Land use planning tools and institutional change in Germany: Recent developments in local and regional planning

Abstract:

This paper seeks to understand how recent social, economic and institutional developments have affected the land use planning tools and instruments that German planners have at their disposal. Whereas traditional planning practice was focused on the equitable distribution of services and infrastructure and managing growth within a highly structured plan approval process, planning tools at both the local and regional level have become increasingly concerned with enhancing local or regional competitiveness, primarily through the inclusion of a greater number of actors in formulating land use decisions. I argue, however, that despite these changes, the overall institutional framework, which revolves around legal and procedural concerns such as the plan approval process or the granting of building permission, has generally remained unaffected, and a significant gap exists, particularly at the regional level, between the strategic goals of regional governance and actual land use planning tools.

Introduction

The practice of European urban and spatial planning has come under considerable pressure and scrutiny in recent decades as traditional planning practices, administrative structures, and institutional organizations have had difficulty in meeting new demands and challenges (Albrechts, Alden, and Pires, 2001). These challenges have been broadly attributed to global economic restructuring, the subsequent liberalization of economic markets (Salet, Thornley, and Kreukels, 2003; Salet and Thornley, 2007), and the economic, social and political stress associated with European Union integration. Many European countries have also had to face new challenges such as aging populations,
stagnant population growth, and changing patterns of urbanization (Salet and Thornley, 2007). In addition, new demands have been made of planning, both substantively, in terms of the scope of what planning should address, and procedurally, in terms of the role of public participation (Abram and Cowell, 2004) and the private sector in shaping the growth of metropolitan regions. These profound and widespread changes have affected the normative and procedural goals, methods, and substance of planning practice at all scales. In addition, long held assumptions concerning the efficacy and viability of the welfare state, the nature of intergovernmental relationships and the role of formal institutions, have been reexamined. Consequently, traditional planning tools, such as land use allocation and central place systems, concerned primarily with “the location, intensity, form, amount, and harmonization of land development required for the various space-using functions” (Abrechts, 2006, p.1153), have increasingly been criticized as irrelevant, and in their place, more strategic approaches to planning that place greater priority on metropolitan and intrajurisdictional competition have been advocated. Thus the role of local government has been redefined as one of administrating or even facilitating (möglichmachen) the development process. Albrechts (2006) notes that strategic planning implies more than simply a normative goal, but rather requires a reconceptualization of the planning process:

Strategic spatial planning involves identifying and gathering major actors (public and private), allowing for a broad (multilevel governance) and diverse (public, economic, civil society) involvement during the planning process; and creating solid, workable long-term visions or perspectives (a geography of the unknown) and strategies at different levels, taking into account the power structures, political, economic, gender, cultural uncertainties and competing values (p.1152)
Given the breadth and depth of the changes affecting planning practice, how have the tools and methods employed by planners been affected to meet the needs of strategic planning? Have new tools been introduced, or have existing planning methods shown resilience or been adapted to meet changing needs? Finally, do these developments represent a transformation of planning institutions, as has been suggested? Using Germany as a case study, this paper seeks to understand how recent developments have affected the focus of planning practice, specifically the land use planning tools and instruments, defined here as the operational devices to carry out planning, which German planners have at their disposal. The German planning framework, conceived in a time of stable and strong growth in the post war period, was centered on a number of principles. These include the equitable distribution of public services and infrastructure and balanced distribution of land uses; second, a legally grounded framework emphasizing consensus and mediation; third, a system of plan compliance through an extensive approval process; and fourth, a careful balancing of powers and federal division of government predicated on the Basic Law (Grundgesetz) of 1949. In order to effectuate these goals and maintain these principles, appropriate implementation tools were created at the local, regional and state levels, reflecting the division of powers within the planning framework. In recent decades, however, Germany has gone through a number of tumultuous developments, including national reunification, European Union integration and expansion, and demographic changes that have had consequences for the social, political, and economic institutions that have predominated since the end of the World War II. This has led to fiscal stress, as well as contentious economic and institutional reforms (Sinn, 2007).
This research is based on over a dozen interviews with both local and regional planners and academics in a number of German towns and cities. I was able to speak with planners working in municipal level planning as well as those involved with regional associations. The focus of the interviews concerned the role, scope and nature of planning at either the local or regional scale, the tools available to undertake the job, and how these were changing. The rest of the paper is organized as follows. I first discuss some of the broader developments and institutional changes that have impinged more generally on European planning in recent decades. I then examine the context for local planning in Germany and outline the traditional planning tools available at both the local level and at higher (particularly regional) levels of planning. The focus of planning has shifted toward enhancing locational advantages and increasing global competitiveness by attracting investment and improving local quality of life. The perceived limitations of existing tools to effectuate these goals would suggest the development of new tools and institutional arrangements to support and legitimize these tools. However, to the extent to which new tools have been introduced, they have tended to focus primarily on increasing the involvement of the private sector in formulating land use decisions. At the local level, new tools serve mainly to facilitate development by shortening the review process, not through any restructuring of the planning process. New regional tools serve to expand the number of actors involved in land use decision making, but the primary planning tool - the central place system - remains largely unaffected. I conclude that the overall planning framework, in particular the system of plan approval, have changed relatively little. Thus there is a gap between the experimentation at the regional level with new forms of collaboration and governance and the available tools for implementing such visions.
Recent developments in planning

