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Planning and Zoning INTRODUCTION

A Conversation with Gene Bunnell and Erica Powers

Vera Prosper: Both of you have said that planning and zoning have a significant impact on the quality of life of a community's residents. Many people who will read this *Resource Manual* are not professionals in the fields of planning and zoning, so please give our readers a general sense of what these two activities are all about. To start, what is planning, and what does it mean for a community to engage in planning?

Gene Bunnell: Land use planning is a group process that requires that people talk to and listen to one another, and cooperate with one another. It's not something that can be done alone. Planning is all about thinking collectively about the *future*-- about what our communities might be like in the future and how to make them better places to live.

There are various process models that communities can use when they engage in planning—and different labels for these various methods—but all of them involve envisioning how communities might change over time, and trying to devise ways to manage that change in desired directions. In short, it involves trying to *anticipate* changes that might possibly occur in the future, and being pro-active rather than just reacting to what happens.

It is worth noting that the capacity to think about the future, to conceive of alternative courses of action and outcomes, and make conscious choices to shape the future is what makes us *human*, and sets us apart from other living creatures. For example, squirrels gather food and store food in the fall in preparation for winter, but they aren't thinking about possible alternative living arrangements—nor about how future winters might be different, or how their activities might be affected by global climate change. They operate on instinct. But *human beings* are different. Humans have the ability to reflect on the past, to think about how our communities have changed, and consider what they might be in the future.

Most importantly of all, planning is a purposeful activity; we engage in planning because we *care* about what happens to our communities in the future, and want

to identify actions and policies that, once implemented, will make desired outcomes more likely.

VP: The impetus for the State's *Livable New York* initiative is the fact that our community populations are changing, our social norms are evolving, and people's thinking about personal health and the health and sustainability of our environment is shifting significantly. In particular, there are major shifts taking place in the profiles of our communities' residents—New York is one of the most ethnically diverse in the nation; our communities are graying significantly because of the aging of the baby boomers and the increasing longevity of all groups (including people with all types of disabilities); and public policies are supporting the ability of frail older people and people with disabilities to live in their communities for as long as possible. Those factors, as well as economic and environmental forces, compel us to seriously consider what our future will be.

GB: A key reason why it is important for communities to engage in planning is that what happens in the future, and *how* communities change, is *not inevitable*. The nature and direction of community change is very much affected by the actions we take in the here and now-- including the land use and housing policies and development regulations we adopt. Will environmental resources and water supplies be protected? Will there be an adequate supply of affordable housing for low and middle income households and the elderly? Will we maintain balanced communities or segregate ourselves economically and racially? None of these outcomes are inevitable. They will come about largely as a result of the choices we make and the actions we take both individually and collectively at the local level. Needless to say, putting off hard choices and failing to consciously act to shape the future in desired ways also has consequences.

VP: Getting people interested in planning for the future can be difficult. Most people are much more concerned with dealing with present-day pressures and challenges. How do you get people interested in planning?

GB: If you asked people what they would like the future to be like, most people would probably say they'd like the future to be very much like the present. Contemplating and experiencing change can be scary and unnerving, so if given a choice people tend to favor what they know vs. the unknown. Notwithstanding this desire for stability and predictability, the future, in all likelihood, will *not* be like the past or present. Change is *inevitable*. What is *not* inevitable is the *nature* and *direction* of that change.

If you look at what our communities were like just 20 or 30 years ago, and what they are like today, it is clear that they have changed a great deal. Some of those changes have been positive, but many of them we probably regret and would like to have a chance to undo and do over. What I try to do in my work with community groups, public officials and students, is to get them to appreciate that communities are not powerless in confronting current problems and challenges, and need not continue to endure the kinds of negative impacts of growth and development that have characterized the past. At the same time, I try to inspire

them to dream about future *possibilities*—how things might be different—and to think about, and share with others, what they'd like to see happen that would make their community a better place to live and work.

Erica Powers: Let's go down a level and think about the planning *process*. In some states, local governments are required to have a "comprehensive plan" and adopt land use regulations and development policies in accordance with that plan. For example, in places like Maryland's Montgomery County and Prince George's County, some wonderful planning work has been done along transportation corridors—concentrating development along these corridors in ways that respond to the needs not only of aging individuals but the needs of the whole population to have walkable communities and good public transit.

Oregon and Vermont also have statewide planning. And in 2000, the Commonwealth of Massachusetts made grants available to local governments to offset the local costs of preparing comprehensive plans—all in an effort to enable communities to prepare for what they wanted their communities to look like in the year 2020.

GB: Erica has mentioned various state approaches aimed at encouraging and supporting comprehensive planning. The type of planning encouraged and supported in these states is one where you look at a *whole* community and *all* the issues affecting the community, for the purpose of developing a "comprehensive plan" dealing with *all* of the issues that are important to that community. However, it is important to realize that there a number of other types and levels of planning. Planning can be undertaken focusing just on a particular area within a municipality—such as the downtown area or a particular neighborhood. Or, a community might want to develop a plan for economic development, or for housing. The state of Illinois mandates that communities prepare affordable housing plans, based on a recognition that *every* community has a responsibility to provide an adequate supply of decent, affordable housing.

EP: Some states have established a uniform, state-approved framework that specifies the required elements that need to be included in comprehensive plans. In many states, these required elements conform to officially adopted state goals for land use and development. In Wisconsin, for example, starting in 1999, communities were required to prepare plans that met fourteen (14) state goals. Communities that do not comply with this requirement are prohibited from exercising subdivision control and zoning powers. They also lose their ability to finance development projects using tax increment financing. Counterbalancing these penalties is the fact that Wisconsin gives grants to communities to encourage them to prepare plans that address the state's goals.

GB: The adoption of state goals pertaining to land use and development, in my opinion, is actually a very positive model because it essentially says "these are our overall goals at the state level . . . we want to protect the environment, we want equal-opportunity housing, we want affordable housing for the poor and for our seniors, etc." With this broad policy framework in place, communities are

then empowered to develop specific plans that they think are the best way to meet those goals.

EP: Goals are established at the state level, but *local governments* decide the details of exactly how those goals are met on the ground. This gives community residents and local leaders significant opportunities to take account of specific local issues and concerns relevant when developing their plans.

VP: Preparing a comprehensive plan that addresses all the relevant issues in a community seems like a daunting task.

EP: Admittedly, organizing and carrying out a community planning process can be hard work; but it can be well worth the effort in the end. Because planning ideally addresses the welfare of the entire area being planned for, a large cross-section of residents from that area needs to be involved and participate in the process. At the same time, many people come to the planning process with specific concerns and interests focused on specific issues.

To make the planning process manageable, and accommodate and capture these specific interests, very often the large group of participants will be broken down into a number of subgroups, each focusing on a particular issue—such as economic development, housing, transportation, environmental conservation, historic preservation, public safety, etc. Each subgroup essentially puts together a wish list related to the issue it is addressing. The real challenge, of course, comes when the groups come together and attempt to establish community-wide priorities—i.e., decide which action items and approaches to implement first, and which action items are less urgent and need to be set aside for later. Gaining overall consensus and agreement is crucial, because resources available to implement various actions (time, energy and money) are inevitably limited.

In textbooks, planning is often described as a rational process, but it can be quite contentious at times. Achieving workable solutions requires that people with differing opinions and priorities listen to, respect, and cooperate with one another so as to try to devise and agree on workable, effective action strategies that address local needs and concerns in a fair and equitable way.

VP: What is the relationship between planning and zoning?

EP: Land use *planning* is a process for defining problems and identifying solutions. Planning, in and of itself, does not have legal status—except in states where there is mandatory planning established through law (New York is not one of these states). *Zoning*, which does have legal status because it is established in law, is a tool communities use to implement the planning decisions.

For example, a town that has no zoning, but wants to develop it, will convene a committee and do a survey to determine the town's goals—what the community may want in terms of everything ranging from where to locate houses, businesses, office parks, and funeral homes; to the size of parking lots, or

whether there should be bushes screening the drive-thru at MacDonald's, or whether to have sidewalks on one or both sides of the street in suburban areas; or clustering housing to maintain open space near it; or protecting wetlands; or allowing accessory dwelling units, such as "in-law" apartments. The committee will map these decisions and articulate these goals, and hold public hearings about them, and write a proposed comprehensive plan as a "road-map" for future zoning. That's all part of the planning process.

Then there is a separate process by which the town executive and the town board put on their hat as a legislative body that passes legislation—called a zoning map and zoning regulations. They bring in consultants and a lawyer; they go over the study committee's recommendations and they consider the political implications; then ultimately they may pass a zoning map and zoning regulations. The zoning map establishes which uses, such as single-family residences, or strip malls, can be located in which specific areas. The map controls, and the zoning regulations (written law) interpret, what uses are allowed in the different sections of the town.

In New York, there are additional aspects of the zoning process, including state-level review under the environmental quality review act (SEQR) and submission of the zoning law for review at the county level by all the abutting towns and cities. So, it can take a long time for a community that has never had a zoning map and zoning regulations to get zoning legislation passed at the local level. Like all local legislation, zoning does not take effect until it has been filed with the New York Department of State.

VP: We hear a lot about "home rule" in New York. What is home rule and what is the relationship between home rule and zoning?

EP: Home rule is the power that the state legislature delegates to local governments (counties, and municipalities—such as cities, towns, and villages) to enact legislation. For example, the state legislature may pass a law that gives counties or municipalities the right to establish zoning; or to collect local taxes; or to license dogs. New York is one of a number of states that delegate legislative powers to municipalities through home rule. Traditionally, zoning regulations are enacted at the local level.

The historic basis for this is the United States Constitution. There is no Federal zoning law. The "police power," which is the right to pass legislation and regulations to protect the public health and welfare, was not delegated to the Federal government by the drafters of the Constitution, and remains, exclusively, a state power. In more recent laws, such as the Federal environmental protection laws passed during the last 40 years, the Federal government tends to use incentives and sanctions to induce states to pass local environmental protection laws to carry out the Federal purpose.

Local zoning laws must meet the constitutional standards of fairness and due process set out in the 5th and 14th Amendments to the United States Constitution.

A number of cases about "takings" interpret these constitutional requirements; if government action has led to a "taking" of an owner's use of real property, the owner may be entitled to monetary compensation.

GB: Home rule and its related local decision-making are prized politically. Philosophically it is very complicated, because, at one level, home rule decision-making is made within the kind of small, public-access transparency that we all value. However, natural resources such as groundwater do not conform to local maps such as town boundaries, and may be within overlapping jurisdictions. Some states do comprehensive planning at the county level, or at a regional or state level. This makes particular sense for environmental planning, or for watershed planning, which may even involve more than one state. Thus, home rule is a planner's dilemma—and these are the types of issues that impact the context within which people try to plan.

VP: You mentioned that you did research comparing British and American approaches to planning. Considering our historical ties to England, is our system similar to theirs?

GB: You can summarize England's whole system in four words: "no development without permission." Also, in Britain it's the same planning system everywhere in the country; it is a very centralized system of planning and development control—the same rules apply from county to county, north to south. The central government issues planning guidance that the local governments have to follow. It is very simple and, actually, a very powerful planning system. Plans are prepared and local authorities have very strong powers to deny development and there is no requirement for compensation.

EP & GB: Unlike England, in the United States we cannot just zone land for "no development." If we do, we have to compensate people for the "taking" of the potential use of their land.

EP: In the United States, zoning is a system designed to create predictability. When you buy the property, you look at the zoning regulations and you see the menu of things that you can do with it and the things you can't do with it, and that affects the value of that property and what you pay for it. There are some things that you can do with your property "as of right," which means without getting permission from the local government, and there are other things that you can do only after getting permission.

There are separate land uses incorporated in zoning: in the early 20th Century, when many states encouraged localities to engage in land use planning and to adopt zoning, it was important to separate residential uses from industrial uses such as manufacturing.

GB: After World War II came the era of rapid suburbanization, and the development of suburban communities on the urban fringe. The character of these automobile-oriented suburbs was shaped to a large extent by zoning

regulations which required the strict separation of different types of land uses and severely limited densities of development. Commercial development was prohibited from occurring in residential zones, and multi-family housing units (including two and three-family houses and townhouses—which are single family dwellings which share common walls) were prohibited in zones reserved for single family detached houses. Zoning regulations also required wide roadways, and that each property have more than enough on-site parking. The result was the creation of sprawling, low density communities incapable of supporting public transit, where walking and/or bicycling to stores and schools was all too often not a feasible or attractive option.

The pattern of suburban development I've described is very different from the traditional pattern of development that occurred in older New England towns and villages that developed during the late 19th Century and first half of the 20th Century. In such older communities you typically find a mixture of uses, with shops and offices (including the offices of doctors, dentists, lawyers and chiropractors), and civic uses like the public library, post office and churches inter-mixed with various types of housing. In the 1980s, when I was the planning director of Northampton, Massachusetts, my wife and I lived in a neighborhood where there was a mixture of single family, two-family and three-family homes, an apartment building and a nursing home. I could walk to the downtown area and to work in 10 minutes.

In the late 1990s and early 2000s we lived in a transit-oriented community in Westchester County, New York (the Village of Tuckahoe), within easy walking distance of a Metro-North commuter rail station with frequent train service to Manhattan and White Plains, and multiple stations in-between. Within a five-minute walk of where we lived, in addition to the rail station, were a grocery store, shoe repair shop, drug store, barber shop, beauty salon, appliance repair shop, a bank, a Chinese take-out restaurant, a pizzeria, a laundry/dry cleaner, luncheonette/sandwich shop, coffee shop, a bakery and two sit-in restaurants.

VP: What you're saying is that just about everything a person would need on a daily basis was within easy walking—including the opportunity to travel and commute by public transit. How different that is from the typical suburbs that have developed over the past few decades!

GB: Absolutely. The sad part is that the suburbs we have today didn't have to turn out that way. Essentially we got the type and form of development required by the zoning regulations of communities. A lot of harm has been done through rigid adherence to single use, low density zoning. The result is that people have become totally dependent upon the personal car; you can't walk to stores or the post office or church or often even to a park; you cannot comfortably bike or walk and benefit health-wise from the exercise. Instead, people join health clubs and drive to the gym in order to exercise. Moreover, the needlessly restrictive zoning regulations enforced by many suburban communities present obstacles and impediments to meeting the needs of our aging population, because they prevent

putting an accessory apartment in your home for your aging mother or father to live in.

That approach to land use planning is now being substantially rethought. More and more communities are adopting regulations that are much more flexible, that permit a much greater variety of uses, and encourage the creation of more pedestrian-friendly community environments. People are becoming increasingly concerned about the design and aesthetics of our communities (something that past zoning ordinances gave very little consideration to) and increasingly dissatisfied with the homogeneous, sprawling development that has arisen through compliance with past use-based zoning regulations. So what we are seeing is a fundamental shift in values that reflects an appreciation of the need to create and maintain communities that meet the needs of people of different ages (from young children to the elderly), that are more energy-efficient and environmentally sustainable, and that are healthy and satisfying places in which to live, work, play and grow old in.

EP: The social sense of what are appropriate amenities has changed significantly. With these evolving changes has come a recognition of the importance of public education, outreach and involvement in community planning and the formation of public policies at the local level. When residents become informed and involved in planning they will understand, for example, the synergy between having walkable neighborhoods and conserving energy, and the contribution that creating pedestrian-friendly communities can make to combating youth obesity.

GB: When I look at older urban centers that have struggled economically and lost population and jobs as people moved to the suburbs, I cannot help but think that their compact urban form and mixture of uses could very well turn out to put them at a competitive advantage in the future, in terms of being able to adapt to the realities of our changing world — rising energy costs, the growing need to curtail energy consumption due to global warming, our aging population, etc. If you lived in such a compact, mixed-use community, you wouldn't need to drive to get a quart of milk or loaf of bread, and a family certainly wouldn't need to own a second and third car. You could walk, or possibly take public transit, for many trip purposes.

The places that I believe will be most at risk in the future are those highly homogeneous suburban, bedroom communities with lots of housing but no businesses, few if any places where people work, few if any services or other destinations that people can walk to, and no public transit. Indeed, one of the big challenges planners will face in the future is to find ways to retrofit and modify such suburbs to make them more livable and sustainable. Systematically revising the zoning regulations in such one-dimensional, low density communities will inevitably be a major part of the solution.

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COMPREHENSIVE PLANNING

Description:

Comprehensive planning should form the basis of all planning efforts by a community. It is among the most important powers and duties granted by the state legislature to a municipal government. The purpose of a comprehensive plan is to regulate land use for the purpose of protecting the health, safety, and general welfare of the community's citizens. Comprehensive planning lays the foundation for land use controls. Comprehensive planning can (and should) be performed by all municipalities, whether or not it results in a set of land use controls.

The State's statutes define a comprehensive plan as "the materials, written or graphic, including but not limited to maps, charts, studies, resolutions, reports, and other descriptive materials that identify the goals, objectives, principles, guidelines, policies, standards, devices, and instruments for the immediate and long-range protection, enhancement, growth, and development of the municipality."

A comprehensive plan may also include the following topics, at the level of detail adapted to the needs of the municipality: a survey and analysis of existing conditions and future needs related to housing stock, natural resources, parks, land use, agricultural use, historic and cultural resources, sensitive environmental areas, demographics, health, and emergency facilities and infrastructure. The plan may also include consideration of regional needs and existing local and regional plans.

An important component of the process is public participation. The more the final plan is built upon consensus and reflects the collective will of the residents, the more support there will be on the plan's vision for the future and subsequent implementation of the plan's policies and objectives. Public participation can occur both formally through mandatory hearings held by the preparing board and by the legislative body prior to adoption of the plan, and informally through the participation of the public at workshops and informational sessions.

However brief or detailed the plan may be, its real value is in how it is used and implemented. Just as each town, city, and village has the power to regulate land use and, therefore, has its own unique set of requirements and options built into its laws and ordinances, each comprehensive plan will be unique. It will reflect the municipality's unique location, resources, infrastructure, demographics, and vision, and it will consider short- and long-term goals, objectives, and implementation strategy. The size and format of the comprehensive plan will vary from municipality to municipality. It may consist of a few pages or contain volumes of information.

The comprehensive plan should be thought of as a blueprint on which zoning and other land use regulations are based and should not be confused with zoning or other land use regulatory tools. The comprehensive planning process allows the community to guide its own future. This process presents unique opportunities to assess the evolving needs of all members of a community and to implement policies that support and advance the ability of people in all of life's stages to successfully age in place.¹

Reference:

¹ Division of Local Government Services (2009), *Local Government Handbook*, 6th Edition. Albany, NY: New York State Department of State.

Benefits:

For older adults and younger individuals with disabilities:

- The Comprehensive Plan can voice community support for goals that support the needs and preferences of all residents, including older adults and people with disabilities. This support can translate into policies, laws, and implementation plans that enable successful aging in place in the type of home and community of these individuals' choice. This requires thoughtful planning. For example, addressing the basic needs of older adults and younger people with disabilities for housing and transportation options will benefit all sectors of society, regardless of age or ability.
- Comprehensive planning can promote an active, fit population, including children, older adults, and people with disabilities, by providing and improving recreational opportunities and parks.

