Title

Planning and Zoning Issues

Linda King
Land Use Training Manager
New York State Department of State

Planning and Zoning Initiative Meeting
The Desmond, Albany, New York
September 4, 2008

Planning and Zoning Tools

To everything
there is a season

Enable People
in Your Community
to
Age in Place

What makes a community "Livable" for older citizens?

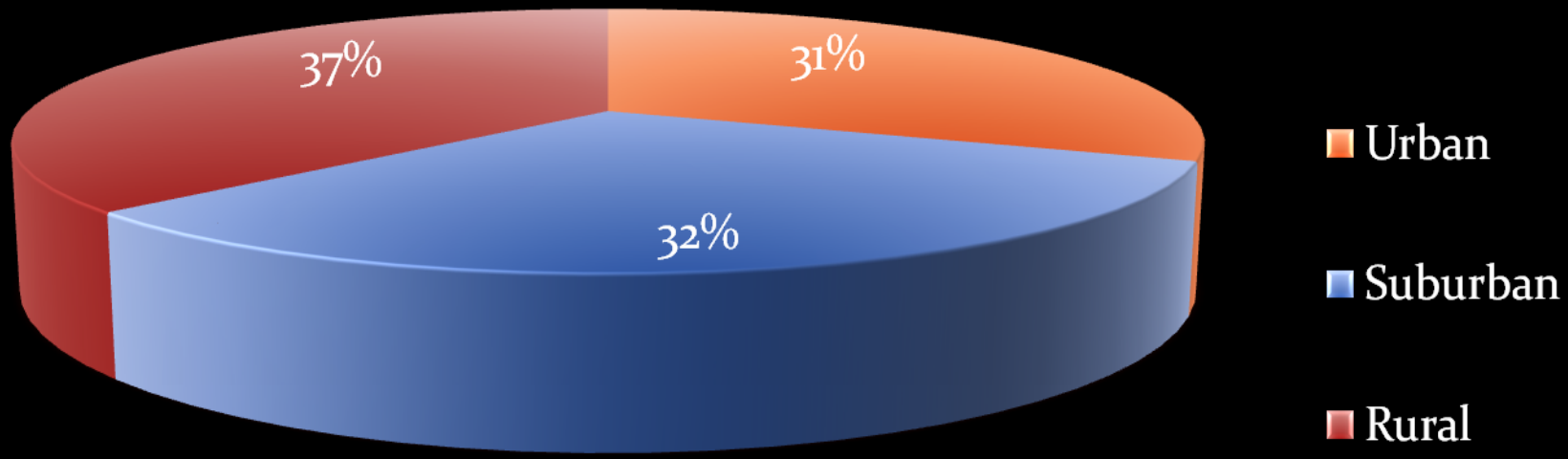
WHERE DOES LAND USE PLANNING FIT IN?

- Affordable housing
- Walkability
- Good transportation access
- Strong network of health and support services
- Low crime
- Opportunities for civic engagement

Where Do Older Adults Want to Live?

- Most Americans want to remain in the communities where they have long lived
  - Urban
  - Suburban
  - Rural
- It is a myth that most become “snowbirds”
- Less than 5% of population over 65 live in nursing homes

Where Do Older Adults Actually Live in New York State



These are the Areas which must Address the Issue of Aging in Place

Brar & Holohan, *Housing Alternatives for an Aging Population (*Government Law Center of Albany Law School, 1999)

What can be achieved through Planning and Zoning?

- Increased Housing Options
- Increase “Sense of Place” for All
- Promote Flexibility in Design
- Innovation

IMPORTANT

NY is a home rule state with many layers of government. The authority to regulate land use predominantly takes place at the **local level**.