The turn toward more strategic planning in Europe has been well documented. In a recent article, Salet and Thornley (2007) outline some of the broad institutional shifts that have occurred in Europe which have affected planning practice; these include the changing role of national governments, new models of intergovernmental relationships, and a shift toward greater inclusion of the private sector in planning decision making. The proactive role which European central governments have traditionally played in the economic and social life of cities and citizens has been declining since the 1980s. Moreover, due to the financial crisis of the state, the ascendancy of free market ideology, and economic globalization (Pierre and Peters, 2000), the fate of European metropolitan regions are increasingly dependent on international events. In particular, the removal of national economic protection as a result of the widening of the European common market has exposed many local and regional economies to increased competition. As such, European planning has seen a shift away from the more traditional administrative and regulatory approaches, as characterized by the post war welfare state’s emphasis on wealth redistribution and equalization of opportunity, toward a greater emphasis on economic development and increasing global competitiveness. Consequently, private and non-profit actors have taken on a more prominent role in planning and land use decision-making (Fürst, 2005; Thierstein, 2002). Inherent in this development is an increasing emphasis placed on the “enabling” role of government: “Government seeks cooperation with other organizations who carry out the actual service delivery, and a whole range of new procedures are devised to regulate and monitor this relationship” (Salet, Thornley, and Kreukels, 2003, 8).
Second, European nations have seen a restructuring and rescaling of intergovernmental relationship, with decision making responsibilities shifting from central governments to both supra and sub-national levels. (Salet, Thornley, and Kreukels, 2003). This simultaneous internationalization and decentralization has led to increasing role for both vertical (between the European Union and member states) and horizontal (between member states or cities) institutional integration (Twedr-Jones, 2001). In addition, the European Spatial Development Perspective (ESDP), published in 1999 outlined three broad spatial goals: “economic and social cohesion; conservation and management of natural resources and cultural heritage; and more balanced competitiveness of the European territory” (Wilks-Heeg, Perry and Harding, 2001, p.28). In pursuing these objectives, the ESDP advocated the development of a balanced and polycentric urban system, and identified regional and local authorities as the appropriate scale through which spatial problems and issues should be addressed and mediated. Although the European Union has no legally binding authority over issues of spatial planning - its role is generally to coordinate activities and establish a forum for intergovernmental exchange – it has advanced regional planning and governance through the administration of structural funds. To receive such funding, candidate countries for EU membership have to establish geographic administrative units that comport with the EU’s nomenclature for territorial units (NUTS), which are used to calculate regional statistics and analysis (Ferry, 2003).

As a result, sub-national, particularly regional level planning and governance have played an increasing role in how planning is organized and structured. Metropolitan economies have become increasingly dependent on their position within the global
network of metropolitan areas (Salet, Thornley, and Kreukels, 2003). As such, regional-level governance has generally been concerned itself with enhancing metropolitan economic competitiveness and attracting external capital investment (Brenner, 2003). As regions have become more important, regional governance structures have increasingly experimented not only with the number and type of actors involved in governing, but also with the geographic scale and functional scope of a variety institutional arrangements (Fürst, 2005; Blatter, 2006).