For the community:

- Comprehensive plans outline orderly growth and provide continued guidance for decision-making for the years ahead. They focus on immediate and long-range protection, enhancement, and development. For example, if a community census indicates that the older population has increased, a goal could be to make smaller housing units available (such as accessory apartments) or may indicate the need for more diverse housing options for this age group (such as senior housing apartments, mixed-age co-housing, townhouses, shared living residences, and assisted living facilities).
- Comprehensive planning provides a legal defense for regulations. The comprehensive plan sets the stage for all land use regulations and, therefore, should be an integral part of laying the groundwork and support for projects such as innovative housing developments or transportation alternatives; and it can also provide the basis for other actions affecting community development options. For example, are new housing options (such as elder cottages, accessory apartments, or mixed-use residential developments) being considered in areas where the current zoning code does not allow them? Could the community implement its goals through additional land use tools, such as a floating senior housing zone or cluster housing zone? Whatever a community

chooses to do, all zoning must be in accordance with a community's comprehensive plan.

- Comprehensive planning can facilitate techniques that enhance the sense of place and protect and preserve natural resources. For example, the plan can create policies to discourage sprawl—such as providing clean, potable water and storm water mitigation measures only in ways that are effective and economical.
- Comprehensive planning can:
 - Maintain community character by ensuring an appropriate variety of good-quality housing stock for residents of all ages, physical abilities, and incomes.
 - Promote the installation of community amenities, such as sidewalks, street lighting, benches, and public transportation shelters—enhancing the quality of life for residents.
 - Promote transportation improvements, such as access to regional highways, improvements to streets and sidewalks, and development of walkable communities, including trails and bike paths.
 - Encourage increased availability of accessible public transportation options, including innovative alternatives such as the Independent Transportation Network, e-bikes, and volunteer-driver programs.

Impediments or barriers to development or implementation:

- Small or rural communities may feel that they are too small to need a comprehensive plan. Some feel that nothing will change in the community and only discover the benefit of having a plan when it is too late or when new development threatens to destroy some aspect of the community.
- “Failing to plan is planning to fail.” Waiting until a controversial land use issue is at the door before deciding a comprehensive plan is necessary or needs updating is not a recommended approach. Many controversial decisions and issues are best handled through the development and maintenance of a comprehensive plan.
- Comprehensive plans can cost time and resources, but it is important to note that plans can be completed on all budgets. Some communities may not have professional planners on staff to assist in the preparation of a comprehensive plan; however, several resources are available to them. Options include: assistance from their county or regional planning agency, a contract with a professional planning or engineering firm for all or for parts of the plan, help from board members or municipal residents who have experience and expertise in planning or other disciplines and who are willing to volunteer their skills and service to help create or update the plan.
- Plans should be reviewed periodically (this is required if the comprehensive plan is adopted under the State's statute) because policy-making views and characteristics of a community change. The plan should reflect new priorities and opportunities. Unless a periodic review is automatically built into the plan,

it is unlikely to be done because reviews take time, money, and resources to address. A review every five years is a good rule of thumb for comprehensive plan updates.

Resource—examples:

- Rural:
 - Town of Chatham, Columbia County, New York—*Comprehensive Plan* (Draft: July, 2009; adopted August 20, 2009):
<http://www.chathamnewyork.us/DraftCompPlanJuly%2009.pdf>.
- Urban:
 - City of Tampa Bay, Pinellas County, Florida—*Future of the Region: A Strategic Regional Policy Plan (SRPP) for the Tampa Bay Region* (Adopted 1995; amended September 12, 2005):
http://www.tbrpc.org/about_us/pdfs/srpp/SRPP_2005.pdf.
 - Pinellas County, Florida—*Pinellas County Comprehensive Plan* (adopted March 18, 2008; amended October, 2010, , October 21, 2008, March 17, 2009, March 16, 2010, October 26, 2010, and April 26, 2011):
http://www.pinellascounty.org/plan/pdf_files/flutable.pdf.
http://www.pinellascounty.org/Plan/comp_plan/comp-plan.pdf.
 - *Pinellas County, Florida, Comprehensive Plan Compendium* (adopted February 17, 1998; amended April, 2006, March 16, 2010, October 26, 2010, April 26, 2011, March 27, 2012, and April 24, 2012).
http://www.pinellascounty.org/Plan/comp_plan/14compendium/intro.pdf.
- Suburban:
 - City of Manhattan, Riley County, Kansas—*Manhattan Urban Area Comprehensive Plan (MUACP)* (April, 2003):
 - <http://www.ci.manhattan.ks.us/index.aspx?NID=493>.
 - <http://www.ci.manhattan.ks.us/DocumentCenterii.aspx?Folder=Community%20Development%5CLong-Range%20Planning%5CManhattan%20Urban%20Area%20Comprehensive%20Plan>.

Resource—statutory authority:

- The local legislative bodies of cities, towns and villages may create planning boards in a manner provided for by state statute or municipal charter, and may grant various powers to the planning board:
 - General City Law, § 27;
 - Town Law, § 271;
 - Village Law, § 7-718.
- While the use of the state comprehensive plan statutes is optional, these statutes can guide boards through the comprehensive plan process:
 - General City Law, § 28-a;

- Town Law, § 272-a;
- Village Law, § 7-722.
- A municipality's governing board must refer the adoption or amendment of a proposed plan to the county planning board:
 - General Municipal Law, § 239-m.
- Comprehensive plans must include a provision setting maximum intervals for periodic review:
 - General City Law, § 28-a.

Resource—written and web:

- David Church and Cori Traub (2002), *A Practical Guide to Comprehensive Planning*, 2nd Edition. An overview of the importance of planning and the steps involved in preparing a comprehensive plan, including case studies and resources. Watervliet, NY: New York Planning Federation.
<http://www.nypf.org/publications.htm>.
- New York Planning Federation, 440 3rd Avenue, Watervliet, NY, 12189, (518) 270-9855: <http://www.nypf.org/>.
 - New York Planning Federation Book Store—list of numerous publications and handbooks <http://www.nypf.org/editable/bookstore1.html>.
 - Model Ordinances:
<http://www.nypf.org/editable/modelOrd.html>.
- New York State Department of Agriculture and Markets, Albany, NY:
<http://www.agmkt.state.ny.us/>.
 - *Funding Opportunities*, "Current Funding Opportunities"—offers grants of up to \$25,000 to assist municipalities in developing the agriculture and farmland protection portions of their comprehensive plan:
<http://www.agmkt.state.ny.us/RFPS.html>: scroll down to "Municipal Agricultural and Farmland Protection Planning Grant."
- Pace University School of Law: <http://www.law.pace.edu/>.
 - Land Use Law Center for Sustainable Development, Pace University School of Law, 78 North Broadway, White Plains, NY, 10603, (914) 422-4262, landuse@law.pace.edu; <http://www.pace.edu/school-of-law/centers-and-special-programs/centers/land-use-law-center-0>.
- The Community Planning Website, Nick Wates Associates, Creative Media Centre, 45 Robertson Street, Hastings TN34 1HL, United Kingdom; phone: +44 (0)1424 205446; fax: +44 (0)1424 205401; info@communityplanning.net. Planning principles, information, case studies, tool box, policy and law, publications, films and videos, and more: <http://www.communityplanning.net/>.
- Partners for Livable Communities, 1429 21st Street NW, Washington, DC, 20036, (202) 887-5990— *Aging in Place Initiative*, "Developing Livable

Communities for All Ages." Workshops, information, and resources.

<http://www.livable.org/program-areas/livable-communities-for-all-ages-a-aging-in-place/overview>.

- Division of Local Government Services (2009), *Local Government Handbook*, 6th Edition. Albany, NY: New York State Department of State. A concise resource for municipal officials, teachers, students, and residents to gain a better understanding of our complex state and local governments:
http://www.dos.ny.gov/lg/publications/Local_Government_Handbook.pdf.

Paul Beyer, Director of Smart Growth
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SMART GROWTH

Description:

"Smart Growth," defined simply, is good planning. The New York State Governor's Smart Growth Cabinet defines Smart Growth as sensible, planned, efficient growth that integrates economic development and job creation with a community's quality-of-life by preserving and enhancing the built and natural environments.

Smart Growth encourages growth in a developed area that has existing infrastructure to sustain it—for example, municipal centers, downtowns ("Main Streets"), urban cores, hamlets, historic districts, and older first-tier suburbs. It does not refer merely to one component of planning and development, but trends toward natural resources and energy conservation and preservation through the consideration of those factors in various planning and development activities.

Some of the specific Smart Growth tools used to carry out these goals on the local level include:

- Compact, conservation-oriented and transit-oriented development;
- Strategic preservation of farmland and open space;
- Historic preservation;
- Brownfield clean-up and re-development;
- Re-use of vacant property;
- Regional and inter-municipal land use and transportation planning;
- Revitalization of existing developed and mixed-use areas;
- "Green" buildings and infrastructure;
- Varied transportation and mobility choices, including walking, biking, small-motor vehicles, and public transit;
- Mixed-use land areas;
- Age-, income-, and ethnically integrated communities;
- Targeted investments in affordable housing;
- Collaborative, public, inclusive, and stakeholder-driven planning processes;

- Accessible, well-planned, and well-maintained public spaces.

Most of these elements are fundamental qualities of desirable age-integrated communities.

Benefits:

- Smart Growth combines many elements of livable community design—balancing economic, environmental, and social needs.

Impediments or barriers to development or implementation:

- Those who are unfamiliar with the goals and benefits of "Smart Growth" planning and development may misperceive this approach as "no growth" or "slow growth."
- Some individuals may not understand or adhere to the principles underlying successful Smart Growth and may simply view it as an opportunity for more development.

Resource—examples and ordinances:

- Steve Tracy (2003), *Smart Growth Zoning Codes: A Resource Guide*. Sacramento, CA: Local Government Commission (LGC). To purchase for \$20 from the LGC Bookstore:
http://www.lgc.org/freepub/community_design/guides/smart_codes.html.
- Marya Morris (2009), *Smart Codes: Model Land Development Regulations*. Chicago, IL: American Planning Association, Planning Advisory Service.
<http://www.planning.org/apastore/search/default.aspx?p=3960>.
- Kristen Forsyth (2001), *Smart Neighborhoods: Managing Maryland's Growth* (The Smart Growth Areas Act of 1997). Baltimore, MD: Maryland State Department of Planning.
<http://www.mdp.state.md.us/PDF/OurProducts/Publications/ModelsGuidelines/smartneighborhoods.pdf>.
- "Examples of Codes That Support Smart Growth Development," *Smart Growth*. Washington, DC: U. S. Environmental Protection Agency.
www.epa.gov/livablecommunities/codeexamples.htm.
- Brian Ross, et al. (2000), *From Policy to Reality: Model Ordinances for Sustainable Development*. St. Paul, MN: Minnesota Planning, Environmental Quality Board. (Includes Transfer of Development Rights, Conservation-Oriented Development/Cluster Zoning, New Urbanism, Town Centers, Planned Unit Developments/Neighborhood Residential Districts, Street Standards, and more.) <http://www.qda.state.mn.us/pdf/2000/eqb/ModelOrdWhole.pdf>.
http://www.nextstep.state.mn.us/res_detail.cfm?ID=163.
- U. S. Environmental Protection Agency (on line, 2011), *Aging Initiative*, "Building Healthy Communities for Active Aging Awards"— The principal goal of

the awards program is to raise awareness across the nation about healthy synergies that can be achieved when communities combine and implement the principles of smart growth with the concepts of active aging. Applicants are evaluated based on the overall effectiveness of their programs, level of community involvement and outreach, use of innovative approaches, and overall environmental and health benefits of the project.

Description of the four 2010 award-winning projects and three prior award-winning projects, including contact information:

<http://www.epa.gov/aging/bhc/awards/2010/index.html>.

"What is Smart Growth" and "Smart Growth Principles":

<http://www.epa.gov/aging/bhc/awards/2010/index.html#smartgrowth>.

Resource—written and web:

- New York State Department of State, Office of Communities and Waterfronts: <http://www.dos.ny.gov/communitieswaterfronts/>.
 - Smart Growth Grants Program— program information and descriptions of smart growth projects that focus on economic, community and environmental issue to improve both local economies and the environment: http://www.dos.ny.gov/communitieswaterfronts/grantOpportunities/epf_smartgrowthGrants.html.
- Andres Duany, Jeff Speck, and Mike Lydon (2009), *The Smart Growth Manual*. Columbus, OH: McGraw Hill. The authors have organized the latest contributions of new urbanism, green design, and healthy communities into a comprehensive handbook of good planning, fully illustrated with the built work of the nation's leading practitioners, and addressing the pressing challenges of urban development with easy-to-follow advice and broad array of best practices.
- (March, 2011), *Building for the 21st Century: American Support for Sustainable Communities*; a national opinion survey of 1,200 Americans (calibrated to mirror current U.S. Census estimates for age, race, income, gender, and region) conducted in late 2010 by Collective Strength and reviewed by Harris Interactive for Smart Growth America, 1707 L Street NW, Washington, DC, 20036, 202-207-3355. <http://www.smartgrowthamerica.org/documents/building-for-the-21st-century.pdf>.
- Deborah Howe (2001), *Aging and Smart Growth: Building Aging-Sensitive Communities*. Miami, FL: Collins Center for Public Policy, Inc., Funders' Network for Smart Growth and Livable Communities.
- (On-line, last updated July, 2010), *Growing Smarter, Living Healthier: A Guide to Smart Growth and Active Aging*. Washington, DC: U. S. Environmental Protection Agency. <http://www.epa.gov/aging/bhc/guide/index.html>.
- Doug Wilhelm, Report Editor (October, 2003), *The Models Projects: The Report of a Partnership Project for Achieving Smart Growth in Commercial and*

Industrial Development. Burlington, VT: Vermont Forum on Sprawl; South Burlington, VT: Vermont Business Roundtable.
<http://www.smartgrowthvermont.org/fileadmin/files/publications/NewModels.pdf>.

- "Summary of Smart Growth Policies and Legislation," *Smart Growth Vermont*, Burlington, VT: www.smartgrowthvermont.org/help/policies/.
- (July 1, 2007), "Smart Growth Progress Report—A Smart Growth Check Up," *On Common Ground*, (Realtor and Smart Growth Newsletter), Vol.: Summer, 2007, National Association of Realtors.
<http://archive.realtor.org/sites/default/files/ocgsummer07.pdf>.
- *Empire State Future: Realizing the Principles of Smart Growth in New York State*—New York State's statewide coalition of 39 member organizations that is leading the citizen effort to improve New York's economic and civic potential through Smart Growth. <http://www.empirestatefuture.org>.
- *Understanding Smart Growth.* A series of articles reprinted from the *Planning Commissioners Journal*. Burlington, VT: *Planning Commissioners Journal: City and Regional Planning Resources*. <http://www.plannersweb.com/smart.html>. *Planning Commissioners Journal*: <http://www.pcj.typepad.com/>.

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AGE-INTEGRATED COMMUNITIES

Aging in Place

Description:

Shifting demographics and changing housing and neighborhood preferences are transforming the real estate market in America. And, with the aging of the Baby Boomers, the influence of older persons on the housing market will increase dramatically and exponentially. The share of householders aged 55 – 64 is projected to grow to nearly 20 per cent by 2015, the share of traditional homebuyers (two parents with children) will dip below 25 per cent, and the number of people over age 65 will double from 2000 to 2030 to one out of every five people (70 million). As Dowell Myers,¹ Director of the Master's Program in Planning at the University of Southern California, noted, "The aging of the baby boom generation is remaking the residential landscape."

Generally, older adults—particularly empty-nesters and new retirees—are rejecting sprawl and demanding more compact, mixed-use, interesting, walkable, and vibrant communities. Having raised their children in the classic 'Ozzie-and-Harriet' bedroom communities of post-war America, older adults are looking for active, stimulating communities that accommodate their changing needs and lifestyles—recreational activities, walking and biking, cultural pursuits, hobbies, civic engagement, friends, and social activities. Many older Americans also want smaller, less expensive homes (apartments, condominiums, townhouses, and accessory units) that are accessible to people and neighborhood amenities; they no longer want to spend the time and money maintaining a large home and property, but they don't want to leave the communities in which they lived and raised their families. And, they more strongly value a community's sense of place.

Specifically, one neighborhood preference seems to have universal appeal: more older Americans want to walk, bike, or take public transit. Gas prices, the desire for exercise, independence, and social interaction, as well as driving restrictions, are leading them to seek alternative mobility options to the personal automobile. Patricia Salkin,² Director of the Government Law Center at the University at Albany, reported findings from two AARP studies: In 1996, half of the respondents over age 60 wanted to live within walking distance of food and retail stores, restaurants, drug stores, a doctor's office, and public transportation; in 2003, baby boomers reported wanting "a safe place to live as they age; to reside in close proximity to a hospital or doctor's office; nearby access to places of worship; and easy access to shopping centers, grocery stores, and drug stores." Older adults in general prefer places with access to walking and jogging trails, outdoor recreation, open space, public transportation, pools, and a variety of other public amenities.³

Appeal for all ages— Providing this type of community goes by many names: Smart Growth, sustainable development, livable communities, and Traditional

Neighborhood Development, among others. But one common denominator stands out: it has a growing market appeal among older Americans—and this appeal is mirrored among their children, the echo boomers, who are seeking the same types of housing and communities for many of the same reasons.

References:

¹ Dowell Myers and Elizabeth Gearin (June, 2001), "Current Preferences and Future Demand for Denser Residential Environments," *Housing Policy Debate*, Vol. 12, #4. Washington, DC: Fannie Mae Foundation.

http://www.knowledgeplex.org/kp/text_document_summary/scholarly_article/refiles/hpd_1204_myers.pdf.

^{2, 3} Patricia E. Salkin (Fall, 2003), *Where Will the Baby Boomers Go? Planning and Zoning for an Aging Population*. Albany, NY: Albany Law School, Government Law Center. http://www.governmentlaw.org/files/planning_zoning_for_aging.pdf.

Benefits:

For residents of all ages:

- **Physical health/increased exercise:** Compact, mixed-use, walkable communities provide greater opportunities for physical activity within the neighborhood. If neighborhood amenities—stores, parks, trails, health care, exercise facilities, libraries, post offices, banks—are located nearby, all residents (including older adults, children, and individuals with disabilities) have greater opportunities to walk, jog, bike, roller-blade, and exercise without relying on a long car ride, thus allowing exercise and physical activity to be a greater part of their daily routines.
- **Social interaction/mental health:** A great threat to the mental and emotional health of older adults and younger people with disabilities is social isolation, which often occurs when access and mobility relies heavily on the personal car and when socialization-enhancing features are not available. Communities that are walkable, mixed-use design, and diverse offer accessible public gathering spaces (such as parks, squares, shops, streetscapes, restaurants, community centers, sidewalks) and promote greater opportunities for daily interactions among community members of all ages, cultures, and incomes.
- **Lifestyle pursuits:** Following traditional retirement age, an increasing number of older adults continue to work full- or part-time in paid positions, or devote full- or part-time to civic engagement and other volunteer activities. Residents who are not working are searching for educational or other activities. Within the finite time of each day, baby boomers are striving to balance work, family, avocations, recreation, and fitness activities. For all these population groups, a well-designed community brings these opportunities within walking or short-transit distances.
- **Housing affordability:** Greater density can minimize the cost of housing by offering smaller, less expensive housing choices for older adults, people with

disabilities, single adults, and others. Denser development generally lowers the cost of land per unit; provides greater economies of scale, which lowers the costs of building materials; generates smaller, less expensive units; and typically requires less infrastructure and site-preparation costs. Greater density enables the development of condominiums, townhomes, apartments, duplexes, cottages, and small homes—all offering the type of housing many residents need and prefer.

