is through the comprehensive plan (although termed a “general plan” in Utah, this concept is the same in both states and this article with use the term comprehensive plan).

Idaho and Utah land use enabling language mandate that each community adopt a comprehensive plan.⁴⁰ The authors’ experience in representing both communities, developers, and land users in a variety of settings indicates that the following frequently occur: large urban area with access to resources often hire specialized planning consultants to help produce these plans; rural communities rarely have this luxury; and, as a result, rural communities’ comprehensive plans are sometimes less effective in establishing a clear, community supported vision, with specific actionable goals and objectives to achieve this vision. Even if a community has a good comprehensive plan, it may be difficult for a community to update the plan in a timely manner to address recent growth.

We suggest a top priority for small rural communities is to adopt a specific, community supported, comprehensive plan. The plan should establish a clear vision of the community’s desired future over the next 20 years. It should have simple, realistic, and achievable goals that will help the community accomplish its vision. It must be based on broad community input and reflect the values and priorities of the community. In the authors’ personal experience, a clear, strong, and community supported vision established in the comprehensive plan has been an effective tool in helping a rural community successfully manage growth and development pressure. A clear vision in the comprehensive plan can unify a community and galvanize its resolve to preserve community character as new growth and development occurs.

Communities should not borrow from other locations’ plans. The plan should be based on the specific needs of the community, not on the vision or needs of other communities in the region which may have different priorities and circumstances. Likewise, communities should not feel the need to produce complex and lengthy plans common to larger urban areas. The plan should match the community’s ability to implement it. A simple and strong plan is more effective than a complex plan, which a community lacks the resources to implement.

As mentioned above, a community may choose to enact a moratorium on new development in order to produce the plan.

Finally, the community should recognize that a comprehensive plan is implemented through land use ordinances.⁴¹ Although, the comprehensive plan is

40. UTAH CODE ANN. § 10-9a-401 (West 2022) (Utah municipalities); UTAH CODE ANN. § 17-27a-401 (West 2022) (Utah counties); IDAHO CODE ANN. § 67-6508 (West 2022) (Idaho communities).

41. *See, e.g.*, UTAH CODE ANN. § 10-9a-405 (West 2022) (“[T]he general plan is an advisory guide for land use decisions, the impact of which shall be determined by ordinance.”).

an essential planning tool; without simple land use ordinances to implement the plan, communities lose their ability to use the plan effectively.

C. Simple and Enforceable Land Use Regulations

Land use regulations, such as zoning and subdivision ordinances, are the tools local governments use to implement the comprehensive plan.⁴² Land use ordinances should be directly related to, and support, the comprehensive plan.⁴³ After a community adopts a specific comprehensive plan, we suggest the next step is to examine its land use regulations (zoning and subdivision ordinances) to ensure they are consistent with the comprehensive plan, and will help the community achieve its vision as articulated in the comprehensive plan.

We further recommend small rural local governments adopt simple, easily enforceable, land use ordinances. Local governments can regulate many aspects of new development—uses, densities, height and massing, landscape, parking, outdoor lighting, site development, etc. Many communities adopt regulations addressing all of these, and more.⁴⁴

For a large municipality with a large planning staff, it may be appropriate and effective to adopt complex regulations comprehensively addressing all aspects of new development. However, for a small community with limited staff and resources doing so is often counterproductive. The community will not have the ability to effectively enforce these regulations, creating frustration for residents and unpredictability for developers.

We recommend small and rural communities adopt simple ordinances. Note that a simple ordinance does not mean an ineffective or weak ordinance. We advocate for communities to be passionate about protecting community character through strong land use ordinances. We feel this is most effectively done when the ordinance is strong yet simple. A strong, simple, enforceable ordinance is a community's greatest asset in regulating new development.

To create a strong, simple ordinance, we suggest the community identify three to five essential priorities that form the foundation of the community's future vision, as identified in the comprehensive plan. These priorities will vary from community to community. For example, one community may prioritize open space preservation, while another may prioritize walkable neighborhoods. Once the community has identified its priorities, the next step is to create the simplest and most direct way to regulate new development to protect those priorities. For example, a community that prioritizes open space may wish to require that all new developments provide a minimal percentage of the development area as open space. A community that prioritizes walkability may want to require all new developments to provide a network of pedestrian paths that connect to the community's active transportation network.

Simple, strong, and enforceable land use regulations help implement the community's comprehensive plan. They can also provide a predictable roadmap for developers working in the community. Developers will know up front what to

42. *See, e.g.*, UTAH CODE ANN. § 10-9a-501 (West 2022).

43. *See, e.g.*, UTAH CODE ANN. § 10-9a-405 (West 2022).

44. *See, e.g.*, Title 10 SPRINGDALE, UTAH CODE OF ORDINANCES.

expect as they plan and develop their projects. There will be less confusion and uncertainty for both the local government and the developer. This will reduce the workload and amount of stress on the local government in processing new development.

D. Leverage Developers' Resources

Often, developers and local governments view themselves at odds with one another. Such frustration can stem from many things, but in our experience, it often occurs when a comprehensive plan or land use regulation is either inadequate or ambiguous. When comprehensive plans and local ordinances are strong, clear, and specific, both the applicant and the local government can manage expectations because there is no ambiguity about what the code allows.