Third, the shift toward strategic economic development implies a shift away from “government” toward “governance” (Pierre and Peters, 2000), and decision-making has been decentralized and diversified throughout a wide range of public, private organizations and actors. The promotion of economic growth, particularly the development of high tech and other desirable industries is often brought about through networking and collaborative efforts between multiple public and private stakeholders, interest groups, firms, and regional associations, as a complement to more formal institutions of government. As a result of these wide ranging developments, planning as both a procedural and normative project has undergone changes:

What we know today as planning bears little resemblance to the same activity that existed just twenty years in different European countries. A planning system that was intended to facilitate development, regulate land use, and differentiate between the urban and the rural, has almost been decimated. A complex and ongoing process of political and institutional restructuring, changing forces both within and outside Europe and Member States, and the demands of high expectations by never-ending number of agencies, stakeholders, public groups, individuals and governments have bombarded planning sectorally, territorially, and politically.” (Tewdwr-Jones, 2001, p.8)

Such developments suggest a radically altered institutional landscape for planning. Nevertheless, actual land use planning tools and methods, such as those
concerned with enforcement, rights, responsibilities and other procedural concerns often lag behind the more strategic and political directions in which planning has developed. In their discussion of the Rhein Ruhr region, Knapp et al. (2004) note that despite movement toward more regional cooperation, they “…see no clear shift from traditional, more passive land use planning towards more strategic planning (327). Concerning Flanders, Albrechts (2001) notes that: “(t)he traditional strong physical bias of statutory spatial planning, despite an integrative rhetoric, remains fully trapped in the logic of land use allocation” (85). This could in part be due to standard lag in introducing new methods as well as path dependency and the inertia of historical practices, something suggested by Pires, Albrechts, and Alden (2001):

Planning practices, however, have advanced on a more piecemeal basis, and available information and insights on the delivery of new approaches to planning are still scarce and fragmented. Since one should not expect an easy encroachment of new ideas in long established cultural tissues, the learning potential of the emerging planning practices is still largely to be explored (p.257)

The gap between the strategic visions and the more mundane land use planning tools brings into question whether any of the aforementioned developments constitute actual institutional “change.” In a recent article analyzing land use policy in the Netherlands, Buitelaar, Lagendijk, and Jacobs (2007) offer a helpful model for understanding institutional change. Building upon the oft-cited traditional explanation for institutional change (i.e. either through gradual evolution or through deliberate design), they identify a two step process. In the first step, a “window of opportunity” presents itself, either through exogenous forces and/or internal institutional reflection which expose some of the weaknesses of the current institutional design. Then in the second step, a “critical juncture” is reached in which new institutional designs are introduced and
the political will to enact such change is available. I now examine the context for local planning practice in Germany and review the available tools at both the local and regional scale.

The context for local planning practice in Germany

Germany has a federal system of governance that has long rendered centralized planning impossible. Instead, an institutional and legally grounded framework serves as the basis for planning in Germany (see Schmidt and Buehler, 2007; Newman and Thornley, 1996) The ability of municipalities to determine their own development is enshrined within the German Basic Law (Grundgesetz), which states that “the municipalities shall be guaranteed the right to manage all the affairs of the local community on their own responsibility …” (Article 28 (2), something commonly referred to as the municipal planning priority (Kommunale Planungshoheit). As such, German municipalities engage in interjurisdictional competition for desirable land uses. Although income tax is divided between national, state, and local government, municipalities are dependent to a certain extent on a local trade tax (Gewerbesteuer) (Van den Berg et al, 2006). Consequently, municipalities tend to oversupply lands identified for industrial or commercial development and compete with other municipalities for investment.

Nevertheless, there are a number of restrictions on the ability of municipalities to engage in their own planning. Local land use planning occurs within a highly structured institutional and legal framework, and is characterized by the legally determined distribution of responsibilities and tasks between the Federal government (Bund), the states (Länder) and the municipalities (Gemeinde). Planning itself consists of Raumordnung, a concept that has no direct English translation, but can be thought of as
spatial planning or management, carried out by the federal government and the states, and
Bauleitplanung, or urban development carried out by the municipalities. See Table 1
below for an outline of the planning system. Planning is organized as a process of
reciprocal influence by federal, state and municipal authorities on each other’s proposals,
commonly referred to as the ‘counter-current principle’ (Gegenstromprinzip).