For communities:

- **Public safety:** Communities that invite greater activity on the streets, in public gathering places, and at commercial and civic centers are generally more safe and comfortable—basically, activity in public spaces offers safety in numbers. The increased vigilance of the people on the streets (also known as “eyes-on-the-streets”) deters incidents of crime and increases the likelihood that any criminal activity will be detected—a proven crime deterrent. In addition, when buildings are arranged closer to one another and closer to the street, the direct line of vision from building to street promotes greater neighborhood oversight and vigilance.
- **Traffic relief:** When daily destinations are closer to one another and mixed together, the distance we must travel in our cars to accomplish daily tasks, and the number of car trips we take, will decrease; pedestrian-friendly streets, trails, and inter-connected roadways bolster this effect. By reducing overall dependence on car travel, communities can reduce Vehicle Miles Traveled (VMT), which relieves traffic volume on area roads and improves traffic safety.
- **Sense of place/sense of community:** A community’s sense of place is hard to define, yet easy to recognize; we know it when it’s there, and it is conspicuous when it is not. Well-planned community design can enhance that sense of place that we inherently feel in so many of our favorite places, and which creates within us a greater sense of community pride and identity. A sense of place provides emotional and mental benefits to residents, encourages people to enjoy their surroundings by engaging in public activity—walking, shopping, socializing, volunteering, working, recreating, reading on a park bench, or just plain people-watching—and encourages older adults, families, and people with disabilities to remain living in their communities instead of relocating to other states.

Impediments or barriers to development or implementation:

- **Local zoning:** Most communities were not zoned to accommodate compact, mixed-use, diverse, walkable communities with a range of housing options. Streets were not designed for walking or biking. Stores, parks, restaurants, civic buildings, and other daily amenities were isolated from one another and located far from residential neighborhoods. And, public transit became inaccessible or completely non-existent. Indeed, a recent AARP survey of Americans over age 50 tells the story: 40 per cent of respondents said they do not have adequate sidewalks in their neighborhoods; 44 per cent said they do not have accessible public transit; and nearly half (47 per cent) said they cannot

cross the main roads safely. AARP's Senior Vice President for Livable Communities, Elinor Ginzler, summed it up nicely: "More Americans aged 50+ are trying to leave their cars behind, but face obstacles as soon as they walk out the door, climb on their bikes, or head for the bus."⁴

- **Imbalance between supply and demand:** Market studies reveal that the supply of compact, walkable, mixed-use, inter-connected communities with safe, accessible public spaces—has fallen well behind the demand. These types of communities are too few and far-between to satisfy the current, and growing, demand from a cross-section of community residents, including aging baby boomers. Even developers acknowledge the unsatisfied demand for alternatives to conventional, low-density, auto-dominated suburban development patterns. In a nationwide survey⁵ of developers, three-quarters of respondents saw at least a 10 per cent market for such alternatives, and one-third saw a market of 25 per cent. A majority of developers believed that "... current supplies of alternative development were inadequate relative to market interest."
- **Public opposition and misperceptions:** Many residents hold negative impressions—indeed, downright fear—of density, mixed-use development and multifamily housing. Some of these perceptions are based on negative associations with urban life, such as crime, low air quality, and lack of space. Communities and municipalities can effectively counter these myths, misperceptions, and fears with rational arguments, facts, diagrams, pictures . . . and a lot of patience.
- **Developer resistance:** Some developers may be resistant to alternatives to the type of development they have provided for decades and with which they are far more familiar. Or they may not be inclined to pursue compact, mixed-use, walkable development due to the anticipated local opposition by residents and town officials. Local governments and community groups can help bring developers along by fostering—and even facilitating—communication between developers and residents; providing hard market data on the benefits of compact, mixed-use housing for various population groups; developing supportive public policies and incentives for such development; addressing public opposition with effective public education and media advocacy on the benefits of alternatives to sprawl; organizing older adults and others who will benefit from smart, sustainable development; and appealing to developer pride by extolling the benefits of good development to the community and its quality-of-life.

References:

⁴ Nancy Thompson (August 13, 2008), "AARP Poll: Fighting Gas Prices, Nearly A Third of Americans Age 50+ Hang Up Their Keys To Walk But Find Streets Inhospitable, Public Transportation Inaccessible," *AARP.org*. Washington, DC: AARP.

http://www.aarp.org/about-aarp/press-center/info-08-2008/aarp_poll_fighting_gas_prices_nearly_a_third_of_am.html.

⁵Jonathan Levine (October 18, 2005), *Zoned Out: Regulation, Markets, and Choices in Transportation and Metropolitan Land Use*. Washington, DC: RFF Press.

Resource—examples:

- Manal J. Aboelata, et al. (July, 2004), *The Built Environment and Health: 11 Profiles of Neighborhood Transformation*—describes 11 case studies in communities where local residents mobilized public and private resources to make changes in their physical environments to improve the health and quality of life for their citizens, including building a jogging path around a cemetery, transforming vacant lots into community gardens, reducing the prevalence of nuisance liquor stores, walkability in a commercial district, improvements for walking and biking, and traffic calming. Oakland, California: Prevention Institute. The Institute's focus is to use a prevention approach to create strategies that change the conditions that impact community health—by drawing on all the necessary stakeholders in order to ensure that prevention efforts are systematic and comprehensive, and by linking practices from public health, education, urban planning, social work, and other fields.
http://www.preventioninstitute.org/index.php?option=com_jlibrary&view=article&id=114&Itemid=127. Also, www.preventioninstitute.org
- *Active Living by Design (ALBD): Increasing Physical Activity and Healthy Eating Through Community Design*—ALBD's focus is on creating community-led change by working with local and national partners to build a culture of active living and healthy eating—where routine physical activity and healthy eating are accessible, easy, and affordable to everyone; established by the Robert Wood Johnson Foundation and located in the North Carolina Institute for Public Health, University of North Carolina Gillings School of Global Public Health, Chapel Hill, North Carolina. www.activelivingbydesign.org.
 - Case studies: <http://www.activelivingbydesign.org/our-approach/albd-case-studies>.
 - Case studies: <http://www.activelivingbydesign.org/our-approach/hebd-case-studies>.
 - Information about (including case examples) ALBD's five “P” strategies: preparation, promotion, programs, policy, and physical projects—strategies that represent a comprehensive approach to increasing physical activity in a community: <http://www.activelivingbydesign.org/our-approach/5p-strategies-tactics>.
 - Local Government Commission—*Designs and Codes that reduce Crime Around Multi-Family Housing*: reviews work by a number of local agencies that have converted anti-crime design concepts into local codes and guidelines for new development and redevelopment: www.activelivingbydesign.org/events-resources/resources/designs-and-codes-reduce-crime-around-multifamily-housing. Also includes a four-page fact sheet that summarizes research and provides case study examples of how design and local codes can reduce crime around multifamily housing: <http://www.activelivingbydesign.org/category/resource-type/fact-sheet>.

- The Town of Redding, CT, received the U. S. Environmental Protection Agency's Smart Growth Achievement Award (which distinguishes exceptional approaches to development that benefits the economy, public health, and the environment) for "the Georgetown Land Development Company project at the former Gilbert & Bennett Wire Mill. This successful four-year effort brought together a private developer, local and state government, and extensive public participation throughout the entire inclusive planning process; and the result of this collaborative effort is a remarkable New England village and a new model for developments nationwide." For more information about the Redding project: http://www.epa.gov/smartgrowth/awards/sg_awards_publication_2005.htm; Under "2005 Award Winners," scroll down and click on "Small Communities."
- *National Award for Smart Growth Achievement*—U. S. Environmental Protection Agency: descriptions of the 2009 award winning projects, as well as links to previous winning projects: <http://www.epa.gov/smartgrowth/awards.htm>.

Resource—written and web:

- Matthew Greenwald and Associates, Inc. (May, 2003), *These Four Walls . . . Americans 45+ Talk About Home and Community*. Washington, DC: AARP. http://assets.aarp.org/rgcenter/il/four_walls.pdf.
- Virginia Lee, et al. (2008), *Promising Strategies for Creating Healthy Eating and Active Living Environments*—a comprehensive and cross-cutting review of policy, strategy, and program recommendations to create healthy eating and active living environments. Healthy Eating Active Living Convergence Partnership (California Endowment, Kaiser Permanente, Nemours, Robert Wood Johnson Foundation, W.K. Kellogg Foundation, and the Centers for Disease Control and Prevention). http://www.convergencepartnership.org/atf/cf/%7B245A9B44-6DED-4ABD-A392-AE583809E350%7D/CP_Promising%20Strategies_printed.pdf.
- National Association of Area Agencies on Aging, Partners for Livable Communities, and MetLife Foundation (May, 2007), *A Blueprint for Action: Developing a Livable Community for All Ages*: <http://www.livable.org/livability-resources/reports-a-publications/184--a-blueprint-for-action-developing-a-livable-community-for-all-ages->.
- Mary Kihl, Dean Brennan, Neha Gabhawala, Jacqueline List, and Parul Mittal (2005), *Livable Communities: An Evaluation Guide*. Washington, DC: AARP, Public Policy Institute. http://assets.aarp.org/rgcenter/il/d18311_communities.pdf.
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Network for Smart Growth and Livable Communities.

http://www.fundersnetwork.org/usr_doc/aging_paper.pdf.

- Deborah A. Howe (November/December, 1992), "Creating Vital Communities: Planning for Our Aging Society," *Planning Commissioners Journal*, Issue #7.
<http://www.plannersweb.com/articles/how030.html>.
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<http://sc.lib.muohio.edu/bitstream/handle/2374.MIA/263/fulltext.pdf?sequence=1>.
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<http://archive.realtor.org/sites/default/files/ocgsummer07.pdf>
- Susan Handy (University of California Davis) (May, 2004; revised December, 2004), *Community Design and Physical Activity: What Do We Know? – and What Don't We Know?* Presentation at the National Institute of Environmental Health Sciences conference on Obesity and the Built Environment: Improving Public Health through Community Design, Washington, DC.
http://www.des.ucdavis.edu/faculty/handy/Handy_NIEHS_revised.pdf.
- *Shape Up America—healthy weight for life*: www.shapeup.org.
- *Active Living by Design—increasing physical activity and healthy eating through community design*: www.activelivingbydesign.org.
- Henry Cisneros (February, 1995), *Defensible Space: Deterring Crime and Building Community*. Washington, DC: U. S. Department of Housing and Urban Development.
http://books.google.com/books?id=mA7UHIL6oHUC&pg=PA1&lpg=PA1&dq=Defensible+Space:+Deterring+Crime+and+Building+Community&source=bl&ots=U LZdALR-5R&sig=0AeImcUWxVrAQPMXHGFStvJkKcA&hl=en&ei=2-KBSu6hNp-NtgeXv9nHCg&sa=X&oi=book_result&ct=result&resnum=3#v=onepage&q&f=false.
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Vol. 26, No. 6, pp. 823-851.

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NEW URBANISM / TRADITIONAL NEIGHBORHOOD DEVELOPMENT

Description:

New Urbanism (and its related disciplines, Traditional Neighborhood Development (TND) and Neo-Traditional Development) re-creates the built form of traditional village and urban village design that was prominent in the late 19th and early 20th Centuries. New Urbanism creates compact, close-knit, mixed-use, walkable neighborhoods (mixture of residential, commercial, civic, recreational, public spaces, schools, churches, and other elements), with a greater sense of place and community and easy access to new or re-developed municipal centers. Examples include Kentlands, Maryland, and both Seaside and Celebration in Florida. Zoning strategies such as overlay zoning districts and form-based zoning codes (see Overlay Zones and Form-Based Codes in the Resource Manual) can be used effectively to promote and provide incentives for the development of New Urban communities.

Even though some New Urban communities are not located near other neighborhoods, their self-contained design provides most of life's daily needs and amenities. Many such communities are built around transit stations, allowing all residents, including older adults and younger individuals with disabilities, to access other towns, cities, and downtowns on the transit line through the transit stations that are within walking distance of their homes, without relying entirely on automobile travel (see Transit-Oriented Development in the Resource Manual).

The Charter of the New Urbanism lists and describes 27 general principles of New Urbanism (see Charter of the New Urbanism in the Resource Manual). Principles 12 and 13 offer particular benefits for age-integrated, livable planning and zoning:¹

- Principle 12: Many activities of daily living should occur within walking distance, allowing independence to those who do not drive, especially elderly people and young people. Interconnected networks of streets should be designed to encourage walking, reduce the number and length of automobile trips, and conserve energy.
- Principle 13: Within neighborhoods, a broad range of housing types and price levels can bring together people of diverse ages, races, cultures, and incomes into daily interaction, strengthening the personal and civic bonds essential to an authentic community.

New Urbanism has evolved beyond its initial "Urban Village" form. A more "suburbanized" hybrid form of New Urbanism incorporates big-box retailers into the mixed-use matrix; another form emphasizes horizontal, spread-out planning, which is much less dense or urban. The defining feature of each variation is its defined, walkable, mixed-use center.

Reference:

- ¹ *Charter of the New Urbanism*. Chicago, IL: Congress for New Urbanism.
http://www.cnu.org/sites/files/charter_english.pdf.

Benefits:

- New Urbanism community design provides residents with:
 - A greater sense of place and community identity, as well as fostering civic pride;
 - A walkable environment, which reduces reliance on automobile use, increases fitness, and increases independence for residents who are mobility-impaired or who are no longer driving;
 - More public gathering spaces, which increases interactions and communications among all residents;
 - More efficient use of land and lessening sprawl; and
 - A variety of housing types, which promotes age- and income-integrated neighborhoods.
- The principles of New Urbanism support the characteristics of a livable community.

Impediments or barriers to development or implementation:

- New Urbanism design requires a significant change to most existing zoning codes.
- Fears may be raised about increased density, which sometimes must be addressed through considerable public outreach, communication, and education.

Resource—examples and ordinances:

- Robert Steuteville, Editor (2008), *Directory of the New Urbanism—People, Places, Products: The Ultimate reference on Who's Who, Who's Doing What Where, and Who's Using What Where!*, Ithaca, NY: New Urban News Publications. A unique portal into the collective wisdom of an ever-growing industry, the *Directory* is a guide to people and products with proven experience in quality urbanism, linked to the real places they have created—including 520 places, 3,000 firms, 4,450 contacts, and more than 160 categories of people and products.
 Available from various sources, including:
 Amazon.com:
http://books.google.com/books/about/Directory_of_the_New_Urbanism.html?id=Bg1FPQAACAAJ.
 Goodreads:
http://www.goodreads.com/book/show/75128.Directory_Of_The_New_Urbanism.
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http://www.cues.fau.edu/cnu/docs/Traditional_Neighborhood_Development_Street_Design_Guidelines-ITE.pdf.
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<http://archive.realtor.org/sites/default/files/ocgsummer06.pdf>.
- Peter Calthorpe (1995), *The Next American Metropolis: Ecology, Community, and the American Dream*, 3rd edition. New York, NY: Princeton Architectural Press. Provides 24 of Calthorpe's (an urban designer and architect) regional urban plans in which towns are organized so that residents can be less dependent upon their cars and can walk, bike, or take public transit between work, school, home, and shopping—describing real projects from various regions, with many illustrations.
- Andres Duany, Elizabeth Plater-Zyberk, and Jeff Speck (2000), *Suburban Nation: The Rise of Sprawl and the Decline of the American Dream*. New York, NY: North Point Press. Authors challenge widely accepted planning and building practices that have produced sprawling subdivisions, shopping centers, and office parks connected by new highways—practices, they contend, that have

destroyed the traditional concept of the neighborhood; eroded such vital social values as equality, citizenship and personal safety; and created the current suburban developments that are economically and environmentally unsustainable, as well as not functional because they isolate and place undue burdens on at-home mothers, children, teens, and older adults. The authors, who lead a firm that has designed more than 200 new neighborhoods and community revitalization plans, call for a revolution in suburban design that emphasizes neighborhoods in which homes, schools, commercial, and municipal buildings would be integrated in pedestrian-accessible, safe, and friendly settings.

- Peter Katz (1993), *The New Urbanism: Toward an Architecture of Community*. Columbus, Ohio: McGraw-Hill Publishers.
- Peter Katz (November, 2004), "Form First: The New Urbanist Alternative to conventional Zoning," *Planning Magazine*:
<http://www.formbasedcodes.org/files/FormFirst.pdf>.

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CHARTER OF THE NEW URBANISM

Founded in 1993, the *Congress for the New Urbanism* (CNU) is a loosely formed group of architects, builders, developers, landscape architects, engineers, planners, real estate professions, and others who are committed to "New Urbanist" ideals. According to CNU, smart growth, green building, and new urbanism each have produced advances in resource and energy efficiency. Yet, alone, they are insufficient and are sometimes even at odds with one another in tackling the global challenges of climate change, settlement patterns of sprawl, poverty, health issues, underdevelopment, and ecological concerns.

CNU created the *Charter of the New Urbanism* as a means of integrating the specific strategies of smart growth, green building, and new urbanism. The *Charter* is a set of 27 principles for creating sustainable neighborhoods, buildings, and regions.

Congress for the New Urbanism: <http://www.cnu.org/>
Charter of the New Urbanism: <http://www.cnu.org/charter>
Canons of Sustainable Architecture and Urbanism:
<http://www.cnu.org/sites/files/Canons.pdf>

The Charter

Congress for the New Urbanism

CNU members ratified the Charter of the New Urbanism at CNU's fourth annual Congress in 1996. Applying valuable lessons from the past to the modern world, it outlines principles for building better communities, from the scale of the region down to the block. View also the Canons of Sustainable Architecture and Urbanism, a companion document that builds on the Charter's vision of sustainability.

The Congress for the New Urbanism views disinvestment in central cities, the spread of placeless sprawl, increasing separation by race and income, environmental deterioration, loss of agricultural lands and wilderness, and the erosion of society's built heritage as one interrelated community-building challenge.

We stand for the restoration of existing urban centers and towns within coherent metropolitan regions, the reconfiguration of sprawling suburbs into communities of real neighborhoods and diverse districts, the conservation of natural environments, and the preservation of our built legacy.

We recognize that physical solutions by themselves will not solve social and economic problems, but neither can economic vitality, community stability, and environmental health be sustained without a coherent and supportive physical framework.

We advocate the restructuring of public policy and development practices to support the following principles: neighborhoods should be diverse in use and population; communities should be designed for the pedestrian and transit as well as the car; cities and towns should be shaped by physically defined and universally accessible public spaces and community institutions; urban places should be framed by architecture and landscape design that celebrate local history, climate, ecology, and building practice.

We represent a broad-based citizenry, composed of public and private sector leaders, community activists, and multidisciplinary professionals. We are committed to reestablishing the relationship between the art of building and the making of community, through citizen-based participatory planning and design.

We dedicate ourselves to reclaiming our homes, blocks, streets, parks, neighborhoods, districts, towns, cities, regions, and environment.

