

HAIL NEO NATALIA!

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“Professor Clark, can we do something fun in class next week?” Fun? In a land use law class? Such was the mood in the eighth week of our winter quarter, what with the occasional rain cloud intruding into our Mediterranean climate. So I thought about it, and obliged with an odd bit of work.

Here was the assignment:

Inspired by recent uprising throughout the Middle East and Northern Africa, an unusual set of American groups have convened in separate quarters to outline a future for a reinvented United States. Each of these four groups has a very different calling, and consequently a unique approach to developing a new government. In honor of the rebirth of the nation, they will call this land Neo Natalia.

The groups have been busy designing a new system of laws. This week they have arrived at land use and public involvement (having recently had their way with the tax code).

The four groups are constituted as follows:

- **Nimbians:** these brave souls have lived next to every form of land use abuse, from Wal-Mart’s to barking dogs. They will fashion a world which no longer bothers them.
- **Governators:** employed in the public sector, they envision a government of the government, by the government and for the government.
- **Earl Greys:** these folks don’t envision much of any government; less is more, and even less than that is better.
- **Profiteers:** regulation stymies investment, rules are made to be bought, the higher the margin the happier they get.

In each of their respective Constitutional Conventions, they will address the following:

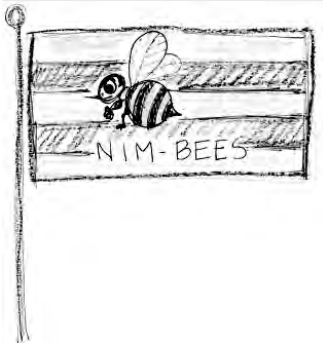
1. **General Plans.** What is the basic arrangement of land uses and services.
2. **Zoning.** What are the land use regulations that will control the development of Neo Natalia.
3. **Due Process.** How, and to what extent, the public will be involved in decision-making.

Here was the result:

Nimbians: Not even close to my backyard

Representative Democracy

The government is led by a team of elected representatives - one representative from each zoning district. Additionally, each zone elects a representative to oversee the management and design of the greenspace. Representatives are elected by majority. Votes by residents over the age of 50 count “double,” since seniors are especially sensitive to nuisances and are a protected class. Majority rule is also used in decisions such as where to expand, how to zone land newly acquired land, architectural review, transit service schedules, and park amenities.



Zoning

There are four zoning districts: Residential, Commercial, Nuisance, and Greenbelt. The first three zones are hexagonal-shaped districts with greenbelt buffers in between. These greenbelts would contain a limited number of uses, as well as bullet trains used to connect the different districts.

In the event that a proposed use is not assigned to one of the zones, the citizens can vote on where such a use should be located.

Residential-Single family homes, Multi-family residences, Quiet civic uses (e.g. libraries). The residential districts would have tiered height limits, with the tallest buildings in the middle and the shortest buildings on the periphery so every building has some view of the greenbelt.

Commercial-Schools, Churches, Quieter stores, Hydroponic urban farms. Offices, no businesses with strong odors

Nuisance-Adult stores, Big box stores, Manufacturing, Airports, Other industrial uses, Sewage, Underground prisons, Facilities giving off strong odors

Greenbelt-Hospitals, Recreation, Transport (e.g. bullet trains)

Process for Nuisance Complaints / Lawsuits

Any individual or entity from any zone (i.e. a resident from the Residential zone, or a church leader from the Commercial zone, or a business owner from the Nuisance zone), can sue any other entity for an injunction against a nuisance. The threshold for demonstration of a nuisance is graduated, depending on the zone. The threshold is very low if the alleged nuisance is originating in the Residential zone, and the burden of proof is on the defendant to prove that the activity is not a nuisance. In the Nuisance zone, however, the threshold is very high, and the burden of proof is on the plaintiff.

Plannertopia: If the Governators had their way

Principles

Government knows best. The primary role of the government is to pursue peace, safety and wellbeing for all constituents in the most efficient manner possible.