**TABLE 1 ABOUT HERE**

The federal government is only responsible for outlining the framework in which
planning occurs, and identifying broad development goals. States (Laender) and
municipalities are the actual planning bodies, and the manner in which planning is
organized differs from state to state. In implementing the state plan, some Länder are
divided into administrative districts (Regierungsbezirke), which fulfill and carry out
administrative tasks on behalf of the Land. Specialized sectors (i.e. ministries for
transportation, water, energy) provide input through Sectoral plans (Fachpläne), which
are formulated independently from the state plan and then integrated. Due to the legalized
framework in which planning occurs, planning issues and tensions often revolve around
procedural concerns over rights, responsibilities, and enforcement.

**Local land use planning tools**

As mentioned above, decisions concerning land use are a local affair in
Germany, with two important constraints. First, the local decision making process
operates within a highly structured legal framework. Local plans have to therefore be
consistent with plans above them. Second, the format and procedures and even symbols
employed in plan making are set by the federal government through the Federal Building Code in order to ensure a degree of transparency and consistency. Local plan making revolves around the *Flächennutzungsplan* and the *Bebauungsplan*, which serve as the primary tools by which planners affect land use decisions. The *Flächennutzungsplan* (FNP) is a preparatory comprehensive plan outlining future land uses and has no legal effect on the individual property owner, although the municipality is bound to it. The *Bebauungsplan* (BBP) is a specific site development plan for a parcel of land drawn up by the municipality to which the developer or property owner is legally bound. It is through the BBP that an owner receives building permission from the municipality, which is granted once the plan is approved by the municipality.

The Federal Building Code (*Baugesetzbuch*), upon which the local planning process is formulated, ensures a degree of public participation, and citizens generally have access to the development and implementation of the FNP and the BBP. The Federal Building Code outlines a multiple step planning process and prescribes input, comments, and review from all affected parties including municipal authorities, public agencies (*Fachbehörden*), interest groups, public and private sector stakeholders, and citizens.

*Bauleitplanung*, with its requisite planning tools – the *Flächennutzungsplan* and the *Bebauungsplan*, has the benefit of being legally binding on all parties, which allows for a degree of transparency and consistency. Furthermore, it minimizes risk for all involved. However, it has been criticized on a number of fronts. It is solely reliant on two rather rigid, overly legal planning instruments.¹ The heavy emphasis on procedural (as

¹ The use of incentives is still largely employed on a limited basis. Offering tax breaks are unheard of, as municipalities do not have the power to independently levy taxes. Mechanisms to preserve open space
opposed to substantive) concerns leaves planners spending much of their time addressing inquiries, feedback, and complaints from citizens which they are legally bound to do, thereby delaying the process. As a result of this process, municipal planning departments tend to spend much of their time with procedural considerations. This naturally adds to the overall length of time involved in plan making, and the process is criticized as overly cumbersome. The amount of time involved in revising a FNP varies greatly, dependent on size of city and number of stakeholders involved. Although anywhere from 2 to 5 years is average for a full revision, it can take much longer, or as short as 6 months for more minor changes. For instance, the city of Wuppertal decided to renew its FNP in 1984, and only in 2005 was it made official. Generally, a BBP can take up to 2 to 3 years, but for important projects (such as the construction of a new soccer stadium for the World Cup) the process can be expedited to take only 10 to 12 months. A study found that 47% of all BBP completed between 1977 and 1982 were completed in 3 years, 24% in 2 years, and 29% less than 2 years (Schmidt-Eichstaedt, 1998). However due to recent more stringent environmental regulations, these numbers are probably dated. Much public money is spent integrating and accommodating the various stakeholders, adding expense to an already lengthy process.

The process is also heavily supply driven, concerned primarily with the distribution of growth and development. Planners rely on the identification of developable land and the granting of building rights as the main tool to guide and affect growth. However, at a time when a primary issue facing metropolitan areas is shrinkage while steering urban growth such as transfer of development rights or the use of conservation easements are unnecessary in Germany. Unless the area has been identified for future growth, it will not be approved for development. In addition, the relatively large amount of land under public ownership allows municipalities to determine of their growth themselves.
(not growth), both in terms of population and municipal resources, such a strategy seems increasingly irrelevant. Lastly, traditional planning is somewhat removed from the political process, and doubts remain about its political legitimacy and relevancy (Schönwandt and Jung, 2006).

Consequently, the role of planning agencies in the development process has been reduced in order to shorten the planning process. To this end, the role and scope of the planners duties have been broadened to include serving as a mediator between local actors and interests (Beier et al., 2004) and a facilitator of the development process. Three important amendments were made to the Federal Building Code in 1998 that promulgated greater involvement of the private sector in the development process in order to facilitate these objectives.