We assert the following principles to guide public policy, development practice, urban planning, and design:

The region: metropolis, city, and town:

1. Metropolitan regions are finite places with geographic boundaries derived from topography, watersheds, coastlines, farmlands, regional parks, and river basins. The metropolis is made of multiple centers that are cities, towns, and villages, each with its own identifiable center and edges.
2. The metropolitan region is a fundamental economic unit of the contemporary world. Governmental cooperation, public policy, physical planning, and economic strategies must reflect this new reality.
3. The metropolis has a necessary and fragile relationship to its agrarian hinterland and natural landscapes. The relationship is environmental, economic, and cultural. Farmland and nature are as important to the metropolis as the garden is to the house.
4. Development patterns should not blur or eradicate the edges of the metropolis. Infill development within existing urban areas conserves environmental resources, economic investment, and social fabric, while reclaiming marginal and abandoned areas. Metropolitan regions should develop strategies to encourage such infill development over peripheral expansion.
5. Where appropriate, new development contiguous to urban boundaries should be organized as neighborhoods and districts, and be integrated with the existing urban pattern. Noncontiguous development should be organized as towns and villages with their own urban edges, and planned for a jobs/housing balance, not as bedroom suburbs.
6. The development and redevelopment of towns and cities should respect historical patterns, precedents, and boundaries.

7. Cities and towns should bring into proximity a broad spectrum of public and private uses to support a regional economy that benefits people of all incomes. Affordable housing should be distributed throughout the region to match job opportunities and to avoid concentrations of poverty.
8. The physical organization of the region should be supported by a framework of transportation alternatives. Transit, pedestrian, and bicycle systems should maximize access and mobility throughout the region while reducing dependence upon the automobile.
9. Revenues and resources can be shared more cooperatively among the municipalities and centers within regions to avoid destructive competition for tax base and to promote rational coordination of transportation, recreation, public services, housing, and community institutions.

The neighborhood, the district, and the corridor:

1. The neighborhood, the district, and the corridor are the essential elements of development and redevelopment in the metropolis. They form identifiable areas that encourage citizens to take responsibility for their maintenance and evolution.
2. Neighborhoods should be compact, pedestrian-friendly, and mixed-use. Districts generally emphasize a special single use, and should follow the principles of neighborhood design when possible. Corridors are regional connectors of neighborhoods and districts; they range from boulevards and rail lines to rivers and parkways.
3. Many activities of daily living should occur within walking distance, allowing independence to those who do not drive, especially the elderly and the young. Interconnected networks of streets should be designed to encourage walking, reduce the number and length of automobile trips, and conserve energy.
4. Within neighborhoods, a broad range of housing types and price levels can bring people of diverse ages, races, and incomes into daily interaction, strengthening the personal and civic bonds essential to an authentic community.
5. Transit corridors, when properly planned and coordinated, can help organize metropolitan structure and revitalize urban centers. In contrast, highway corridors should not displace investment from existing centers.
6. Appropriate building densities and land uses should be within walking distance of transit stops, permitting public transit to become a viable alternative to the automobile.
7. Concentrations of civic, institutional, and commercial activity should be embedded in neighborhoods and districts, not isolated in remote, single-use complexes. Schools should be sized and located to enable children to walk or bicycle to them.

8. The economic health and harmonious evolution of neighborhoods, districts, and corridors can be improved through graphic urban design codes that serve as predictable guides for change.
9. A range of parks, from tot-lots and village greens to ball fields and community gardens, should be distributed within neighborhoods. Conservation areas and open lands should be used to define and connect different neighborhoods and districts.

The block, the street, and the building:

1. A primary task of all urban architecture and landscape design is the physical definition of streets and public spaces as places of shared use.
2. Individual architectural projects should be seamlessly linked to their surroundings. This issue transcends style.
3. The revitalization of urban places depends on safety and security. The design of streets and buildings should reinforce safe environments, but not at the expense of accessibility and openness.
4. In the contemporary metropolis, development must adequately accommodate automobiles. It should do so in ways that respect the pedestrian and the form of public space.
5. Streets and squares should be safe, comfortable, and interesting to the pedestrian. Properly configured, they encourage walking and enable neighbors to know each other and protect their communities.
6. Architecture and landscape design should grow from local climate, topography, history, and building practice.
7. Civic buildings and public gathering places require important sites to reinforce community identity and the culture of democracy. They deserve distinctive form, because their role is different from that of other buildings and places that constitute the fabric of the city.
8. All buildings should provide their inhabitants with a clear sense of location, weather and time. Natural methods of heating and cooling can be more resource-efficient than mechanical systems.
9. Preservation and renewal of historic buildings, districts, and landscapes affirm the continuity and evolution of urban society.

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PUBLIC PLACES/SPACES

Description:

Outdoor public places/spaces include streets, streetscapes, parks, trails, plazas, squares, community greens, community gardens, downtown sidewalks, recreational areas, and other places—where people meet intentionally or by chance. Such public spaces (termed the public realm) play an important social role in a community, and sociologists refer to the public realm as the “third place” for residents, with home being the first place and the workplace being the second.

Public space is a core—but often forgotten—element of a community's quality-of-life for *all* residents, including older adults and individuals with disabilities. Professional planner, Leslie Kettren, noted: “The public space is the glue that holds neighborhoods and society together . . . it is the neighborhood park or plaza where we form many of our most important associations and networks and make new friends.”¹ Urban social historian, William H. Whyte, put it this way: “What attracts people most, it would appear, is other people.”²

Prior to World War II, public spaces/places were built into traditional cities and villages, but most development that has occurred since then (designed around the convenience of automobile use) has incorporated more generous allotments of private space in larger suburban houses and lots, without the same focus on public places. Across the country, an increasing appreciation of the role of public places in a community's quality of life has accompanied the increasing focus on creating livable communities; and this renewed appreciation is accompanying the trend in planning and architecture toward traditional neighborhood design, such as mixed-use zoning and pedestrian, bike, and transit-oriented development.

References:

¹ Leslie Kettren (2006), *Talking the Walk, Building Walkable Communities*, p. 111. Chicago, IL: The Congress for the New Urbanism.

² William H. Whyte, iWise Video: *Wisdom on Demand*.
http://www.iwise.com/William_H_Whyte.

Benefits:

For all residents, including older adults and individuals with disabilities:

- Public spaces offer opportunities for exercise, social interaction, relaxation, and recreation, which are important for all residents, including older adults and people with disabilities. A 2003 National Association of Home Builders survey found that a top amenity for older adults in deciding where to live is “access to walking or jogging trails.”³ By zoning for public spaces within or near residential neighborhoods, all residents can more readily access public gathering spaces and other members of the community.

For the community:

- Nearby, accessible public spaces within a community provide opportunities for community members to socialize, interact, communicate, and people-watch, which—
 - Improves a "sense of community" and builds a community identity, and
 - Improves community members' physical and mental health by countering social isolation and depression among those residents who may be home-bound or mobility-impaired, or who lack social or family networks, or who are financially unable to afford fitness programs or driving long distances, or whose family and work responsibilities preclude other sources of socialization. This community "added value" benefits including older adults, children and adults with physical or social disabilities, young mothers, workers, teenagers, and others.

Reference:

³ Patricia E. Salkin (September/October, 2007), "Where Will the Baby Boomers Go? Planning and Zoning for an Aging Population," *Talk of the Towns*, magazine of the Association of Towns of the State of New York, Albany, NY.

Impediments or barriers to development or implementation:

- Large-lot zoning provides ample private space to individual landowners, but typically leaves little or no space for public space and public amenities.
- Unmaintained and underutilized public spaces can appear blighted and could possibly attract crime, requiring that maintenance of public spaces be a public priority.

Resource—examples and ordinances:

- Project for Public Spaces, New York, NY: <http://www.pps.org>
 - *Placemaking for Communities*: <http://www.pps.org/about/approach/>.

Resource—written and web:

- Project for Public Spaces, New York, NY: <http://www.pps.org>.
 - K. Madden, A. Wiley-Schwartz, and A. Antoshak (2000; 6th printing: 2010), *How to Turn a Place Around: A Handbook for Creating Successful Public Spaces*. New York, NY: Project for Public Spaces. A handbook providing ideas, diagrams, principles, tools, examples, and performance-evaluation methods—intended to help people understand why some public spaces function and others fail, and to help people evaluate any type of public space, from a neighborhood playground to a major tourist attraction. To purchase (\$30): <http://www.pps.org/store/books/how-to-turn-a-place-around/> Also: <http://www.amazon.com/Place-Around-Project-Public-Spaces/dp/0970632401>
 - *Achieving Great Federal Public Spaces: A Property Manager's Guide*. Washington, DC: U. S. General Services Administration, Public Buildings Service, Office of the Chief Architect, Center for Federal Buildings and Modernizations; and New York, NY: Project for Public Places. A hands-on

resource guide developed by the U. S. General Services Administration and Project for Public Spaces, which provides property managers with tools, ideas, exercises, and resources to evaluate and improve the public spaces in and around federal facilities. http://www.pps.org/pdf/pmg_part1_intro.pdf.

- Leslie Kettren (2006), *Talking the Walk: Building Walkable Communities*. Chicago, IL: The Congress for the New Urbanism.
<http://www.cnu.org/sites/www.cnu.org/files/KettrenTalkingtheWalk.pdf>.
- National Home Builders Association (NAHB) and the MetLife Mature Market Institute (September, 2009), *55+ Housing: Builders, Buyers, and Beyond: What are Builders Building? What Do Buyers Want?* National survey:
http://www.nahb.org/fileUpload_details.aspx?contentTypeID=3&contentID=150582&subContentID=319417.
 - *NAHB 55+ Housing Market Index*—measuring activity in the growing 55+ housing market: http://www.nahb.org/reference_list.aspx?sectionID=1843.
- Alexander Garvin and Gayle Berens (1998), *Urban Parks and Open Space*. Washington, DC: Urban Land Institute and The Trust for Public Land.
- Cy Paumier (2004), *Creating a Vibrant City Center: Urban Design and Regeneration Principles*. Washington, DC: Urban Land Institute.
- Cynthia Girling and Kenneth Helphand (1994), *Yard-Street-Park: The Design of Suburban Open Space*. New York, NY: John Wiley and Sons.
- William H. Whyte (2001), *The Social Life of Small Urban Spaces*. New York, NY: Project for Public Spaces, Inc.

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INCLUSIVE RECREATION SERVICES

DESCRIPTION:

"Inclusive recreation" is the integration of all people, regardless of age and regardless of functional ability, in leisure and recreational activities that are developed for the general community population. Involvement in meaningful recreation and leisure activities is essential for every individual's physical, psychological, and emotional well-being. The primary goal of using an inclusive approach is to have all people recreate and play in their choice of recreational activities.

Inclusive recreation is one aspect of a "livable community." Across the country, as the momentum to create livable communities is growing, increasing numbers of states, communities, and organizations are using an inclusive approach to recreation and leisure in many, diverse ways— providing adaptations, accommodations, and supports so that every resident can participate and benefit from a typical recreation or leisure experience in the community. For example—

- In New York State, Onondaga County Parks' inclusive approach is reflected in their free rentals of hand-pedaled Amtrykes and wheelchairs, the park's wheelchair-accessible tour Tram, the Nature On Wheels "NOWmobile" that allows older and younger people with limited mobility to experience the park's trails, the playground designed to be accessible for children of all abilities, a concrete ramp allowing everyone direct access to the water's edge, and an accessible pontoon boat for fishing.
- In 2008, the Pennsylvania State University instituted "Inclusive Recreation for Wounded Warriors," a training program for military recreation managers on methods for integrating wounded active-duty military personnel into the Army's existing Family and Morale, Welfare, and Recreation Academy programs through appropriate adaptations and modifications.
- In the Chicago Botanic Garden, the surface areas of pathways and floors are safely useable by people using assistive equipment or whose balance and coordination are impaired. The Garden also includes raised beds, vertical gardens, hanging baskets on pulley systems, and container gardens— to bring the pleasure of gardening to people of all abilities and ages. The Garden's professional development program, Healthcare Garden Design Certificate of Merit, applies research in evidence-based design to achieve specific health outcomes through gardening.

- Project GAIN is funded by the United States Golf Association and the Professional Golfers Association (PGA). According to the National Center on Accessibility, "the purpose of the GAIN project is to provide opportunities for people of all ages with disabilities to become involved in the game of golf . . . and through this community-based program, maximize their opportunities for inclusion into the fabric of the local community."

While the benefits of an integrated, inclusive approach to recreation and leisure—for both individual residents and for communities—are becoming better understood, historically, such opportunities have been very limited. Older adults and younger-aged people with disabilities have often been excluded from community recreation or participated in “special” or “segregated” programs, often with few activity options. This lack of involvement has often led to social isolation, physical inactivity, and depression for both seniors and younger people with disabilities.

Inclusion is not a project, but is a philosophy and an approach that results in the full participation of every person in all aspects of life, including recreation. Inclusion means that all people, regardless of their age or ability, have the same choices, opportunities, and experiences as their peers. Inclusion means that people have equal opportunity to enjoy the same spaces and places as everyone else. In order for people to fully participate in all aspects of recreation and leisure, activities and programs must be physically as well as socially accessible.

Strategies for promoting inclusion at recreation facilities and programs:

- Utilize Universal Design principles to make facilities easier for everyone to use. Be sure that facilities are accessible for people to be able to approach, enter, and use all program and activity areas.
- Mission and vision statements should reflect a commitment to serve people of all ages and abilities.
- Involve people of all ages and abilities when developing new programs or facilities.
- Create programs that serve everyone, rather than designing segregated or “special” services.
- Ask about the need for accommodations on your program registration forms.
- Include images of people of all ages and abilities in all marketing materials.
- Use alternative forms of communication for all media and marketing materials, such as large print, Braille, pictures, and other languages.
- Identify a specific point person at your agency who can address needs and questions about accommodations and services.

- Train all staff and volunteers in disability-awareness as a routine part of orientation. Training should include topics such as accommodations, activity adaptations, adaptive equipment, the use of various forms of communication, and the pros and cons of using Person First Terminology (referring to a person not his/her disability; referring to the person first, the disability second).
- Offer sliding scale fees to include people of varying economic status.
- Provide opportunities for personal care staff to attend free of charge when they are assisting a participant with a disability.

Benefits:

For older adults and people with disabilities:

- Recreation provides opportunities for:
 - Physical activity:
 - Improving and maintaining physical fitness and health status
 - Developing strength, flexibility, agility, and coordination
 - Increasing physical skills needed for recreation activities
 - Strengthening and establishing friendships with a variety of community members, both with and without disabilities
 - Increasing self-expression and self-development
 - Developing new recreation interests and activities:
 - Learning new activities
 - Expanding recreation involvement
 - Enhancing self-concept / self-esteem / self-reliance / self-respect
 - Improving or maintaining cognitive skills:
 - Learning new skills needed for recreation activities
 - Decision making
 - Planning
- Research has shown that people *without* disabilities also benefit from shared recreation experiences with people who do have disabilities:
 - Increased appreciation and acceptance of individual differences
 - Increased understanding and acceptance of diversity
 - Developing respect for all people

For communities:

- Inclusive recreation and leisure opportunities increase participation in exercise, fitness, and social activities by population groups who often do not do so because of social and physical barriers. Such lack of exercise and social involvement is associated with poor physical fitness and declining physical and mental health. Greater participation through an inclusive approach has a positive impact on physical and mental health and, as a consequence, a positive impact on a community's health and long-term care expenditures.
- An inclusive approach fosters greater communication, understanding, and respect among various resident groups, thereby strengthening a "sense of community," building social capital, and stabilizing the resident population by

encouraging residents to remain living in the community rather than moving to other locations.

- Incorporating inclusive recreation in a community's design gives everyone the same opportunities and choices, thereby increasing that community's "livability" status.

Impediments or barriers to development or implementation:

- Physically inaccessible recreation program areas can exclude seniors and people with disabilities from being able to utilize recreation facilities. Spaces should be developed using Universal Design principles and ideals.
- Many recreation providers are unfamiliar with the principles of inclusive recreation and lack the skills to provide inclusive recreation opportunities.
- Staff are often not trained in disability-awareness, or are not knowledgeable about program and activity accommodations and the use of adaptive equipment.
- Negative attitudes, stereotypes, and preconceived notions about people with disabilities or elderly people can: (1) result in community members without disabilities declining to participate in activities and locations that include people with frailties or impairments; (2) result in community leaders continuing with traditional approaches and refusing to consider alternative ways; or (3) result in people with disabilities experiencing negative social responses, unequal treatment or expectations, lack of acceptance, paternalism, etc.
- Many people lack on-going experience or interaction with people with frailties or disabilities, leading to a level of uncertainty and discomfort about how to communicate with or relate to these individuals.
- Many policies, procedures, and funding sources still do not reflect inclusive philosophies and principles, which has a negative impact on the ability or willingness of organizations and communities to adopt inclusive approaches.

Resources—examples:

- New York State Inclusive Recreation Resource Center (NYSIRRC), *Explore Recreation in New York!*—to learn about the accessibility of the recreation resources in 11 regions of New York State; for each recreation amenity listed, a trained Certified Inclusivity Assessor has collected information about its physical and social accessibility. NYSIRRC: <http://nysirrc.org/>. *Explore Recreation in New York!*: <http://acs7.cortland.edu/irrc/>. *Stories of Successful Inclusion*: <http://nysirrc.org/recref-success.html>.
- Project GAIN, chosen by the National Center on Accessibility as a model for best practices in Inclusive Recreation Programs: <http://www.ncaonline.org/index.php?q=node/733>.
- Chicago Botanic Garden: <http://www.chicagobotanic.org/therapy/index.php>.

- Award-winning inclusive Onondaga County Park system: Onondaga County Parks, 106 Lake Drive, Liverpool, NY, 13088, (315) 451-7275, parks@ongov.net; <http://onondagacountyparks.com/>.
- Inclusive Recreation for Wounded Warriors, Pennsylvania State University and the Army: <http://www.nowpublic.com/health/warrior-care-penn-state-army-create-inclusive-recreation-training-0>.
- Cincinnati Recreation Commission has implemented several programs to ensure the full inclusion of all its citizens in community recreation events and activities. Read two of their success stories included on the National Center on Physical Activity and Disability's website: http://www.ncpad.org/fun/fact_sheet.php?sheet=66§ion=504&PHPSESSID=0.
- The Mitsubishi Electric America Foundation provides funding to mainstream community organizations, such as the Boy Scouts, Girls Clubs, and 4-H, to help them fully integrate people with disabilities into their programs. Their website has a link to many inclusion success stories: <http://www.meaf.org/grants-success.php>.

Resources—written and web:

- L. Anderson and C. Kress (2003). *Inclusion: Including people with disabilities in parks and recreation opportunities*. State College, PA: Venture Publishing: <http://www.venturepublish.com/product.php?id=67>. http://findarticles.com/p/articles/mi_qa3903/is_200604/ai_n17177497/.
- Center for Assistive Technology and Environmental Access (CATEA)— provides information about adaptive equipment and technology. CATEA, College of Architecture, Georgia Institute of Technology, 490 Tenth Street, Atlanta, GA, 30332; (404) 894-4960 (v/tty), 1-800-726-9119, catea@coa.gatech.edu; <http://www.catea.gatech.edu/>; to find products, by related activity or task: http://assistivetech.net/search/products_for_activities.php.
- Disability Funders Network— provides links to funding opportunities. Disability Funders Network, 14241 Midlothian Turnpike, #151, Midlothian, VA, 23113; (703) 795-9646; info@disabilityfunders.org; <http://www.disabilityfunders.org>.
- K. Miller, A. Frisoli, A. Smythe, and S. Schleien, "Quality Indicators of Inclusive Recreation Programs: A National Youth Service Example," *Impact Newsletter*. Minneapolis, MN: University of Minnesota, College of Education and Human Development. <http://ici.umn.edu/products/impact/162/over10.html>.
- National Recreation and Park Association (NRPA), 22377 Belmont Ridge Road, Ashburn, VA, 20148; 1-800-626-6772: <http://www.nrpa.org/>.
 - NRPA Pyxis Online Learning Center—to train and educate professionals, part-time employees, volunteers and citizen advocates, anytime, anywhere, at a low cost: <http://www.nrpa.org/pyxis/>.