Planning Tools

- **Comprehensive Plan -** Empower leaders and citizens to create a vision for their future….and then turn that vision into a plan
  - Early recognition
    - Needs
    - Demand for local services
  - Public Participation – build broad public support
- **Zoning**
  - Types of Housing Allowed
  - Proximity to Services
- **Site Plan Review**
  - Amenities
- **Other Planning Activities**
  - Transportation Planning

Planning and Zoning – Built-in Barriers

- Local zoning laws are the greatest obstacle to senior housing alternatives
- Many zoning ordinances are still based on the American Dream of single family home ownership, rather than on meeting the mixed use needs of seniors

What gets in the way of change?

- Lack of knowledge of the problem
- Inertia
- Local fears

The Comprehensive Plan

Should review:

- Demographics: is there a demand for elder cottage housing opportunity or accessory dwelling unit
- Affordable housing: for existing and projected needs
- Housing stock: quantity, quality, and type
- Land use patterns: is there room for new development, or should infill development be promoted?
- Recreational needs: quantity, quality, and type
- Emergency and evacuation planning

Zoning Authority

- Zoning is the responsibility of the local government, not the State nor Federal government.
- Special zoning districts designated for senior housing is **legal**, and NOT considered exclusionary.
- Providing land use for the elderly is a nondiscriminatory exercise of the power “to provide for the general welfare of all people.”

Zoning Definitions

- Senior Citizen
  - Aged 55 or older?
  - What if a surviving spouse is not considered a senior?
  - Are grandchildren allowed to reside on premises?
- Accessory Dwelling Units (ADU) and Elder Cottage Housing Opportunity (ECHO)
- Parking
  - Excessive "Per Unit" parking requirements place priority on cars before pedestrians/cyclists
- Family
  - Shared living facilities could be unintentionally excluded if they limit the number of unrelated persons in R-1 districts
  - Whether NY courts consider shared living residences for seniors as "the functionally equivalent families" remains to be answered

HOUSING - Build Options into Zoning for a Variety of Housing Types & Affordable Housing

- Accessory Units
- Elder Cottages
- Cluster Development
- Mixed Use Development- many current zoning regulations separate land uses – increasing older adults isolation
- Overlay Districts
- Floating Zones
- Neo-traditional Neighborhoods
- Granny Flats

Accessory Dwelling Units (ADU)

- Private and complete housing units, in or adjacent to single-family homes
- As with many of the senior housing options, there are currently no state-level statutes or regulations in NY pertaining to accessory apartments.

Considerations for Allowing Accessory Dwelling Units

Should they be…

- allowed for new or existing homes, or both?
- limited to homes over a certain age, so as to discourage new ADU construction?
- allowed if only attached to the primary residence?
- given relaxed standards for set backs, minimum lot sizes, or parking requirements?
- given design guidelines or architectural review to conform with the community's character?
- given real property tax exemptions?

More Accessory Dwelling Units Considerations…

- number of allowable ADU's per lot
- owner occupancy requirements
- number of occupants
- occupant restrictions
- periodic permit renewals
- illegal ADU's
- home occupations
- utility service connections
- periodic or automatic ADU ordinance review
- notification of adjacent property owners

Elder Cottage Considerations

- There are no NYS statutes or regulations pertaining to elder cottages
- Enables seniors who are no longer able to maintain a home alone to continue living independently with the support and security offered by family living in the main house.
- Considerations very similar to Accessory Dwelling Units, but these are non-permanent and removable structures
- Local Considerations: Should ECHO's be allowed as temporary structures?
  - If so, should they be allowed in all residential zones?
  - When should they be removed when the senior no longer resides on premises?

New York's First Elder Cottages, Tompkins County, NY

Better Housing for Tompkins County rents small modular homes to income eligible seniors who wish to have them installed temporarily next to the family home of their adult children or other supportive relatives or friends.