First, the use of urban development contracts (Städtebaulicher Vertrage, Section 11 of the Federal Building Code or Baugesetzbuch) has become more widespread. These are contracts between local government and the developer, investor, or property owner in which the latter assumes the expenses for preparing both a FNP and BBP, and some of the infrastructure provision directly linked to the project, while maintaining the traditional approval role of local government. Such contracts are often used to overcome the financial and staffing restrictions of local municipalities, and have become extremely common, particularly in larger cities. They allow developers to assume a greater role in moving projects forward, and in turn, usually entail some sort of concession from the developer, such as the provision of affordable housing or a school.

Second, project and infrastructure development plans (Vorhaben- und Erschließungsplane, Section 12 of the Federal Building Code) are similar to urban
development contracts, and are also meant to speed up the development process, but instead involve an investor who wishes to develop a property not identified as developable in the FNP. Permission to develop such a property may be granted as long as the developer assumes the expenses for preparing both a *FNP* and a *BBP*, as well as the responsibility for any other site development expenditures. The simultaneous development of both plans (as opposed to developing first a FNP and then a BBP) greatly shortens the overall development process.

Third, urban development measures (*Städtebauliche Entwicklungsmaßnahmen*, Section 165 of the Federal Building Code) function as a means to attract new development and investment to a particular area or region. The designation of an area as a “development area” allows local government to take certain measures, such as acquiring land at lower prices and reorganizing and improving the land for resell, as long as there is a proven need for a particular development. A developer acting on behalf of the municipality can handle the entire process, from acquisition to resale. These are important in urban renewal efforts, particularly in securing adequate space in urban areas by assembling parcels.

Due to the paucity of other available planning options at the local level, these new planning tools are focused primarily on either streamlining or circumventing the existing planning procedure, thereby allowing a greater role for developers and property owners to determine the timing of projects by speeding up the planning and approval process, without officially relinquishing municipal control over the plan approval process. The *Bauleitplanung* framework remains for the most part unaffected. However, the increased role for the private sector naturally has consequences for transparency and the
role and involvement of public participation in the planning process, which is disconcerting for a process that has placed heavy emphasis on participation. Moreover, some of the structural weaknesses of Bauleitplanung discussed earlier, for example, its emphasis on supply driven growth during a time of shrinkage, remain unaddressed.

**Regional and State level Planning tools**

*Raumordnung*, or spatial planning carried out at the state and federal level has traditionally concerned itself with equalizing geographic access to infrastructure and services, and ensuring a balance of land uses between developed lands, agriculture, and open space (Beier et al, 2004). This is accomplished through a hierarchical planning structure in which local planning decisions must function within a regional, state and national framework. Plans are drawn up from the state level on down, and as the level of government decreases, plan detail increases. One of the primary tools employed by planners at higher levels of planning is the plan approval process *(Genehmigungsverfahren)*. It is through this process that the local FNP is put in compliance with both regional and state plans\(^2\). Unlike the Federal government, Länder do have legally binding planning instruments at their disposal, namely the State Development plan, which varies from state to state in terms of detail and substantive material addressed and is ultimately subject to approval by the State Parliament. However, all state plans are responsible for outlining both goals (*Ziele*), which are legally binding

\(^2\) The actual administration of the approval process itself varies in terms of organization and hierarchy from *Land to Land*. In Bavaria, where the authority of individual municipalities has traditionally been strong, regional planning associations have no approval powers (although they can provide input and make suggestions). The approval process for the State plan is administered through counties (*Landkreise*) with the exception of more heavily urbanized areas or within county-free cities. By contrast, the Hannover Region is often identified as a regional innovator and has approval powers over local plans. The Regional plan for Hanover in turn is approved by the state of Lower Saxony.
on lower levels of planning, and principles (\textit{Grundsätze}), which are not, and organize the state into territorial regions in which certain land uses are privileged or encouraged.

The \textit{Länder} are also responsible for establishing regions and outlining the content and organization of the regional plan through legal guidelines and specifications set through the \textit{Landesplanungsgesetz}. Regional plans are then developed based on the state level precedent; for example, the state plan may identify areas in which flood protection uses take precedence, the regional plan would provide more specific detail on allowable uses or exact location\textsuperscript{3}. The primary difference between \textit{Land} and Regional planning is one of scale and degree as opposed to content or substantive issues addressed. It should be stressed that even at the regional level, planning only identifies areas in which development may not take place. Actual development, in particular the assignment of building rights, is still in the hands of the municipalities.