- Professional Certification Programs:
<http://www.nrpa.org/Content.aspx?id=410> .
- Agency and Academic Accreditation Programs:
<http://www.nrpa.org/Content.aspx?id=393>.
- DisabilityInfo.gov—an online Resource for People with Disabilities on governmental services for people with disabilities, managed by the U.S. Department of Labor's Office of Disability Employment Policy (ODEP), in partnership with 21 other federal agencies: <https://www.disability.gov/>.
- Mayors Wellness Campaign, Pennington, NJ (on line August 16, 2012), *Tool Box*:
 - "Seniors in Motion":
<http://www.mayorswellnesscampaign.org/images/stories/toolbox/seniors-toolbox.pdf>.
 - "Communities in Motion":
<http://www.mayorswellnesscampaign.org/images/stories/toolbox/community/CommunityinMotion.pdf>
- Kellie Ellerbusch, Shirley Dean, and Mark Smith (nd), *Fun4 All: An Inclusion Initiative for Youth with Disabilities*, a guide for youth group leaders to support meaningful participation for youth with disabilities. Omaha, NE: Munroe Meyer Institute at the University of Nebraska Medical Center; and Lincoln, NE: University of Nebraska.
<http://www.unmc.edu/media/mmi/pdf/disabilityinclusionmanual.pdf>.
- The Inclusion Network, 47 Indian Trail, Toronto, ON, Canada; (416) 658-5363; inclusionpress@inclusion.com— works to increase awareness of inclusion, recognize exemplary inclusive efforts, provide technical assistance, and link individuals with and without disabilities:
<http://www.inclusion.com/inclusionnetwork.html>.
- Neighborhood Legal Services, Inc., *Independent Living Centers (ILC) in New York*— for a list of 40 ILCs across New York State, which provide information, services, training, and technical assistance relating to people with disabilities. Many have loan closets that include recreation equipment:
<http://www.nls.org/ilc.htm>.
- National Center on Accessibility, Bloomington, IL: Indiana University, Department of Recreation, Parks and Tourism Studies, School of Health, Physical Education, and Recreation— promotes access and inclusion in recreation:
<http://www.ncaonline.org/>.
- National Training Center on Inclusion, Kids Included Together (KIT), 2820 Roosevelt Road, San Diego, CA, 92106; (858) 225-5680; info@kitonline.org. Provides training, technical assistance, and resources on inclusion:
<http://www.kitonline.org/>.
 - KIT Training: <http://www.kitonline.org/html/training.html>.

- *Paths to Inclusion : A resource guide for fully including youth of ALL abilities in community life.* Arlington, VA: Mitsubishi Electric America Foundation, 1560 Wilson Blvd., 22209. <http://www.meaf.org/docs/PathsToInclusion.pdf>.
- Self Advocacy Association of New York State, Inc., 500 Balltown Road, Bldg 5C, Schenectady, NY, 12304; (518) 382-1454; sanys@sanys.org. Provides support and presentations about inclusion. <http://sanys.org/>.
Contact information for seven regional offices:
http://www.sanys.org/contact_us.htm.
- United Cerebral Palsy, 1660 L Street, NW, Washington, DC, 20036; 1-800-872-5827, (202) 776-0406; info@ucp.org. Website provides products, services, education, and training materials for working with people with disabilities:
http://www.ucp.org/ucp_generaldoc.cfm/1/6619/6621/6621-6621/399.

Resource—technical assistance and contact names:

- ADA Accessibility Guidelines for Recreation Facilities
<http://www.access-board.gov/recreation/final.htm>
1-800-872-2253 (voice); 1-800-993-2822 (TTY)
Weekdays: 10:00 am - 5:30 pm, EST; Wednesday: 10:00 am – 2:00 pm
ta@access-board.gov
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PICTORIAL ZONING CODES

Description:

Often, zoning codes consist of maps and confusing legal language to describe what development and buildings are allowable and not allowable in a community. Such text, as well as the use of industry-specific terms, is not readily understood by residents and others who are not directly involved in land use or the development professions; in addition, such language can lead to arguments over the interpretation of the codes.

Across the country, a movement to reform the fashioning of zoning codes is gaining momentum, and an increasingly popular approach is to use graphics and photos in place of lengthy, repetitive text to explain the details of zoning requirements.¹ As more communities choose to use an inclusive planning process that includes broad resident involvement and active participation by multiple community sectors, a pictorial approach allows everyone involved to concentrate their efforts on the essence of the ordinance's requirements rather than spending energy and time on interpreting legal wording or the meaning of specific expressions, or on "word-smithing" language in the hopes of clearly spelling out what is to be achieved.

Reference:

¹ *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission.

Benefits:

For residents:

- Pictorial zoning codes are more democratic instruments:
 - They are more readily understood by individuals who are not familiar with the language of the land use and development professions, and
 - Pictures and graphs are less technical and easier for the lay public to readily understand, thereby encouraging the public to become more involved in the planning efforts and development projects in their communities.

For the community:

- A pictorial zoning approach is particularly well-suited to form-based codes (see *Form-Based Codes* in the Resource Manual), as the physical form and arrangement of buildings and other public amenities can be more easily conveyed through a picture or a graph.

Impediments or barriers to development or implementation:

- Municipal planning officials and legal staff often prefer the more familiar, more traditional, technical approach to zoning.

Resource—examples and ordinances:

- City Council—Downtown Action Team (2000), *Downtown 2010 Sector Development Plan*. Albuquerque, NM: City of Albuquerque, Planning Department, Downtown Action Team.
<http://www.cabq.gov/planning/publications/down2010/preface.pdf>.
- Andres Duany and Elizabeth Plater-Zyberk (2001), *Onondaga County Settlement Plan*. Syracuse, NY: Syracuse-Onondaga Planning Agency.
<http://syracusehenandnow.org/SettlementPlan/SettlementPlan.htm>.
<http://www.esf.edu/la/resources/TNDCode/TNTCode.PDF>.

Resource—written and web:

- *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission.
http://www.lgc.org/freepub/docs/community_design/fact_sheets/form_based_codes.pdf.
- Thomas Comitta Associates (March 16, 2010), "Evolution of Form-Based Code," *Planning and Development*. <http://www.comitta.com/blog/?p=10>.

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Zoning INTRODUCTION

Planning is a process for defining problems and identifying solutions. *Zoning* is a tool (law/ordinance) communities use to implement the decisions that were made through the planning process.

Zoning is the strongest land use tool; it regulates the use of land and the density and siting of development. Zoning legislation commonly consists of two components:

- *A zoning map*, which divides a municipality into various land use districts, such as residential, commercial, or industrial districts. The intensity of development, or density—such as how close together or how tall individual buildings can be—can vary within uses. For example, a zoning regulation might have low-, medium-, and high-density residential districts. Or, higher density in a mixed-use district, with retail and services conveniently close by, can benefit various population groups, including many older adults who have experienced aging-related or other frailties or who have stopped driving.
- *The text of zoning regulations*, which describes permissible land uses in each of the zoning districts identified on the zoning map. This includes dimensional allowances, such as height of buildings, minimum distances from buildings to property lines, and the percentage of the lot that may be built upon. Zoning regulations also set the procedure for obtaining approval for the uses permitted in each zone.

Zoning is an effective means for implementing the intent and goals of a municipality's many planning efforts; for example:

- Zoning can be used to require various affordable housing choices, such as accessory apartments, a cottage community, or a shared living residence, to benefit older adults, individuals with disabilities, residents of modest means, domestic workers, middle-income families, caregivers, and others.
- A municipality can zone for an array of innovative housing options that have only recently begun gaining in popularity, such as mixed-age cohousing, grandfamilies housing, or "small house" nursing homes.
- A municipality can use a zoning ordinance to allow for the division of large houses or underutilized accessory buildings for rent, which can provide additional income for owners, enabling them to remain in their homes longer. Family members, home health aides, or domestic workers could live on the property while providing care and security for older adults or family members with disabilities. This also has the added social and emotional benefits of multi-generations living in proximity.

- Zoning can be used to encourage infill development in developed areas that have existing infrastructure, while discouraging leapfrog sprawl on the fringe.

While municipalities are not required to be zoned, a benefit of having a zoning ordinance in place is that property values are maintained and land-use conflicts are minimized because property owners can predict what land uses will be allowed in the future and new buyers know, before purchasing decisions are made, what the future impact on their property will be.

In many communities, zoning ordinances have been in place for a long time and are now outdated, rendering them inflexible and unable to allow development that reflects the community's changing demographic profile, the evolving needs and preferences of residents, or innovative models and solutions that have emerged.

Home Rule:

In New York, a great deal of authority to regulate land use resides at the local level. One of the reasons for this is *Home Rule*, and local governments may use the authority of Home Rule to confront some of the land-use challenges that are not currently addressed by the State's general statutes.

Home rule refers to the constitutional and statutory authority given to local governments to enact local legislation to carry out and discharge their duties and responsibilities. This grant of power is accompanied by a restriction (under the authority of the State Legislature) to enact special laws affecting a local government's property, affairs, or government. However, the local legislation enacted cannot be inconsistent with the State's constitution or general statutes.

Home Rule authority is a source of zoning and planning power that gives local governments great flexibility in dealing with the local regulation of land use, including the ability to adopt creative new regulatory techniques before such techniques have been specifically authorized by the State Legislature. For example, Home Rule allows local governments to address issues related to "aging-in-place" that are not currently addressed by the State's general statutes. Home Rule ensures that local community design is determined by the local residents most affected by the outcomes; it encourages a bottom-up process of land-use planning that is sensitive to local needs, political cultures, and values; and it encourages local advocacy, which promotes inclusive and democratic government decision-making and involves many people in the local planning process.

However, Home Rule can also lead to the defeat of good, sustainable, neighborhood-friendly development projects by a vocal minority of residents who live near a proposed project, even if that project may be good for the overall community, society, the country, and/or the planet. For example, a compact transit-oriented community project may satisfy the larger mobility and environmental goals of the overall community, but may be opposed by nearby residents who fear density and multi-family housing. Or, while zoning can be used to protect the character of a neighborhood, municipalities can sometimes

inadvertently engage in exclusionary zoning practices, prohibiting a variety of models and solutions that are effective options for a community's various population groups, such as single adults, older people, young families, grandparents raising grandchildren, people with disabilities, and others. Thus, Home Rule can lead to land-use decision-making that is driven by a small group of residents, rather than by the overall well-being of the community.

Municipalities possess many zoning tools that can permit and provide development incentives to achieve community goals. Section I.2 (Zoning) provides descriptions and resources for many of these tools.

Zoning statutory authority:

- Grant of specific powers: General City Law §20.
- Grant of Power; appropriations for certain expenses incurred under this article: Town Law §261.
- Adoption of zoning regulations: Town Law §264.
- Grant of power: Village Law §7-700.
- Adoption of first zoning law: Village Law §7-706, §7-708, and §7-710.

Resources:

- Sheldon Damsky and James Coon (1993; 2000; 2005—4th Edition), *All You Ever Wanted to Know About Zoning*. Watervliet, NY: New York Planning Federation. The most widely used source for zoning information for New York State, including key legislation and case law through the 2004 legislative session. For pricing and ordering information: New York Planning Federation Book Store: <http://www.nypf.org/editable/bookstore1.html>. Or, Amazon: <http://www.amazon.com/Ever-Wanted-Know-About-Zoning/dp/0811349500>.
- James A. Coon (May, 2007; updated June, 2011), *Guide to Planning and Zoning Laws of New York State: James A. Coon Technical Series*. Albany, NY: New York State Department of State, Division of Local Government Services. http://www.dos.ny.gov/lg/publications/Guide_to_planning_and_zoning_laws.pdf.
- Karen Strong (2008), *Conserving Natural Areas and Wildlife in Your Community: Smart Growth Strategies for Protecting the Biological Diversity of New York's Hudson River Valley*. Albany, NY: New York State Department of Environmental Conservation; Ithaca, NY: Cornell University. <http://www.dec.ny.gov/lands/50083.html>: Scroll down to Chapter 9.
 - Chapter 9: *Zoning and Project Review*, pp. 55-60: http://www.dec.ny.gov/docs/remediation_hudson_pdf/hrebch9.pdf.
- *New York State Zoning and Land Use Regulations*. Albany, NY: New York State Department of State, Division of Local Government Services. For an alphabetical list of publications, including those on zoning, planning, and land-use regulations: <http://www.dos.ny.gov/lg/publications.html>.

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CLUSTER ZONING / CONSERVATION-ORIENTED DEVELOPMENT

Description:

Cluster zoning is a zoning method in which development density is determined for an entire specified area, rather than on a lot-by-lot basis. Within the specified cluster zone, a developer can exercise greater flexibility in designing and placing structures, as long as the total density requirement is met.

Cluster zoning, which is also called conservation-oriented development, allows for the total number of homes in a given piece of land to be clustered or concentrated more densely onto one or more portions of the land; typically, double the density is concentrated on half the acreage. Such a strategy allows for the development of smaller (less expensive) homes on smaller (less expensive) lots, thus providing alternative housing choices for multiple community population groups and providing the opportunity to preserve remaining land for public and neighborhood use.

Developments in cluster-zoned areas often incorporate open, common areas for use by community members and/or the wider public. The landowner and the community decide the use of the preserved open space during the subdivision review process; and uses can include parks, nature/jogging/walking trails, active recreation, and community gardens, among others.

Benefits:

For all residents, including older people and younger people with disabilities:

- Cluster zoning provides two primary benefits for residents:
 - Walkable/bikeable residential neighborhoods; and
 - Access within the neighborhood to green space, trails, parks, gardens, and other amenities in which to walk, exercise, relax, recreate, and socialize.

For the community:

- The protected open space can be designated to provide significant green buffers between neighborhoods.
- Higher density allows smaller, lower-cost housing units to be included within a neighborhood—providing greater housing choices, which is a "livable community" response for the diversity of residents that typically comprise a community.
- Greater protected open spaces protect the environment, habitats, natural resources, and ecosystems.

Impediments or barriers to development or implementation:

- NIMBY ("not in my backyard" reactions):

- Neighbors closest to the cluster development may object to density, fearing overcrowding and infringements on their familiar low-density, large-lot community character.
- Education is often needed to counter NIMBY objections and to raise general community awareness of the benefit of cluster zoning for retaining various community members, such as single adults, childless couples, older individuals and couples, and others.

Resource—examples and ordinances:

- Southeastern Wisconsin Regional Planning Commission (December, 1996), *Rural Cluster Development Guide* (Planning Guide #7). Extensive information and detailed discussion of the cluster zoning process, including extensive information on ordinances and the Southeastern Wisconsin Model Zoning Ordinance for Rural Cluster Development. Waukesha, WI: Southeastern Wisconsin Regional Planning Commission: http://www.sewrpc.org/SEWRPCFiles/Publications/pg/pg-07_rural_cluster_development.pdf
- Cluster Housing, Seattle, WA:
 - (June, 2001), *Cottage Housing in Your Community: A guide to drafting a cottage housing ordinance*. Seattle, WA: The Housing Partnership. <http://www.mrsc.org/govdocs/S42CottageHousOrdGuide.pdf>.
 - City of Seattle, WA: *Cluster Housing Planned Developments Ordinance*-- The Clustered Housing Planned Developments ordinance permits CHPDs to encourage the construction of affordable housing in single-family zones. The ordinance establishes site requirements, including what should be done with yards and landscaping, and restrictions on the type and quantity of units: <http://landuse.law.pace.edu/landuse/documents/laws/reg10/SeattleWA.23.44.024.doc>.
Seattle Municipal Code (Clustered Housing Planned Developments)—Title 23, Subtitle III, Division 2, Chapter 23.44, Subchapter II: <http://www.clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CODE&s1=23.44.024.snum.&Sect5=CODE1&Sect6=HITOFF&l=20&p=1&u=/~public/code1.htm&r=1&f=G>.
- New Designs for Growth, Northwest Michigan, Council of Governments: www.newdesignsforgrowth.com.
- Morgan Woods Development, Edgartown, MA, on Martha's Vineyard—a community-driven affordable housing project, this cluster-developed site utilizes a "disguised density" concept, with structures that resemble large single-family homes, but contain multifamily units; a 60-unit, 21-building community built on 12 acres of land assembled and donated by the Town, providing housing that is affordable to the island's permanent residents. Washington, DC: Urban Land Institute, *Terwilliger Models of Excellence, Creating Workforce Housing*: www.uli.org/~media/Documents/AwardsandCompetitions/Terwilliger/Profiles/Morgan_Woods.ashx. Also, The Community Builders, Inc., "Our Projects—

Morgan Woods":

http://www.tcbinc.org/what_we_do/projects/morgan_woods.htm.

- Leonard Gilroy (2002), "Conservation Subdivision Design: A Market-Friendly Approach to Local Environmental Protection," *Reason Foundation*: <http://reason.org/news/primer/conservation-subdivision-design>. Article also includes ten links to ordinances, case examples, and conservation-orientation strategies and resources.
- Randall Arendt (1999), *Growing Greener: Putting Conservation Into Local Plans And Ordinances*. Washington, DC: Island Press. Provides a three-pronged strategy for shaping growth around a community's special natural and cultural features, demonstrating ways of establishing or modifying the comprehensive plan, zoning ordinance, and subdivision ordinance to include a strong conservation focus; includes detailed information on how to conduct a community resource inventory, a four-step approach to designing conservation subdivisions, extensive model language for comprehensive plans, subdivision ordinances, and zoning ordinances, and illustrated design principles for hamlets, villages, and traditional small town neighborhoods; includes eleven case studies of actual conservation developments in nine states, and two exercises suitable for group participation.

Resource—written and web:

- Randall Arendt (1996), *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*. Washington, DC: Island Press. A practical handbook for residential developers, site designers, local officials, and landowners; explains how to implement new ideas about land-use planning and environmental protection; many illustrations, with site plans, floor plans, photographs, and renditions of houses and landscapes; describes a series of simple and straightforward techniques that allow for land-conserving development.
- (Winter, 2006), "New Towns in Rural Areas: Saving Rural Space with Smart Growth," *On Common Ground*, National Association of Realtors, Chicago, IL.
- (December, 2004), "Saving Our Villages," *A Guidebook Published for Cattaraugus County's Smart Development for Quality Communities Series—Volume 3*. Cattaraugus County, NY: Department of Economic Development, Planning and Tourism.
http://www.cattco.org/planning/planning_info.asp?Parent=12303.

COTTAGE COMMUNITY ZONING

Description:

One option for affordable housing units is simply very small houses built densely or in very close proximity to one another (see *Elder Cottage* in the *Resource Manual*). The smaller, more affordable units provided through cottage community zoning are an effective alternative for various population groups in a community, including older people, single individuals (both with and without disabilities), young couples who are just starting marriage and careers, single parents, and others.

Municipalities can design zones (and can provide incentives) for such developments by setting maximum square footage standards for both the housing units and for the lots. For example, the Town of Langley, Washington, adopted a zoning provision that would allow double the existing residential zoning density in subdivisions in which homes are less than 1,000 square feet and that are placed around a common green, with screened parking concentrated at one end of the site. This development included eight cottages averaging 650 square feet. Such development encourages a choice of smaller, more affordable homes, as well as the benefits that can be achieved through greater development density.