Cluster Development

- Defined in NYS Statutes:
  - "a subdivision plat or plats, approved pursuant to this article, in which the applicable zoning ordinance or local law is modified to provide an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks, and landscaping in order to preserve the natural and scenic qualities of open lands."
- The statutes enable local governing boards to authorize their planning boards to approve cluster developments
  - Planning boards must have this authorization to review cluster developments

Incentive Zoning

An innovative and flexible technique providing a system of exchanging **bonuses** for community **amenities**

Bonuses for the developer may include adjustments to the permissible density, area, height, open space, use or other provisions of the zoning	Amenities for the community may include parks, low-moderate income housing, public access to recreation sites, or when amenities not feasible, cash payments

Incentive Zoning can increase the potential for development to occur in certain locations

Incentive zoning can be an effective means of implementing goals of the comprehensive plan

The Options are in the Hands of Local Governments

Housing for Older Adults comes in all shapes and sizes

Senior Zoning Options Comes in Many Forms - Zones and Districts

- "Golden Age Housing Zone"
  - owner occupied housing located in sites close to necessary facilities, services, and transportation (Village of Massapequa)
- "Senior Citizen Housing District"
  - floating zone with a 2 acre min (Town of North Greenbush)
- "Retirement Community District"
  - living/dining accommodations including social, health care, and other supportive services to be owned and operated under NYS law.

Zoning Barriers

- Zoning & subdivision controls may limit home type to be built
  - Cluster developments and condominiums.
- Cumbersome process may deter applicants , resulting in illegal units
  - Decide:
    - Regulate as a permitted use with administrative review or
    - Regulate as a conditional use
- Zoning may ban:
  - Elder cottages housing opportunity as temporary structures
  - Accessory Dwelling Units as permanent structures due to perception of adverse effect on property values and neighborhood character
  - Co-housing (group homes) if the definition of family is restricted to several people related by blood or marriage living together.

Site Plan Review

- Promote development patterns and design features to meet the needs of seniors
- Promote **Universal Design/Accessible Building Standards** for buildings as well as recreational areas
- Accessory Dwelling Unit setbacks
- Emergency vehicle access
- Parking requirements
- Architectural review
- Street design standards
- Sidewalk design standards

Sidewalk Design Standards

- Uniform width and material suitable for walking, scooters, and wheelchairs
- Increased amenities such as benches, public transportation shelters, commodes
- Marked cross walks, reflective road paints
- American s with Disabilities Act -compliant curbs

Transportation Planning

- Improve roadway design and signage
  - Many older drivers experience driving difficulties related to driving environment

- "Safety is a bunch of little things" John Friend, Michigan DOT
  - Brighter stop lights and pavement markings
  - Larger lettering on street names and directional signs
  - Protected left turn signals
  - Converting 2-way stops to 4-way stops

Street Design Standards

- Non-grid style street designs can make pedestrian access and navigation difficult
- Incorporate more narrow, shorter streets

Other Transportation Issues

Safety First

- As Drivers
  - Keep elderly safe - Refresh driving skills
  - Keep others safe
- As Pedestrians
  - Improve accessibility, safety and perceptions

Options, Not Isolation

- Public Transportation
  - Make transit services more flexible and customer responsive
- Family/Friends
- Community Organizations
  - Volunteer Driver Programs

Senior Citizens
Drive or ….What are the alternatives?

- Alternative transportation
- Bus stops should be more conveniently and safely located at shopping centers, hospitals, etc., rather than at parking lot edges through which pedestrians must wade
- Pedestrian Safety Issues

Allowing people to age in place will most likely require "a bunch of little things"

- Create a Livable Community for all
- Provide local leaders with toolbox of housing and land use planning options for them to use to create a customized local plan
- Collaborative partnerships from many disciplines and agencies to improve aging
  - Plan ahead – build local leadership
  - Housing options
  - Home safety issues-- inside and outside
  - Others, Outside Planning Discipline
    - Economic security and opportunities
    - Improved health care
    - Delivery of support services

Contacting the Department of State

(518) 473-3355 Local Gov.

(518) 474-6740 Legal

(800) 367-8488 Toll Free

localgov@dos.state.ny.us

http://www.dos.state.ny.us