Although Federal Law requires regional planning, the organization of regional planning institutions differs from \textit{Land to Land}. It is often seen as the least institutionalized and most experimental in terms of mode of governance (Fürst, 2006). As mentioned previously, Regional planning initiatives are encouraged by EU structural funds; however, new economic realities in Germany have also played a role, reconceptualizing the region as a means to promote strategic planning. Since the collapse of the Iron curtain in 1989, German companies have established many subsidiaries in Eastern Europe. This trend has only accelerated in recent years. Former eastern bloc countries that joined the EU in 2004 have actively sought investment (by creating duty-free zones) from German companies, particularly smaller and mid sized firms producing

\textsuperscript{3} The regional plan may also distinguish between \textit{Vorbehaltsgebiete}, areas in which a particular use is preferred, and non-conforming land uses must have a compelling reason to be permissible, and \textit{Vorranggebiete}, those areas in which a particular use is mandated.
intermediate products (for example, 40% of Hungarian manufacturing output in 2003 was
generated by German firms (Sinn, 2007)). High domestic labor costs and tax rates are
often cited as motives to move production elsewhere. The increasing foot looseness of
firms has forced municipalities to compete for investment and has often reduced the role
of planners to advertising local competitive advantage and facilitating development.

Regions are increasingly seen as a means to avoid destructive interjurisdictional
competition between municipalities and to ensure competitiveness in an increasingly
globalized economy (Brenner, 2003). Regions enhance metropolitan competition in a
number of ways. First, they improve and enhance quality of life, thereby making the
region an attractive place to work, live, and do business. Regional governance
accomplishes this by coordinating transportation, sporting and cultural events, and
providing for a regional open space patterns. Second, they ensure the availability of sites
for economic investment. An active regional government is successfully able to assemble
sites that meet firm locational needs in terms of infrastructure and transportation
linkages. As an example, the Stuttgart regional Association Stuttgart (widely seen as a
regional innovator) was able to plan for a convention center to host international trade
fairs. Not only did the convention center contribute to the overall goal of maintaining
competitiveness within a globalized economy, but also demonstrated the ability of the
Association to ably mediate disputes over a land use which has significant regional
advantages but creates very localized problems (i.e. traffic congestion).

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4 A number of regions, including Verband Region Stuttgart, Stadtverband Saarbruecken, Region Rhein-Neckar, and
Frankfurt/Rhein-Main have implemented Regional Landscape parks or Green Rings.
5 A majority of regional activities undertaken by the Regional Verband Stuttgart generally revolve around
transportation issues. In fact, of the 2005 budget, 230 million Euros (of a total budget of 263 Million Euro) were spent
on transportation related issues (over 17 million were spent on the promotion of the regional economy as well as the
trade fair). Other transportation related activities include extending commuter rail and bus. Much of the revenue came
from transportation.
The experimentation with new forms of regional associations represents a shift in how regional government is conceptualized. Regional planning institutions of the 1960s and 70s emphasized efficiency, spatial redistributive efforts, and public service provision as mandated and administered through state bureaucracies (Walter-Rogg, 2005). Regional initiatives since the 1990s have centered on strategic economic development and are generally couched in the language of maintaining regional competitiveness and preserving quality of life (Brenner, 2003). These newer regional associations differ in a number of important respects with earlier efforts. They tend to involve and be more reliant on voluntary cooperation and informal arrangements (Thierstein 2002) as opposed to legal guidelines. They also tend to vary widely from region to region in terms of its scale, scope, form, and degree of institutionalization (Fürst, 2005), whether formed through bottom up processes by local actors, or encouraged through active state and federal level intervention (Fürst, 2006). Municipalities therefore have many forms of cooperation available to them, which differ with regard to substance, geographic scale, number and type of actors involved, degree of formality, democratic content, and legal competencies6. They also tend to be more inclusive and democratic. Walter-Rogg (2004) notes that some of these new regional governance structures tend to be more transparent, are marked by greater legitimization, and are more accessible to the general public than the traditional forms of regional planning. She highlights both Regional associations in Stuttgart and Hannover as primary examples of democratic regional governance.