Benefits:

- Cottage community zoning effectively provides for smaller and more affordable housing units that respond to the housing needs and preferences of a variety of population groups, helping a community benefit from the advantages inherent in retaining a stable resident population base.
- Zoning for more compact development can help to create a greater sense of place, security, and community.
- By clustering development, provisions for public and communal space can be included, which fosters community-building interaction, as well as providing open space for passive recreation.
- Living closer to neighbors supports more opportunities for interaction, which may lead to supportive “neighboring” behaviors among residents. For example, in a multi-generational cottage community, an elderly resident who no longer drives could offer to babysit for a single parent or young couple who might, in turn, offer to take the elderly neighbor to the grocery store. Older residents, or residents with various disabilities, may become involved in after-school programs for young people. Such reciprocal interactions can occur among residents of all ages and all abilities.
- The more efficient use of residential space in cottage communities offers opportunities for a variety of communal uses for residents, such as gardens, green space, or play area.

Impediments or barriers to development or implementation:

- Zoning for large lots often precludes cottage community development without a new zoning amendment.
- Neighboring concerns:
 - Residents may fear the appearance of overcrowding in their conventional, low-density suburban subdivisions.
 - Neighbors may fear a devaluation of their own properties because of the increased density of the cottage community.
 - Many people fear the stigma that is often attached to affordable and low-income housing developments.
- Residents may be concerned about a rise in the cost of services related to any new residential development; for example,
 - Those without children may express concern about rising school taxes.
 - Others may point to the rising cost of Medicaid, especially in rural and suburban areas where the population is rapidly aging and increasing in diversity.
- County officials may be concerned about adding to a demographic imbalance by providing too many housing units for older adults.
- Achieving a "sense of community," a neighborhood "sense of place," and "neighboring" practices and activities are usually naturally occurring, an organic evolution. It takes time, cooperation, and compromise to develop the social networks and supporting behaviors of a real neighborhood. Design alone will not create an instant community, and certain critics may judge cottage community examples too soon and too harshly for failing to achieve such goals.

Resource—New York State statutory authority:

- *Zoning:*
 - Grant of specific powers:
 - General City Law, §20;
 - Village Law, §7-700;
 - Town Law, §261.
 - Adoption of zoning regulations:
 - Town Law, §264;
 - Village Law, §7-710.
- *Incentive Zoning:* Incentives to developers can include density bonuses in exchange for creating affordable housing units and a variety of housing options that incorporate universal design elements, as well as developing other community amenities, such as recreational facilities:
 - General City Law, § 81-d;
 - Town Law, § 261-b;
 - Village Law, § 7-703.

- *Planned Unit Development*: This authorization can be used to create mixed-use neighborhoods, combining housing with other uses that serve the needs of residents:
 - General City Law, §81-f;
 - Town Law, §261-c;
 - Village Law, §7-703-a.
- *Subdivision review; approval of plats; development of filed plats*:
 - General City Law, §32;
 - Town Law, §276;
 - Village Law, §7-728.
- *Subdivision review; approval of plats; additional requisites*:
 - General City Law, §33;
 - Town Law, §277;
 - Village Law, §7-730.
- *Cluster*: Can be used to create greater density within subdivisions:
 - General City Law, §37;
 - Town Law, §278;
 - Village Law, §7-738.

Resource—examples, case studies, ordinances:

- Cottage Community, or "Pocket Neighborhood": Third Street Cottages, Langley, Washington, a small town on Whidbey Island in Puget Sound. Up to 12 small (up to 975 sq. ft.) detached homes per acre; designed to facilitate community interaction and build cohesiveness; located three blocks from downtown shopping and dining and close to bike paths; homes sold out quickly; typical owners are singles, couples, or families with one child. The town has been able to increase housing supply with minimal land consumption. Description of Third Street Cottages and other similar pocket neighborhoods: <http://rosschapin.com/Projects/PocketNeighborhoods/ThirdStreetCottages/ThirdStreet.html>.
 - Smart Growth in Action: Third Street Cottages: http://sgnarc.ncat.org/action/pdf/cs_001_3rdStreetCottages.pdf.
- French Bay Elder Cottages, an eight-unit complex located on Strawberry Lane, Clayton, NY. Rental cottages designed for income-eligible individuals. Owned and managed by the Clayton Improvement Association, Ltd.; contact Wanda Phelps, (315) 686-3212: <http://www.clayton-improvement.com/cia-properties.htm>.
- Sage Computing, Inc. (June, 2008), *Accessory Dwelling Units: Case Study*. Washington, DC: U. S. Department of Housing and Urban Development, Office of Policy Development and Research. This study examines the history and benefits of Accessory Dwelling Units (ADU); highlights six communities that

have successfully implemented ADU ordinances; provides ordinance language—in Oregon, California, Virginia, and three in Massachusetts.
<http://www.huduser.org/Publications/PDF/adu.pdf>.

- Department of Design, Construction, and Land Use (nd), *Seattle's Housing Choices*. Seattle, WA: City of Seattle. Detailed descriptions of numerous accessory apartments, detached elder cottages, and two examples of a cottage community; also includes discussion and comparison of codes.
www.seattle.gov/DCLU/news/Housing_Choices_Brochure.pdf.
- Rodney L. Cobb and Scott Dvorak (American Planning Association) (2000), *Accessory Dwelling Units: Model State Act and Local Ordinance* (George Gaberlavage, PPI Project Director, AARP). Washington, DC: AARP.
http://assets.aarp.org/rgcenter/consume/d17158_dwell.pdf.
- Maggie Kaufman (August, 2005), *Bibliography of Selected Resources on Second Units*. Links to numerous informational resources related to accessory dwelling units, including regulations and ordinances. Sacramento, CA: California State Department of Housing and Community Development, Housing Policy Division.
www.hcd.ca.gov/hpd/secondunits0805.pdf.
- Portland, Oregon—the regional government's mandate to increase density by allowing accessory units was expanded to also permit permanent, freestanding accessory units on existing lots. Ordinance: Title 33 (Planning and Zoning), Chapter 33.205 (Accessory Dwelling Units):
<http://www.portlandonline.com/bps/index.cfm?c=34561&a=53301>.
- City of Austin, Texas (March, 2011), *Special Use Infill Options and Design Tools Available Through the Neighborhood Plan Combining District* (NPCD):
[ftp://ftp.ci.austin.tx.us/npzd/website/Planning_Zoning/infill_tools.pdf](http://ftp.ci.austin.tx.us/npzd/website/Planning_Zoning/infill_tools.pdf).

Resource—written and web:

- David A. Foster (2003), *Smart Growth in Action: Accessory Dwelling Unit Development Program*, Santa Cruz, CA: City of Santa Cruz Department of Housing and Community Development:
http://www.smartgrowth.org/pdf/cs_018_SantaCruz.pdf.
- Township Housing Office (June, 2003; updated August, 2007), *E.C.H.O.: Elder Cottage Housing Opportunity Handbook*. New Jersey: West Amwell Township.
<http://www.westamwelltpw.org/Housing/8-07ECHOHandbookREV.pdf>.
- The Cottage Company, Inc., award-winning company providing new models for sustainable living and smart housing choices (small homes and cottage communities). Web site provides sales information, site plans and photo galleries of completed homes and communities, and escorted tours for professional groups, planning staff, city leaders, and neighborhood councils.
<http://www.cottagecompany.com/default.aspx>.

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DENSITY

Description:

Community density is measured by the number of housing units or buildings permitted per acre of land. Allowable densities for each zoned district are set forth in the municipal zoning code. For example, a conventional, low-density suburban subdivision might be zoned for one house per acre—homes are thus separated from each other (and other types of land uses) by greater distances. Traditional village centers, on the other hand, may allow densities of ten or more units per acre, whereas cities with high-rise apartment buildings can accommodate densities in the hundreds of units per acre.

Density has an impact on the function, affordability, character, and quality-of-life of a community. Low density (dispersed, large-lot, isolated land uses) keep shopping, recreation, work, and civic buildings separate and far from one another, which increases car-travel distances and makes daily destinations more difficult and time-consuming to access. The road network and design necessary to support this type of development typically creates an unsafe and uncomfortable environment for pedestrians, bicyclists, and transit riders.

Higher densities and mixed-use zoning allow housing and other buildings to be arranged closer together, making them more accessible by foot, bicycle, mass transit, or short car ride. If planned and designed correctly, density can create a greater sense of community and neighborhood identity than conventional suburban sprawl.

Density is not an either/or proposition; a community need not choose between either very-high or very-low density. Plenty of creative middle ground exists between conventional, low-density suburban subdivisions and high-density urban-form high-rises, between a cul-de-sac bedroom community and an urban neighborhood, and between the strip mall and the downtown canyon of a large city. Indeed, hybrid forms of development can combine targeted density, open space, public space, and various building heights to create the same feeling of spaciousness found in modern suburbs.

Advocates for higher density must make it clear that density in the suburbs does not mean high-rise apartment buildings in the middle of a subdivision—"we don't want the city in our suburbs," the common refrain goes. On paper, four small houses built on a one-acre parcel of land, for example, is four times the density of surrounding houses on one-acre lots—a hair-raising proposition for most suburban residents. Yet those four houses could simply take the form of smaller, detached single-family homes (like a residential village setting) that would fit within, and even complement, almost any suburban setting.

Townhouses, one of the most popular forms of housing, particularly among older adults, are often placed within conventional suburban areas, even though they may constitute a density of six to eight units per acre (six to eight times the density of conventional one-unit-per-acre housing). In 2003, for the first time in the nation's history, average sale prices per square foot of attached housing, condominiums, townhouses, and apartments exceeded the price of detached housing.

Good design can help to incorporate higher densities into most conventional communities and surroundings without a perceived change in character. This is often referred to as "disguised density." Many multi-family housing types (duplexes, triplexes, quadplexes, and townhomes) are now designed to look like large, modern, suburban homes by providing side and back entrances to hide the multi-family appearance and offering sophisticated facade design that improves curb appeal. Such multi-family units can also be placed on a lot in ways that minimize the visual impact and preserve suburban community character. For example, the units can be placed back-to-back on a long, narrow lot to minimize the visual impact from the street.

Density, in and of itself, should never be thought of as a panacea. Poorly planned and poorly designed density can be just as bad as poorly planned, low-density sprawl. But density done right—well-designed and well-placed, with ample input from the community and its stakeholders—can provide manifold benefits to municipalities seeking to create age-integrated communities. Through photographs, renderings, and effective outreach and education, communities can present density in a less threatening and more acceptable way.

Benefits:

For Residents:

- Well-planned density increases security and public safety:
 - *Building Placement—*
 - Compact community design can create safer communities in a number of ways. For example, in her landmark 1961 book, *The Death and Life of Great American Cities*, urban historian Jane Jacobs coined the phrase "eyes-on-the-street"—direct lines of vision from buildings to the street, which deters crime by creating a "neighborhood crime watch" or "citizen surveillance" effect. This occurs in urban neighborhoods, where buildings are close to the street and sidewalk.
 - Buildings that are located close to the street (particularly in mixed-use areas) create greater visibility to the street and a sense of safe enclosure for pedestrians—that is, create "public rooms" between streets and buildings. A continuous line of buildings, with ample entrances and minimal blank exteriors, bolsters that sense of safety. Long stretches of blank walls and vacant lots diminish safety.

- *Increased Street Activity*— A deserted street is a more dangerous street. Without the threat of people watching, criminals are more inclined to commit a crime. Conversely, vibrant, active, lively streets create an ever-present neighborhood watch effect that deters criminal activity. Narrow streets, for example, tend to reduce traffic speed and volume, which increases pedestrian activity. Wide sidewalks, with buffers from the street (on-street parking, landscaping, green space), create a safer walking environment (discussed in greater detail in the manual's "Traffic-Calming, Mobility" section). And, compact, mixed-land uses attract more business patrons and passers-by at all hours of the day, creating regular pedestrian activity and movement.
- *Public and Communal Space*—
 - Public parks, squares, and centers can be designed to deter crime. "Crime Prevention Through Community Design" is one established approach to neighborhood design that creates safer public spaces in two ways: (1) Natural Surveillance, maximizing pedestrian activity and lines of vision to create "eyes-on-the-streets" and to avoid secluded areas; and (2) Access Management, strategically placing entrances, exits, fencing, gates, lighting, and landscaping to limit access points and to control the flow of people in and out of a public area.
 - Well-designed public and communal space also creates a greater sense of community and neighborhood pride, which can translate into greater vigilance and mutual protection. A study by the Harvard School of Public Health found that community spirit and a willingness to get involved in local affairs can reduce violent crime by up to 40 per cent ("Focus on Livable Communities," *Land Use Planning for Safe, Crime-Free Neighborhoods*, Sacramento, CA: Local Government Commission, Center for Livable Communities: http://www.lgc.org/freepub/docs/community_design/focus/plan_safe_neighborhoods.pdf).
 - *Community Forestry*— The presence of abundant vegetation may provide a calming effect that reduces the likelihood of crime. A study at the University of Illinois Urbana-Champaign found less stress and crime in well-landscaped, tree-lined urban neighborhoods.
- Well-planned density promotes "walkable communities":
 - *Increased access to amenities and destinations*—
 - Higher building density shortens the travel distances between destinations, which better accommodates pedestrian and bicycle travel and increases access to daily amenities.
 - Denser development near transit lines, commercial centers, and community facilities offers even greater access to life's daily destinations and important community amenities, a quality that is particularly important for older adults, persons with disabilities, and families with children.

- Higher density has a positive impact on choice and affordability:
 - *Greater Choices*—
 - Higher density development can include a variety of housing types, thus offering greater choices for residents who have cost constraints.
 - Accessory dwelling units (ADU) increase the density of housing allowed on a residential parcel by allowing either an attached or detached unit on property with a primary residence. ADU units come in the form of an attached in-law apartment, carriage house, or converted garage/basement apartment, or a detached cottage (ECHO housing, elder cottage, or “granny flat”). These units offer lower-cost and lower-maintenance housing choices for individuals (such as elderly adults, recent graduates, young professionals, individuals with disabilities) who want to live close by their family members who are living in the primary residence. The broader benefit to the larger community is a more age-diverse neighborhood.
 - *Affordability*— Denser Development:
 - Generally lowers the cost of land per unit;
 - Provides greater economies of scale, lowering costs for building materials;
 - Results in smaller units—typically requiring less infrastructure and lower site-preparation costs.
 - Municipal density bonuses allow developers to further minimize rents and prices (see “Incentive Zoning” section).

For the community:

- Municipal fiscal management is improved—
 - Sprawling development can exact a tremendous fiscal strain on municipalities. The infrastructure costs (roads, sewers, utilities) and municipal service costs (police and fire) associated with typical low-density suburban residential development usually exceeds the returns generated from tax revenues. The American Farmland Trust found that suburban residential development typically costs a municipality \$1.16 for every dollar generated in taxes, a net loss of 16 cents on the dollar.
 - Compact development offers cost-saving benefits to a municipality, maximizing infrastructure by serving a greater number of households in its service area and often requiring little or no extension of existing infrastructure. In this respect, compact (especially mixed-use) development can be a revenue-generator for struggling municipalities, helping local governments balance their budgets and hold the line on taxes. Senior housing does not typically add schoolchildren or school costs and bolsters this benefit.

Impediments or barriers to development or implementation:

- *Local Zoning*: Most suburban zoning codes favor large-lot zoning. Many municipalities have imposed minimum-lot-size requirements to limit density and to limit the development of smaller homes, multi-unit homes, and

multi-family buildings. Large lots increase the total cost of a home purchase and make it less financially feasible for developers to build small homes. In this way, large-lot zoning effectively prices many seniors out of a housing market.

- *Community Opposition and Misperceptions:* Many residents have negative impressions and fears about density. Municipal officials and advocates for compact development must address these concerns carefully and patiently, with rational arguments and successful examples.

For example, a project's impressive design qualities—attractive design, high grade materials, beautiful landscaping, adequate green buffer areas, ample public and/or open space, community recreational opportunities—can quell some of the fears about density. By addressing design upfront, advocates can often demonstrate that well-designed density can improve how a neighborhood functions. Also, a variety of housing types can provide architectural diversity from the standard “cookie-cutter” subdivision. As local land use expert, Michael McCauley, said, “Design doesn’t trump fear, but it can facilitate acceptance.” (Michael C. Thomsitt (Fall, 2001), “NIMBYism: Navigating the Politics of Local Opposition,” “Does Design Make a Difference?” in *The NIMBY Report*).

Ultimately, community concerns and misunderstandings about density must be addressed head-on with facts and figures. Here are a few examples of how to address three prevalent concerns about high-density housing.

- *School Costs:* Some residents fear that denser development will overload the school district with children and costs. But multi-unit housing often generates a smaller number of schoolchildren per-unit/per-household than low-density subdivisions. A simple analysis of the households that occupy each type of housing illustrates this point: multi-family housing attracts more childless couples (young professionals, retirees, and empty-nesters), singles, and small families. Large single-family homes attract families with more children. A Rutgers University study revealed that 58 schoolchildren are generated for every 100 three-bedroom, single-family homes (48 of whom will attend public schools); just 12 schoolchildren are generated from 100 two-bedroom condominiums (10 of whom will attend public schools). Since owners of multi-family rental housing pay commercial property tax rates, and schoolchildren do not typically live with seniors, higher-density senior housing would actually subsidize the school district.
- *Traffic Congestion:* Many suburban residents blame increasing traffic problems on too much development, equating “too much” development with “too dense.” But in reality, much of their traffic can be blamed on dispersed, low-density housing and the system of collector roads that serve it. Higher-density housing, combined with a mix of land uses, reduces the amount of car travel per household because destinations

are closer and more inter-connected. While single-family homes produce at least two cars per household, many apartment or condominium dwellers need only one. Well-planned density can increase walking, biking, and transit ridership, reducing both the number of trips and the number of miles we travel in our cars.

- *Property Values:* Reliable and objective studies have found that proximity to higher-density, multi-family housing either has no effect, or a positive effect, on property values. In one study by the National Association of Home Builders, the value of single-family homes within 300 feet of condominiums or apartments increased 2.9 per cent between 1997-1999, compared to a 2.7 per cent increase for single-family homes that were not near apartments or condominiums. Indeed, several studies have shown that well-designed apartments actually increase the value of nearby single-family homes. Many of the high-density, mixed-use New Urbanist communities built in the 1990s saw dramatic increases in property values for the single-family homes within them; homes in New Urbanist developments also held their value better than other development projects in the housing market downturn.

These and other concerns should be addressed early and often—through public education and stakeholder forums. Advocates for density must provide successful examples to substantiate their case. For individual projects, municipalities may want to facilitate meetings between developers and nearby residents to promote greater dialogue and communication.

Resource—statutory authority in New York State:

- *Zoning:* Through zoning, a community may increase density through the use of maximum lot sizes, reduced lot coverage, and setbacks:
 - Grant of specific powers: General City Law §20.
 - Grant of Power: appropriations for certain expenses incurred under this article: Town Law §261.
 - Adoption of zoning regulations: Town Law §264.
 - Grant of power: Village Law §7-700.
 - Adoption of first zoning law: Village Law §7-110.
- *Cluster Zoning:*
 - General City Law §37;
 - Town Law §278;
 - Village Law §7-738.
- *Incentive Zoning:* Communities may offer developers a density bonus in exchange for meeting needs that are identified by the community, such as increasing housing options for older adults, families with small children, and people with disabilities:
 - General City Law §81-d;
 - Town Law § 261-b;
 - Village Law § 7-703.