Moreover, communities with fewer resources can, in many cases, utilize the work that the developer has done, or is willing to do. For example, a developer may be in a position to provide needed survey work or engineering studies that the local government lacks the resources to complete. Or a developer might be willing to bear the legal cost of the initial draft of a development or annexation agreement for a project. In our experience, where a developer or an applicant can work collaboratively with the local government from the outset, the local government can save time and expense by piggybacking on the developer's resources.

Of course, there are limits as to how much local government can require of a developer or applicant. Requirements imposed on development by local governments are termed exactions.⁴⁵ The United States Constitution prevents a local government from requiring a developer or applicant "to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."⁴⁶ Generally speaking, any exactions must be "proportionate, both in nature and extent, to the impact of the proposed development," and the local government must show that "an essential link exists between a legitimate governmental interest and each exaction."⁴⁷ Thus, while there are certainly limits on what a local government can require of a developer or applicant, if the local government can utilize the resources that the developer or applicant already has in place, then it can ameliorate some of the growth-related challenges it faces.

E. State and Regional Assistance

The process of land use regulation can be incredibly complex. A bewildering labyrinth of state and federal statute and code regulates a local government's land use authority. For a rural community with limited planning expertise, navigating this labyrinth can be overwhelming. Fortunately, there are resources available at little or no cost to assist communities.

45. *Exaction*, BLACK'S LAW DICTIONARY (11th ed. 2019).

46. *Dolan v. City of Tigard*, 512 U.S. 374, 384 (1994).

47. *See, e.g.*, UTAH CODE ANN. 10-9a-508(1) (West 2016).

Examples of resources are available to local governments:

– Utah Community Development Office: This state agency is dedicated entirely to providing technical planning assistance to rural Utah communities. The community development officer has produced toolkits on a number of land use issues impacting rural communities. These are all available online. Additionally, the Community Development Office sponsors regional planners who can provide limited staff planning support to local governments.⁴⁸

Association of Governments: Each community in Utah is located within an Association of Governments (AOG). AOGs provide assistance to rural communities in accessing state and federal funding (e.g., CIB, CDBG), mobility planning, natural hazard mitigation planning, and more. AOGs can also provide direct technical planning assistance in many instances.⁴⁹

– Universities: Universities can be a valuable resource for local governments. Many universities operate programs with the specific goal of community assistance and outreach. Communities can get access to high quality, professor supervised student work through these programs. Additionally, universities are a great source of internship help. We advocate for land use practitioners to inquire with local universities regarding graduate programs in planning or associated fields which may be able to provide community assistance through graduate thesis or dissertational projects.

– Non-Profit associations: There are several non-profit and ad-hoc organizations and initiatives that can be a source of assistance and information. These include the Sonoran Institute, the GNAR (Gateway and Natural Amenity Region) Initiative.⁵⁰

V. CONCLUSION

Proactive land use planning has not been a priority for many small and rural communities in the Intermountain West. This lack of attention usually stems from a lack of resources. In some cases, the lack of proactive land use planning has not resulted in significant negative consequences for small and rural communities because they have not had to deal with significant growth and development

48. *Utah Community Development Office*, WORKFORCE SERVS.: HOUS. AND CMTY. DEV., <https://jobs.utah.gov/housing/community/planning/index.html> (last visited Sept. 9, 2022).

49. *See, e.g., Community Planning Assistance*, FIVE CNTY. ASSOC. OF GOVS., <http://www.fivecounty.utah.gov/programs/community/communityplan.php> (last visited Sept. 9, 2022).

50. SONORAN INST., <https://sonoraninstitute.org/> (last visited Sept. 9, 2022); *Gateway & Natural Amenity Region (GNAR) Initiative*, UTAH STATE UNIV., <https://www.usu.edu/gnar/index> (last visited Sept. 9, 2022).

pressure. In fact, in many rural communities' negative growth and dwindling population has historically been a major concern.

A combination of factors has reversed the trend of low or no growth in rural communities: a renewed interest in locating near natural amenities, high quality of life and low cost of living in rural communities, the COVID pandemic and associated zoomtown phenomenon, and other factors have contributed to significant growth and development in rural communities.

We advocate for small and rural communities to immediately become more proactive in the land use planning process in the face of new growth and development. Rural communities have character and atmosphere distinct from the urban and suburban centers of the Intermountain West. This character is a non-renewable resource. It has great value and should be protected and preserved while also accommodating inevitable growth. Proactive land use planning can help small and rural communities accomplish that goal.

This article proposes several simple steps communities can take to be proactive in land use planning:

- Make wise use of moratoria.
- Adopt a strong community vision in the comprehensive plan.
- Enact simple, yet strong, land use ordinances.
- Coordinate with developers to conserve community resources.
- Take advantage of low to no cost resources.

These five steps can help a community position itself to effectively manage new growth and development to preserve its rural character. This is not an exhaustive list, and there are other strategies and resources a community can utilize. Likewise, there are complexities and pitfalls in the land use planning arena that are not mentioned here. Rather than being a comprehensive guide to land use planning in small communities, this article is intended to highlight the need for small and rural communities to be more proactive in land use planning. The authors are not only professionals working in the field of land use in rural communities, they are also lifelong residents of the Intermountain West with a love and passion for rural communities. We offer these suggestions from our perspective as land use professionals, with a desire to see small and rural succeed in retaining unique community character as they grow and develop.