6 For example, the Munich area, in addition to the formal Regional planning authority (Regionaler Planungsverband Muenchen) contains a number of voluntary regional associations concerned with joint regional marketing and promotion, such as the ‘Economic Region South Bavaria’ which coordinate activities across a number of official regions (it changed its name to ‘Greater Munich Area’ in 2005), and the Northern Alliance (Nordallianz), a partnership of suburban municipalities that have organized themselves around promoting the Munich airport as a business hub (Van den Berg et al, 2006). In their examination of the Rhine-Main area, Hoyler et al (2006) find a myriad of both public and private regional associations operating at different capacities and geographic scales. Knapp et al. (2004) find a similar situation in the Rhein Ruhr area, with numerous examples of inter-municipal cooperation addressing such issues as retail development, housing, open space, and cultural policy.
**Regional innovation and land use planning tools**

In addition to the approval process, the primary planning tool at the regional and state level is the central place system, in which regions and states allocate infrastructure, services, and land uses across the territory. For example, the amount, scale, and distribution of commercial development is something mediated through the central place system. A town or cities’ central place status is determined by points awarded for population, number of jobs, amount and type of schools, and existing services (bank, transportation linkages, and police). A municipalities’ place in the system hierarchy determines whether and the extent to which commercial development can occur. In several Länder, the central place system also serves as a means by which intergovernmental transfers are determined (ie higher ranked places receive more funding as they provide services to the surrounding countryside). While upper, middle, and lower centers are usually determined based on criteria laid out by the Länder, smaller centers (Klein-/Unterzentren), as well as development nodes are usually determined at the regional level. A portion of the Bavarian state development plan (Figure 1) illustrates the central place approach. The state plan identifies upper centers (Regensburg), middle centers (Neutraubling, Kelheim), and lower centers (Schierling, Hemau), as well as potential middle centers (Regenstauf).

**FIGURE 1 ABOUT HERE**

Central place system has served Germany fairly well, as long as the underlying assumptions, in particular steady population and economic growth, were met. However, this approach has been the subject of ongoing discussion and criticism in
recent years (Blotevogel, 2006). These criticisms include the failure of the central place system to manage growth and development in a sustainable manner, for example, by supporting unnecessary growth in rural areas. In addition, the system has proven itself unable to bridge long term sustainability goals with short term political decisions, and is too inflexible and rigid to react to changing circumstances. To these criticisms, I would add that although successful in distributing infrastructure during times of growth, the central place system is inadequate for meeting the needs of shrinking regions. Declining birth rates and an aging and in some cases shrinking demographic will put further strain on the system. Currently, the median age in Germany is 42.1 years, which is expected to rise to 46.9 by 2020. This statistic is coupled by a fertility rate of 1.37 children per woman, which is further compounded by the fact that there are relatively few women in their reproductive years, putting the birth rate (number of newly born children per 1000 inhabitants) at 8.6, the lowest in the industrialized world (Sinn, 2007). Already, shrinking cities and regions have dramatically affected the assumptions and goals of planning in eastern Germany.

All this indicates that less residential development will be needed in the future. As State intergovernmental transfers to municipalities are often made on a per capita basis, municipalities will increasingly compete for residents (in addition to firms). Furthermore, these demographic patterns have consequences for the provision of services. As populations stagnate or decline, the number of school aged children also will. This will lead to decreasing demand for schools, shopping areas, as well as social and cultural services. However, it should be noted that decreasing or stagnating populations will be coupled with potentially increasing number of households (as average household size decreases and the number of married couples drops) This coupled with existing consumption patterns could offset shrinking demand for residential development.
institutions, eventually leading to a situation where some areas may be completely under serviced by public institutions.

Have new planning tools been developed at the regional level to meet the demands placed on them? In light of the experimentation with new forms of regional collaboration as well as the social and economic pressure on existing regional tools, what are the implications for actual land use planning tools? In their discussion of governance institutions, Pierre and Peters (2000) note that “the alleged development towards horizontalization of institutions, organizations and political life in general has yet to be confirmed by changes in legal and constitutional frameworks” (p.17). Despite the trend toward regional governance collaborations in Germany, there has been relatively little in terms of legally confirming these developments. Outside of allowing an increased role for public-private partnerships and streamlining the development process, what has been done does not affect the core institutional relationships (in particular the plan approval process) or land use planning instruments available (in particular the role of the central place system).