- *Planned Unit Development (PUD)*: PUDs, especially for larger scale projects, can be used to create dense, mixed-use infill projects:
 - General City Law §81-f;
 - Town Law §261-c;
 - Village Law §7-703-a.
- *Transfer of Development Rights (TDR)*: TDR programs can be used to help redirect growth from the periphery to targeted growth areas to create greater density:
 - General City Law §20-f;
 - Town Law §261-a;
 - Village Law §7-701.
- *Subdivision review; approval of plats; development of filed plats*:
 - General City Law §32;
 - Town Law §276;
 - Village Law §7-728.
- *Subdivision review; approval of plats; additional requisites*:
 - General City Law §33;
 - Town Law §277;
 - Village Law §7-730.

Resource—regulations and ordinances:

- Richard Haughey (2008), *Getting Density Right: Tools for Creating Vibrant Compact Development*. A 200-page report, available in paperback and DVS, describes tools used nationwide to support compact development, including visioning, planning, and new regulations. Washington, DC: Urban Land Institute. ULI, National Multi-Housing Council, 2008. Available in bookstores; through the Urban Land Institute at www.uli.org; by calling 1-800-321-5011; or by contacting Peggy Meehan at (202) 332-2303 or peggy@highnooncommunications.com.
- *EcoDensity— Vancouver EcoDensity Charter: How Density, Design, and Land Use Will Contribute to Environmental Sustainability, Affordability, and Livability* (adopted by the Vancouver City Council June 10, 2008). Vancouver, British Columbia, Canada: City of Vancouver.
- http://www.civicinfo.bc.ca/practices_innovations/eco_density_initiative--vancouver--2009.pdf.
- Los Angeles, CA, City Planning Department, "Advisory Agency Policy No. 2006-1: Small Lot Subdivision Ordinance" to engineers, surveyors, and subdivision consultants (Ordinance #176,354, effective January 31, 2005): www.cityplanning.lacity.org/Code_Studies/Housing/smalllotpolicyFINAL.pdf.

- Rodney Cobb and Scott Dvorak (American Planning Association) (2000), *Accessory Dwelling Units: Model State Act and Ordinances*. Washington, DC: AARP. http://assets.aarp.org/rgcenter/consume/d17158_dwell.pdf.
- Maggie Kaufman (August, 2005), *Bibliography of Selected Resources on Second Units*. Links to numerous informational resources related to accessory dwelling units, including regulations and ordinances. Sacramento, CA: California State Department of Housing and Community Development, Housing Policy Division. www.hcd.ca.gov/hpd/secondunits0805.pdf.
- Department of Design, Construction, and Land Use, *Seattle's Housing Choices*. Seattle, WA: City of Seattle. Detailed descriptions of numerous accessory apartments, detached elder cottages, and two examples of a cottage community; also includes discussion and comparison of codes. www.seattle.gov/DCLU/news/Housing_Choices_Brochure.pdf.
- Sage Computing, Inc. (June, 2008), *Accessory Dwelling Units: Case Study*. Washington, DC: U. S. Department of Housing and Urban Development, Office of Policy Development and Research. This study examines the history and benefits of Accessory Dwelling Units (ADU); highlights six communities that have successfully implemented ADU ordinances; provides ordinance language—in Oregon, California, Virginia, and three in Massachusetts. <http://www.huduser.org/Publications/PDF/adu.pdf>.
- Portland, Oregon—the regional government's mandate to increase density by allowing accessory units was expanded to also permit permanent, freestanding accessory units on existing lots. Ordinance: Title 33 (Planning and Zoning), Chapter 33.205 (Accessory Dwelling Units): <http://www.portlandonline.com/bps/index.cfm?c=34561&a=53301>.

Resource—examples and ordinances:

- Steven Fader (2000), *Density by Design: New Directions in Residential Development*. Washington, DC: Urban Land Institute. Fourteen case studies of denser-than-typical projects, showcasing developments of small-lot subdivisions, accessory units, new urbanist housing communities, higher-density development, transit-oriented development, mixed-income and mixed-housing types, infill, and adaptive use. Available in book stores or from the Urban Land Institute's Online Book Store (Order No. N25) at: https://netforum.uli.org/eWeb/DynamicPage.aspx?Site=ULIMC_0512&WebKey=d5f2bf97-b11e-47f4-b329-8a5bd57fcd8c&FromSearchControl=Yes.
- A "disguised density" concept, with structures that resemble large single-family homes, but contain multifamily units— Morgan Woods Development, Edgartown, MA, on Martha's Vineyard: a 60-unit, 21-building community built on 12 acres of land assembled and donated by the Town, providing housing that is affordable to the island's permanent residents. Washington,

DC: Urban Land Institute, *Terwillinger Models of Excellence, Creating Workforce Housing*:

www.uli.org/~media/Documents/AwardsandCompetitions/Terwilliger/Profiles/Morgan_Woods.ashx. Also, The Community Builders, Inc., "Our Projects; Morgan Woods":
http://www.tcbinc.org/what_we_do/projects/morgan_woods.htm.

- Cottage communities— The Cottage Company: www.cottagecompany.com . Nationally recognized leader in building complete, connected communities of "not-so-big" detached single-family homes. Have completed, seven sustainable communities in the Pacific Northwest as in-fill within existing single-family neighborhoods, close to jobs and transportation—in diverse locations, including prime waterfront property near Silverdale, Washington; a Seattle-area neighborhood; a rural island town; and a tranquil woodland.
- Third Street Cottages—the City of Langley, WA (pop. 1100) adopted an innovative "Cottage Housing Development" (CHD) zoning code provision to preserve housing diversity, affordability and character, and to discourage the spread of placeless sprawl—Ross Chapin Architects:
<http://www.rosschapin.com/Projects/PocketNeighborhoods/ThirdStreetCottages/ThirdStreet.html>.
 - *Smart Growth in Action: Third Street Cottages*:
http://www.smartgrowth.org/pdf/cs_001_3rdStreetCottages.pdf.
 - Joshua Greenberg, *Third Street Cottages and Dome Village: Smart Solutions for High-Density Housing*:
[http://www.greendesignetc.net/SmartGrowth_06_\(pdf\)/GreenbergJoshua-smart%20growth\(present\).pdf](http://www.greendesignetc.net/SmartGrowth_06_(pdf)/GreenbergJoshua-smart%20growth(present).pdf).

Resource—written and web:

- Urban Design Associates (August, 2004), *The Architectural Pattern Book: A Tool for Building Great Neighborhoods*. New York, NY: W. W. Norton & Company. Book documents the revival of the traditional architectural pattern book as a means of implementing urban design.
- Urban Design Associates (January, 2003), *The Urban Design Handbook: Techniques and Working Methods*. New York, NY: W. W. Norton & Company. A comprehensive guide to the complex process of urban design.
- Dennis J. Asla (November 1, 2008), *Urban Design and the Bottom Line: Optimizing the Return on Perception*. Washington, DC: Urban Land Institute. Author presents the benefits and impact of good design upon all facets of an urban area—the community, businesses, employees, the general public, city officials, and the developer.
 - Third Street Cottages, Langley, WA: see page 39 in *Urban Design and the Bottom Line*.

- David A. Foster (2003), *Smart Growth in Action: Accessory Dwelling Unit Development Program*, Santa Cruz, CA: City of Santa Cruz Department of Housing and Community Development:
http://www.smartgrowth.org/pdf/cs_018_SantaCruz.pdf.
 Also, "Smart Growth Resource Library," *Smart Growth Online*:
<http://sgnarc.ncat.org/engine/index.php/resources/2005/10/03/Smart-Growth-In-Action-Accessory-Dwelling-Unit-Development-Program-Santa-Cruz-California> ; or: Smart Growth Online, "An Overview of Smart Growth Projects": <http://www.smartgrowth.org/action/>: scroll down to see link to "Smart Growth in Action: Accessory Dwelling Unit Development Program, Santa Cruz, CA."

Additional Resources:

- *General:*
 - "Compact Development: Changing the Rules to Make it Happen," Urban Land Institute Community Catalyst Report, ULI, National Multi-Housing Council, Washington, DC, 2007.
 - Visualizing Density, Julie Campoli and Alex S. MacLean, Lincoln Institute of Land Policy, Cambridge, MA, 2007.
 - Getting Density Right: Tools for Creating Vibrant Compact Development, ULI, National Multi-Housing Council, 2008.
 - Higher Density Development: Myth and Fact, ULI, National Multi-Housing Council, AIA, Sierra Club, 2005.
 - "Compact Development: Selected References," ULI InfoPacket, 2008
 - Compact Development CD: A Toolkit to Build Support for Higher Density Housing, Local Government Commission, Sacramento, VCA, 2002, available at http://www.lgc.org/freepub/community_design/guides/compact_development.html .
 - "The Density Dilemma: Appeal and Obstacles for Compact and Transit-Oriented Development," Anthony Flint, Lincoln Institute of Land Policy Working Paper, Cambridge, MA, 2005.
 - "Compact Development for More Livable Communities," http://www.lgc.org/freepub/docs/community_design/focus/compact_development.pdf.
 - "Does Design Make a Difference?," *The NIMBY Report*, National Low Income Housing Coalition, Fall 2001.
 - "Current Preferences and Future Demand for Denser Residential Environments," Dowell Myers, Funders Network for Smart Growth and Livable Communities, June 2001.
 - "Neighborhood Explorations: This View of Density," San Francisco League of Conservation Voters, accessible at www.sflcv.org/density/.
 - National Town Builders Association, www.ntba.net.
 - American Institute of Architects, www.aia.org.
- *School Costs:*
 - "1999 American Housing Survey," US Bureau of the Census and HUD, Washington, DC.

- "[High Density Development Doesn't Mean Drain on Schools](#)," Ralph Zucker, Real Estate Weekly, September 12, 2007, citing study by David Listokin, Rutgers University Bloustein School of Planning and Public Policy.
- *Bring Along the Public and Developers:*
 - Breaking the Developer Logjam: New Strategies for Building Community Support, Douglas R. Porter, ULI, 2006.
 - Karl Kehde – Smart Land Development, www.landuse.org.
 - Community Design: A Team Approach to Dynamic Community Systems, W. Arthur Mehrhoff, Thousand Oaks, CA, 1999.

FORM-BASED CODES/SMART CODES

Description:

In conventional practices, the common approach underlying land use regulation has been "form follows function"—in which the primary basis for regulation is the separation of *uses* for buildings or spaces. In contrast, "function follows form" is the approach underlying form-based codes (or smart codes)—in which there is less emphasis on *uses* and, instead, the primary emphasis is on the *buildings* and *streets* themselves (the physical forms), with codes concentrating on visual aspects (such as building height and bulk, façade treatments, the location of parking, and the relationship of buildings to the street and to one another)—emphasizing the appearance and qualities of the places created by the buildings and streetscapes.¹

Form-based codes regulate the physical form, design, and scale of buildings, primarily for a particular place. The goal of *form-based zoning* is to design a whole built environment that accommodates residents and visitors of all ages—by focusing on the regulation of the physical form of a neighborhood (and less on an architectural style) and by being more flexible about the uses allowed in those neighborhoods. The design of a place lends itself better to certain uses than others. For example, small scale retail and office uses are often able to utilize spaces in close proximity to buildings with residential design specifications.

Across the country, as an aspect of smart growth, form-based codes are becoming an increasingly popular approach to achieve code reforms that can result in creating communities where people *want* to live, work and play. For example, instead of lengthy text to explain the details of zoning requirements, the focus on building and street design allows the use of graphics and photos—which are more readily understood by residents and others who are not members of the land-use or development professions—which can promote greater community participation in planning and zoning decisions.¹

Characteristics of form-based codes include:²

- They are defined around districts, neighborhoods, and corridors, whereas conventional zoning districts may bear no relationship to the transportation framework or the larger area.
- They favor rules for *building-form* in place of *use-regulation*, recognizing that uses may change over time, but the building will endure.
- They emphasize mixed-use development and a mix of housing types in order to bring destinations into close proximity to the housing and to provide housing choices to meet many individuals' needs at different times in their lives.
- Greater attention is given to streetscape, the design of the public realm, and the role of individual buildings in shaping the public realm—recognizing how critical these public spaces are to defining and creating a "place."

- With a form-based approach, a design-focused public participation process is essential to assure that there is a thorough discussion of land use issues as the code is created, which helps reduce conflict, misunderstanding, and the need for hearings as individual projects are reviewed.

References:

¹ Local Government Commission, *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission.

² Ibid. Characteristics were modified by the Local Government Commission from definitions by Paul Crawford, AICP, founder of the Form-Based Codes Institute.

Benefits:

For residents:

- Form-based codes help to create walkable, human-scale streetscapes; integrated land uses; diverse housing options; compact development; and accessible, lively public spaces—thereby supporting:
 - The ability of all residents to live in the housing of their choice;
 - The ability of older people and younger people with disabilities to more successfully age in place;
 - The strengthening of a sense of community by increasing opportunities for all residents to more easily interact and communicate.
 - The ability of all residents to engage in walking and biking to work, to amenities, and to neighbors.

For the community:

- By using good illustrations, photos, graphics, and diagrams, form-based codes:
 - Are easier to understand, thus, better enabling the public to become more actively involved in the planning and development of their communities.
 - Allow those individuals who are not members of the land-use and development professions to more easily see and understand what is required, thus making compliance easier and greater.
- Form-based codes provide flexibility and certainty to developers.

Impediments or barriers to development or implementation:

- Form-based codes that lack illustrations and graphics, or that have poor illustrations and graphics, have been criticized as being difficult to interpret.
- While form-based codes are increasingly being used in municipalities across the country, in New York State, few communities have had much experience with these codes; thus, there are few workable in-state models available to serve as examples.
- Few municipalities have sufficient staff and resources to develop form-based codes, and there is a general lack of awareness and understanding of these codes.

- Form-based codes require a great deal of detail; thus, they can be difficult to develop. In addition, while these codes are more easily developed at the neighborhood or district level, the amount of required detail can make their development cost-prohibitive on a larger scale.

Resource—statutory authority:

- **Zoning**
 - Grant of specific powers: General City Law §20.
 - Grant of power—appropriations for certain expenses incurred under this article: Town Law §261.
 - Adoption of zoning regulations: Town Law §264.
 - Grant of power: Village Law §7-700.
 - Adoption of first zoning law: Village Law §7-110.

Resource—examples and ordinances:

- Town of Columbia Pike, Arlington, VA—*Columbia Pike Initiative*, "Form Based Code (§ 20, Appendix A of the Zoning Ordinance)"; includes all amendments through January 23, 2010):
<http://www.arlingtonva.us/departments/CPHD/forums/columbia/current/CPHDForumsColumbiaCurrentCurrentStatus.aspx>.
- Form Based Codes Institute: <http://www.formbasedcodes.org>.
 - *Resources*—links to extensive information, publications, technical assistance resources for developing form-based codes, and 20 form-based codes award winning municipalities across the country:
<http://www.formbasedcodes.org/code-resources>.
 - *FBCI Courses*— courses on all aspects of understanding and developing form-based codes: <http://www.formbasedcodes.org/courses-webinars>.
- Daniel Parolek, Karen Parolet, and Paul Crawford (2008), *Form-Based Codes: A Guide for Planners, Urban Designers, Municipalities and Developers*. Hoboken, NJ: Wiley.
- U. S. Environmental Protection Agency, "Examples of Codes That Support Smart Growth Development: Form-Based Codes," *Smart Growth*:
<http://www.epa.gov/livablecommunities/codeexamples.htm>.
 - "Form-Based Code/SmartCode — Area Plans":
<http://www.epa.gov/livablecommunities/codeexamples.htm#area>.
 - "Form-Based Code/SmartCode — City Wide":
<http://www.epa.gov/livablecommunities/codeexamples.htm#city>.
- SmartCode Central—extensive information, case studies, and workshops:
<http://www.smartcodecentral.com>.
 - "Model Smart Code"—a form-based code, SmartCode Central's model transect-based development code is available for all scales of planning, from the region to the community to the block and to a building.
<http://www.transect.org/codes.html>.

- Congress for the New Urbanism, The Marquette Building, 140 South Dearborn Street, Chicago, IL, 60603, (312) 551-7300, Congress for the New Urbanism email: info@cnu.org; <http://www.cnu.org>.
 - 2011 Charter Award Winners for solutions for rail economic development, strategic sustainability, streetcar land use study, campus master plan, better streets plan, beachfront master plan, and others: <http://www.cnu.org/awards/recipients>.
 - 2010 Charter Award Winners for solutions for retrofitting suburbia, serving aging populations, supporting local food sources, remedying foreclosure conditions, and improving health: <http://www.cnu.org/cnu-news/2010/03/cnu-2010-charter-award-winners-set-high-mark-excellence-while-tackling-many-eras-de>.
- Dover, Kohl and Partners—Town Planning, 1571 Sunset Drive, Coral Gables, FL, 33143, info@doverkohl.com, (305) 666-0446: <http://www.doverkohl.com>.
 - "Form-Based Codes for Municipal and Private Clients": <http://www.doverkohl.com/portfoliolist.aspx?type=7>.

Resource—written and web:

- *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission, 1414 K Street, 95814, (916) 448-1198: http://www.lgc.org/freepub/docs/community_design/fact_sheets/form_based_codes.pdf. Local Government Commission: <http://www.lgc.org>.
- Brad Broberg (Summer, 2007), "Making Smart Growth Possible with Form-Based Codes," *On Common Ground*, the journal of the National Association of Realtors, pp. 44-49: http://icma.org/en/icma/knowledge_network/documents/kn/Document/5331/Making_Smart_Growth_Possible_with_FormBased_Codes. Click on "Download."
- Peter Katz (November, 2004), *Form First: The New Urbanist Alternative to Conventional Zoning*: <http://www.nh.gov/oep/resourcelibrary/referencelibrary/f/formbasedzoning/formfirst.htm>.
- Paul Crawford (September, 2004), *Codifying New Urbanism: How To Reform Municipal Land Development Regulations*. Washington, DC: American Planning Association.

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INCENTIVE ZONING and INCLUSIONARY ZONING

Description:

Incentive Zoning—

Incentive zoning provides inducements to developers for development projects that provide some type of a community benefit, such as a public square, streetscape, park, senior housing, or affordable housing. Often, the incentive will take the form of a density bonus—that is, in exchange for including the specified community benefit, the developer is given permission to place more buildings in a specified area than would normally be permitted by the zoning code. For example, the City of Seattle allows greater densities than those permitted in the city's ordinance if a project provides a daycare center, shopping atrium, widened and improved sidewalk, or an urban plaza. New York City used to provide height density bonuses (greater number of floors in a high-rise building) in exchange for improved public spaces on the streetscape fronting or nearby the building.

Inclusionary Zoning—

Inclusionary zoning is a form of incentive zoning. Most often, the inducement to the developer is in the form of a density bonus in exchange for including a certain percentage of affordable family housing units, senior housing units, and/or multi-unit housing within a particular development project or land area. Thus, inclusionary zoning ordinances can be used to create greater housing options for specified residents within the community or building.