Private rights are allowed pursuant to Government Code Section 000.00 [not yet written]. All shall have the right to practice religion and freedom of speech in designated areas and at specified days and times.

All land shall be owned and managed by the government, thereby eliminating the possibility of a taking.

Due Process

All projects and requests will be subjected to a discretionary hearing process.

All persons have the right to due process, conditioned upon the following:

- An appointment is made with the district Public Communication Officer.
- A formal written request is made to obtain a public commentary permit.

- Public commentary permit fees are paid in a timely manner.
- Any and all public commentary is submitted in written form.

All persons have the right to appeal a decision made by an advisory body, once a formal request has been made and all relevant fees have been paid.

General Plans and Zoning

General Plans are long and comprehensive; Zoning codes detail development requirements for any and all possible scenarios.

Variations are obsolete.

All zoning districts shall be alphabetized and segregated to reduce nuisances.

All transportation shall be publicly owned and operated to maximize efficiency. The only private modes of transportation are walking and bicycling (government issued bicycles)

Uniform building design specific to each zoning district.

Individuals may apply for permits to make minor temporary alterations to buildings.

Every jurisdiction shall be centered around a grand government compound.

Earl Greys: Land Use and Public Involvement

Our basic philosophy: We don't envision much of any government; less is more, and even less than that is better.

Since we do not believe in government, it is important for the reader to know that the following description of the Earl Grey system is by no means any type of legal document in and of itself, but simply a description of our form of non-government.

- Zoning / General plan. There is no General Plan for our new land, in fact, most of the current US Constitution has been thrown out, except the first amendment, which is all that is really needed. Basic freedoms for all are guaranteed. Everyone is free to do whatever they wish so long as they do not infringe on anyone else's rights.
- Public Participation. There are two types of public participation according to Earl Greys: the court system and small-scale community meetings. Since there are no regulations, people must sue when they believe their rights have been violated. Most court cases are decided by a jury (definitely not by a judge!) and most remedies are monetary. Prison sentences are very rare and applied only if arrangements can be made with the prison-owner. Executions are performed if the criminal is dangerous and the prison-owner cannot or will not agree to take custody. Sometimes convicts are sent to a faraway land called Antarctica if a ship-owner agrees to take him or her there.
- Community meetings are never organized by any governmental entity (what government?), but by community members when group cooperation might be necessary, for example, for "public" services (see below):

- “Public” services. This section includes a discussion of some formerly thought of as public services. Since there is no government in our new land, these services and infrastructure are purchased or operated by local groups of people or individuals. For example, in the case of roads, inter-regional roads are typically toll roads and owned and maintained by a private owner. Local roads are paid for through due collection, similar to a fee structure set up through a homeowners’ association. For police and fire, people pay dues to obtain services: “no payment, no protection” is the motto. Medical services function under the same principle. For parks, members of a community can choose to create and maintain a park and have unlimited access. Anyone else can enjoy the park under agreement with the owner(s), usually through a pay-per-use fee. Schools are privately owned and optional. Most families who can afford the tuition send their children to school, others need to work out a deal with the school owner, usually through a scholarship or work-study agreement (like chopping fire wood, or directing traffic, etc.)
- Trade & economic base. Goods can come from anywhere in the world. There are no tariffs, but the port owners & operators are free to charge any fees they wish.

Finally, and surprisingly, the Profiteers. Freedom is not free.

This group took a different tack. While I had anticipated they would be talking about how government needed to treat this overtly capitalistic group, they instead took over the government. And used it to turn a profit. Here’s how: it keeps the Council from accidental testimony without compensation.

- Zoning – we’ll sell it to you. You want to develop expensive commercial property, that entitlement can be purchased. It will be more expensive than the person who is providing affordable housing.
- Planners – We need to make a profit. We will accumulate revenues and then share them as “bonuses” at the end of the year for the planners who bring in the biggest permit fees.

Well, so much for that. It was fun to look at the world through different lenses. But the fun is over.

Back to work.