First, the role of the traditional form of regional level enforcement (the district office or Bezirksregierung) has been reduced in recent years in order to streamline state administration (Fürst, 2006). Second, a number of amendments to the German regional planning act of 1998 encourage action across municipal boundaries and involve public and private actors (Joerissen and Coenen, 2007). Section 13 of the Raumordnungsgesetz includes provisions for contractual agreements on the preparation and implementation of regional plans. These are meant to facilitate coordination between public and private sectors in preparing a regional plan. Section 9 includes provision for the establishment of
regional land development plans (Regionaler Flächennutzungsplan). In such cases a plan serves simultaneously as a Regional plan and a traditional Flächennutzungsplan. Benefits include a quicker planning and approval process, as well as reduction in conflicts and tensions. However, the introduction of these new tools does not reflect the experimentation with new regional governance organization and collaboration, nor do they address the shortcomings of the existing tools, but rather serve to extend regional planning to include a greater number of actors than before.

**Conclusion**

Tewdr-Jones’ assessment that “What we know today as planning bears little resemblance to the same activity that existed just twenty years in different European countries” (2001, p.8) would come as a surprise to most municipal level planners in Germany, for whom the day to day land use planning has changed little. As discussed in the section on new local and regional tools, new tools have been introduced to address the perception that the existing planning framework is cumbersome and inadequate in addressing the new economic realities cities and regions face. Changes that have been undertaken have been complimentary (not a substitution) and have not addressed structural deficiencies of the existing system. These tools are limited in that they serve primarily to increase the role of other actors, in particular the private sector in making land use decisions. Although a “critical juncture” has been reached, in which the existing framework has come under increase scrutiny, it has not been replaced by new institutional arrangements at the local level or by appropriate tools that reflect developments at the regional level.
At the local level, \textit{bauleitplanung}, with its emphasis on legally grounded procedure and plan authorization remains largely unaffected. The tools which have been introduced have tended to be concerned with facilitating development and hastening the development process, something which has consequences for public participation. Specifically, the ability of residents to affect the planning process is diminished. The influence of the private sector has expanded to include a variety of international organizations (REITs, Hedge Funds, Pension Funds), which increasingly invest in German real estate, further bypassing local citizen involvement. To the extent they have been introduced, these tools are a troubling development for a system that has long been concerned with citizen involvement and public transparency.

It is true that the increasing role of regional governance and informal networking represents a significant development for German political culture, dependent as it has traditionally been on legal frameworks and statutory guidelines. Nevertheless, there has been a disconnect between the strategic agenda of regional planning initiatives and collaboration and the development of actual regional level land use planning tools to effectuate those strategies. Institutional changes which have occurred have tended to comport to the German neo-corporatist governance model. Furst (2006) argues that recent experimentation with regional governance is limited in its impact, “and hardly affects power structures or induces institutional changes on a larger scale” (933). Instead, he suggests that German regionalism simply implies the inclusion of a broader range of actors than more traditional governance models.

Given the nature of the changes affecting German political, economic, and social life in recent years, it is perhaps more instructive to question why the planning
system (and subsequent tools involved) has not changed more. Bruitelaar, Lagendik, and Jacobs (2007) conclude that the high transaction costs of new institutional arrangements and the learning capacity of existing arrangements explain the lack of institutional change. As discussed in Schmidt and Buehler (2007), the structure of the German planning framework has traditionally embodied certain values concerning the role of the state and the equitable distribution of opportunity and access. The planning framework is consequently able to transcend much debate, and any changes have a tendency to occur within the framework. Similarly, in their study of planning in the Netherlands, Evers et al. (2000) note that a structured planning framework provides the lens through which politicians and the public interpret their country. A flexible and robust framework with a strong spatial component gives identity to an otherwise bureaucratic opaque process. Second, resistance to institutional change may make it unrealistic to enact reform. For example, stagnating or declining populations may cause certain towns to lose their central place status. This could be politically problematic as a loss of central place status would mean a denial of privileges, and there is consequently pressure to maintain the existing arrangement. In fact, despite concerns over its viability, Bloetevogel (2006) argues that the central place system should be maintained, and in fact, could be a useful planning tool in times of population decline. He argues that the system should be made more flexible in its prescriptions and goals, and the definition of what constitutes a central place should be broadened to include inter-municipal agreements.

Works Cited