"Exclusionary zoning" (the opposite of inclusionary zoning) is sometimes used by communities to preclude affordable housing units or multi-unit dwellings for families or individuals. Through legal suits, the courts have regularly struck down blatant exclusionary zoning—most recently in the 2006 New York case of the Town of Montgomery v. Landmaster Mont I, LLC et al.,¹ which ruled that municipal zoning should accommodate all residents. This case can be used to convince localities to adequately zone for alternative housing options, including senior housing or housing for individuals with disabilities and other population groups.

Reference:

¹ Jacobowitz & Gubits, LLP, *Affordable Housing: "D. Recent Decisions (#5)":*
<http://www.jacobowitz.com/General-Resources/Affordable-Housing.shtml>.

Benefits:

- Incentive zoning is an effective method for a municipality to achieve the advantages of a desired community benefit, such as providing more public amenities, increased housing options through greater density, needed affordable housing, and a pedestrian-friendly environment, all of which provide a community living environment that responds to the needs and quality of life

issues of various resident groups, including older adults, individuals with disabilities, young-adult workers, and others.

- Since incentive zoning is market-based and voluntary, no public subsidies are required for the resulting public amenities.
- Inclusionary zoning provides smaller, more affordable housing for various resident groups, including single adults, older adults, childless couples, individuals with disabilities, and others.
- Inclusionary zoning creates age- and income-integrated neighborhoods and buildings without relying on taxpayer-funded housing projects.

Impediments or barriers to development or implementation:

- In traditionally zoned, low-density areas, incentive zoning can engender an unproven, but expressed public fear of greater density (lower property values, stressed infrastructure, changed resident profile), requiring education and repeated discussion to counter such fears.
- The added density expected in incentive zoning must be apportioned and designed carefully to accommodate aesthetics, neighborhood character, and resident concerns.
- Inclusionary zoning can engender unproven but publicly expressed fears of overcrowding, increased crime, decreased property values, and a change in community character, requiring education, repeated discussion, and examples to counter such fears.

Resource—examples and ordinances:

- "Inclusionary Housing/Bonus Density/Incentives" *Affordable Housing Ordinances/Flexible Provisions*. Seattle, WA: Municipal Research and Service Center of Washington. Links to numerous examples of inclusionary zoning: <http://www.mrsc.org/subjects/Housing/ords.aspx>.
- "Housing Affordable to Elderly Households," *Board of Supervisors Policy—Policy No. I-79*, County of San Diego, CA: <http://www.sdcountry.ca.gov/cob/docs/policy/I-79.pdf>.
- City of Burlington, VT < Community and Economic Development Office: 24 V.S.A Chapter 117, *Burlington Comprehensive Development Ordinance*, Article 9—Inclusionary and Replacement Housing, Part I—Inclusionary Zoning: http://www.ci.burlington.vt.us/planning/zoning/cdo/docs/article_09_housing.pdf.
- Allan Mallach (1984), *Inclusionary Housing Programs: Policies and Practice*. New Brunswick, NJ: Rutgers University Center for Urban Policy Research.
- Anita R. Brown-Graham (editor) (2004), *Locally Initiated Inclusionary Zoning Programs: a Guide for Local Governments in North Carolina and Beyond*. Chapel

Hill, NC: University of North Carolina, School of Government. Includes: Overview of Inclusionary Zoning, Types of Inclusionary Zoning Programs, 15 Recommendations for Local Governments in Implementing an Inclusionary Zoning Program, Local Governments' Statutory Authority to Engage in Inclusionary Zoning Programs, and Constitutional Limitations on Inclusionary Zoning.

http://openlibrary.org/books/OL3456007M/Locally_initiated_inclusionary_zoning_programs.

Resource—written and web:

- Patricia E. Salkin (2000), "Senior Housing and Zoning," *New York Zoning Law and Practice*, Fourth Edition, Chapter 23. St. Paul, MN: West Group.
- Patricia E. Salkin (Fall, 2003), "Zoning and land Use Planning: Where Will All the Baby Boomers Go? Planning and Zoning for An Aging Population," *Real Estate Law Journal*.
- PolicyLink, New York City and Oakland, CA, a national research and action institute advancing economic and social equity by Lifting Up What Works®, based on a belief that equity—just, fair, and green inclusion—must drive all policy decisions:
<http://www.policylink.org/site/c.lkIXLbMNJrE/b.5136441/k.BD4A/Home.htm>.
 - "Inclusionary Zoning Tool Kit" (2003):
http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137027/k.FF49/Inclusionary_Zoning.htm.
- *Go To 2040*, Chicago Metropolitan Agency for Planning, Chicago, IL:
 - "Inclusionary Zoning—Appendix: Case Studies":
<http://www.cmap.illinois.gov/strategy-papers/inclusionary-zoning/references>.

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MIXED-USE ZONING

Description:

Mixed-use zoning blends a variety of land uses together in one area. Single-family detached homes of various sizes, townhouses, apartments, and condos; retail stores, restaurants, and services; and civic and cultural amenities might all be located within walking distance of each other. Mixed-use zoning is typical in traditional cities, villages, and hamlets that were developed in the early 20th Century.

Like density, the extent to which land uses can or cannot be mixed within a given area is determined by the municipal zoning code. Most municipalities establish several different land use classifications in their zoning codes, delineating the land-use and building-density allowed on a parcel of land or in an entire area or district. For example, an R1–residential zoning code might allow one unit per acre; an R2–residential code might allow two units per acre; NC might allow neighborhood commercial/retail uses; and IND might allow heavy industrial uses.

Zoning originated in the early 20th Century for two related reasons: to separate residential neighborhoods from noxious manufacturing plants, and to provide stability and certainty in the real estate market. By writing development outcomes into local zoning laws, builders and home-buyers were given some degree of certainty about the future of the biggest investment of their lives. Since the mid-20th Century, the separation of different land uses and residential types has become the norm, and mixed-use zoning the exception.

The idea of single-use zoning was stretched to the point that often no two different land uses could be located near one another. Within residential areas, single-use zoning even segregated different housing types. Public and civic spaces were also separated. Parks and municipal centers, formerly located accessibly at the center of communities, were treated as separate, isolated land uses and were thus located on the suburban fringe. Schools were sited on large tracts of land along highways and arterials, separated from the neighborhoods they served and accessible only by car.

The Federal Housing Authority (FHA) eventually required single-use zoning as a condition for granting low-interest, long-term mortgages. And, a burgeoning post-war housing market for large homes on large lots, with privacy and exclusivity, led localities and developers to plan and build almost exclusively on a single/separate-use matrix. Mixed-use zoning—and the vibrant environments they create for older adults, individuals, persons with disabilities, families, workers, and businesses—don't always comply with most suburban and rural municipal jurisdictions.

Benefits:

- *Land Use Synergy:* Mixed-use areas create mutually-supporting and complementary synergies among the different land uses. For example, residents and office workers provide a market for retail stores and restaurants, which offer convenient and accessible amenities in return. Activity on the street from retail, cultural, and recreational activities creates a more vibrant and safe environment. This environment invites more residents and businesses to move in. The festivals and other public gatherings made possible by the public space and street activity continue a positive cycle of supporting restaurants and other businesses.
- *Walkable/Bikeable Neighborhoods:* Single-use suburban zoning created unprecedented distances between the different places we need to go to in our daily lives, making these destinations accessible almost exclusively by car. Mixed-use zoning, instead, places a variety of life's daily needs—home, work, recreation, retail, food, school—within close proximity, making them more accessible by foot, bike, transit, or short car ride. Increasing density magnifies this beneficial effect.
- *Increased Transit Opportunities:* Compact, mixed-use communities are also more transit-friendly. First, transit becomes more accessible by foot, bicycle, or short car ride. Second, density provides the critical market mass necessary to sustain a public investment in mass transit.
- *Affordable Housing:* The inclusion of smaller housing units into a residential neighborhood offers more affordable housing options for older adults, one- or two-person families, persons with disabilities living alone, and others. They also create a more vibrant and socially-interactive community life, offering quality-of-life and mental health benefits.
- *Life-Cycle Housing:* Mixed-use communities also offer life-cycle housing for those wishing to stay in a particular locale throughout the different home-buying stages of life—offering a variety of housing types, including starter homes, larger family homes, apartments, accessory units, townhomes, senior housing, shared housing, and others. This type of community creates opportunities for residents to interact with all demographics in a community—peers, long-time friends, children, families, and members of their own families. As one author noted, "With life cycle housing available, social networks can remain intact after moves; children need not be uprooted from familiar schools; and elderly persons can remain near friends and families."¹
- *Access to Amenities and Destinations:* When land uses are mixed within a community, rather than each being isolated and segregated from the others in a community, life's daily destinations and amenities become more accessible, particularly for pedestrians, bicyclers, and transit riders. For example, instead of having to travel long, circuitous routes and endure traffic congestion to reach shopping and entertainment destinations, older adults and other residents can access these points within, or close to, their neighborhoods. Mixed-use development is often most feasible in city and village downtowns, urban

neighborhoods, and sometimes even in rural hamlet areas where development has been concentrated.

- *Access to Fresh, Healthy Food:* Across the country, awareness has increased significantly about the impact of diet on the mental and physical health of all community residents, including older adults and children—making easy, close access to fresh, healthy, nutritious food take on greater significance as an element of a livable, healthy community. Under conventional zoning, many large supermarkets that would stock fresh food are not located within easy access by foot, bike, or public transit. Instead, locating food retail and farmers markets with fresh—preferably local—food within easy access presents the ideal venue through which older adults, younger individuals, and families can pursue a healthier diet.
- *Sense of Place:* Well-designed, mixed-use communities generally create a greater sense of place and community identity, the very characteristics that older adults appreciate in their later years and that families value when raising children, working, and recreating.

Reference:

¹ Reid Ewing (n.d.), *Best Development Practices: A Primer for Smart Growth*. Washington, DC: American Planning Association.
<http://www.epa.gov/dced/pdf/bestdevprimer.pdf>.

Impediments or barriers to development or implementation:

- *Local Zoning:* Post-war suburban zoning is dominated by single-use zoning. Consequently, mixed-use projects usually require developers to seek zoning changes and/or variances.
- *Development Complexity:* Mixed-use projects are generally more complicated for developers and municipalities. Because of the greater variety of land uses involved, the lead developer must often assemble a team of developers, each with expertise in the particular components of a mixed-use project. Financing also becomes more complicated as each developer must seek different sources of financing for the project. Mixed-use projects typically take longer to turn a profit, but successful projects offer greater rewards to those investors and developers willing to wait longer. To reap these benefits, municipalities and other levels of government sometimes enter into a public/private partnership to provide financial or infrastructure support for a mixed-use project.

Resource—statutory authority:

- *Zoning:*
 - Grant of specific powers: General City Law §20.
 - Grant of Power—appropriations for certain expenses incurred under this article: Town Law §261.
 - Adoption of zoning regulations: Town Law §264.
 - Grant of power: Village Law §7-700.
 - Adoption of first zoning: Village Law §7-110.

- *Planned Unit Development:*
 - General City Law: §81-f;
 - Town Law: §261-c;
 - Village Law: §7-703-a.

Resource—examples and ordinances:

- Gene Bunnell (2002), *Making Places Special: Stories of Real Places Made Better by Planning*. Chicago, IL: American Planning Association.
- Dean Schwanke (2003), *Mixed-Use Development Handbook*, ULI Development Handbook Series. Washington, DC: Urban Land Institute.
- Smart Growth Mixed-Use Law, Suffolk County, NY:
www.landuse.law.pace.edu/landuse/documents/laws/reg2/SfolkCntyMxedUseSmartGrowth.doc.
- New Model Colony Mixed-Use District, City of Ontario, California:
www.ci.ontario.ca.us.
- "Smart Growth Zoning Codes: A Resource Guide," Sacramento, CA: Local Government Commission. To purchase:
http://www.lgc.org/freepub/community_design/guides/smart_codes.html.
 - View online: *Overcoming Obstacles to Smart Growth through Code Reform An Executive Summary of Smart Growth Zoning Codes: A Resource Guide*, Sacramento, CA: Local Government Commission:
http://www.lgc.org/freepub/docs/community_design/sg_code_exec_summary.pdf.
- Marya Morris (2009), *Model Smart Land Development Regulations*. Washington, DC: American Planning Association.
<http://www.planning.org/research/smartgrowth/>.
<http://www.planning.org/apastore/search/default.aspx?p=3960>.
- *ULI Development Case Studies*, Urban Land Institute: www.casestudies.uli.org.
- Harriman Campus Master Plan, Harriman Research and Technology Development Corporation, Albany, NY.
http://www.esd.ny.gov/subsidiaries_projects/hrtde/hrtde.html For links to final report: on home page, type "Master Plan" into search tool.
- Urban Land Institute, (June 5-10, 2005), "Rochester, NY: An Advisory Services Panel Report." Washington, DC: Urban Land Institute.
http://www.uli.org/CommunityBuilding/AdvisoryService/~/_media/CommunityBuilding/AdvisoryServices/PowerPoints/Rochester%20%20NY%20June%202005.aspx.
- Planning Department, "Downtown 2010 Sector Development Plan," *Planning Department Publications/Documents*. New Mexico: City of Albuquerque,

Planning Department, Downtown Action Team:
www.cabq.gov/planning/publications/: scroll down to "Downtown 2010 Sector Development Plan."

- *City of Vancouver: Creating a Sustainable Community*, Southeast False Creek Plan. British Columbia, CA: City of Vancouver:
<http://vancouver.ca/commsvcs/southeast/>.
- Department of Planning, *Mixed Residential Commercial Ordinance (Fact Sheet)*. Georgia: City of Atlanta, Department of Planning, Development and Neighborhood Conservation.
http://www.dca.ga.gov/development/PlanningQualityGrowth/programs/downloads/resourceTeams/grant_park/Appendix_D-MRC_Fact_Sheet.pdf.

Resource—written and web:

- In the *Resource Manual*, see also: *Form-Based Codes* and *Smart Growth/TND/New Urbanism*.
- Charles C. Bohl (2003), *Place-Making: Developing Town Centers, Main Streets, and Urban Villages*. Washington, DC: Urban Land Institute.
- Mark L. Hinshaw (2007), *True Urbanism: Living in and Near the Center*. Chicago, IL: American Planning Association, Planners Press.
- Dennis Jerke (2008), *Urban Design and the Bottom Line: Optimizing the Return on Perception*. Washington, DC: Urban Land Institute.
- Reid Ewing (n.d.) *Best Development Practices: A Primer for Smart Growth*. Washington, DC: American Planning Association.
- Urban Design Associates (2003), *The Urban Design Handbook: Techniques and Working Methods*. Pittsburgh, PA: Urban Design Associates.
- Anthony Flint (2006), *This Land: The Battle over Sprawl and the Future of America*, Chapter 6: Hands Off My Land, pp. 127-148. Baltimore, MD: Johns Hopkins University Press.
- Donald L. Elliott (2008), *A Better Way to Zone: Ten Principles to Create More Livable Cities*, Chapter 1: A Brief History of Zoning, pp. 9-38. Washington, DC: Island Press.

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OVERLAY ZONING DISTRICTS

Description:

According to the University of Wisconsin's Land Use Education Center,¹ overlay zoning is a regulatory tool that creates a special zoning district that identifies distinctive development provisions in addition to those in the underlying base zone. The overlay zone can be placed over an existing base zone; it can share common boundaries with the base zone; or it cut across base zone boundaries. The allowable provisions apply to all developers who wish to develop a project or area that lies within the overlay district; this contrasts with a Planned Unit Development, which is usually planned and negotiated between the municipality and a single developer.

Incentives (by the state or the municipality) or regulations are attached to an overlay district to help a municipality achieve specific aims; that is, allow developers the option to pursue alternatives to conventional zoning in a specific area, protect an identified resource, or guide development within a special area. For example, overlay zoning has been successfully used to manage development in or near environmentally sensitive areas, protect historical areas, encourage higher-density and smaller-lot development, promote economic development, allow various senior housing alternatives, encourage narrower streets, re-develop a municipal center, preserve farmlands, cluster housing around a transit site, and other purposes.

Reference:

¹ Douglas Miskowiak and Linda Stoll (2006), *Planning Implementation Tools: Overlay Zoning*. Stevens Point, WI: Center for Land Use Education, University of Wisconsin—Stevens Point.
<ftp://ftp.wi.gov/DOA/public/comprehensiveplans/ImplementationToolkit/Documents/OverlayZoning.pdf>.

Benefits:

For residents:

- Offering the option of overlay zoning avoids the need for developers to seek costly and time-consuming variances and re-zonings for innovative or successful projects that have not been addressed in a municipality's existing zoning ordinances, but which serve various constituencies, such as older adults, young singles, individuals with disabilities, workers, and others.

For communities:

- The option of overlay zoning can offer the land-use flexibility a municipality may need to achieve its aims to create a livable community.

Impediments or barriers to development or implementation:

- Overlay zoning is usually voluntary; therefore, complementary incentives or public investments are often necessary to make these projects feasible.

Resource—examples and ordinances:

- Kristen Forsyth (September, 2001), *Smart Neighborhoods: Managing Maryland's Growth*. Baltimore, MD: Maryland Department of Planning. Includes Maryland's Smart Neighborhoods Model Ordinance:
<http://planning.maryland.gov/pdf/ourproducts/publications/modelsguidelines/smartneighborhoods.pdf>.
- Pace University Land Use law Center, White Plains, NY:
<http://www.pace.edu/school-of-law/centers-and-special-programs/centers/land-use-law-center-0>. Type "Documents" into the Pace web site's search tool; at the documents screen, type "overlay districts" into the search tool for links to examples of overlay districts established to promote specific land use goals. Notable examples include:
 - Senior citizens and housing overlay/floating zoning:
<http://www.googlesyndicatedsearch.com/u/paceEdu?q=documents>: type "senior housing overlay zoning district" into the Documents search tool for several examples (in New York State and other states) of senior housing overlay/floating zones.
 - City of Vancouver, WA: Transit Overlay District:
<http://www.landuse.law.pace.edu/landuse/documents/laws/reg10/VancouverWATOD.doc>.
or: <http://www.googlesyndicatedsearch.com/u/paceEdu?q=&hl=en&ie=ISO-8859-1&q=City+of+Vancouver+overlay+district&btnG=Search>: see first item in list for link to Vancouver example.
 - Town of Malta, NY: Central Business District Overlay District:
<http://www.googlesyndicatedsearch.com/u/paceEdu?q=&hl=en&ie=ISO-8859-1&q=Town+of+Malta+overlay+district&btnG=Search>: see first item in list ("Town of Malta NY Downtown Overlay District") for link to Malta example.
 - Charlotte, NC: Pedestrian Overlay District:
<http://www.googlesyndicatedsearch.com/u/paceEdu?q=&hl=en&ie=ISO-8859-1&q=Charlotte%2C+NC%2C+overlay+district&btnG=Search>: see first item in list for link to Charlotte example.
- Larry Duket (March, 1995), "Overlay Zones," *Managing Maryland's Growth—Models and Guidelines: Flexible and Innovative Zoning Series*. Publication #95-03. Baltimore, MD: Maryland Office of Planning.
<http://www.mdp.state.md.us/PDF/OurProducts/Publications/ModelsGuidelines/mg10.pdf>.

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PICTORIAL ZONING CODES

Description:

Often, zoning codes consist of maps and confusing legal language to describe what development and buildings are allowable and not allowable in a community. Such text, as well as the use of industry-specific terms, is not readily understood by residents and others who are not directly involved in land use or the development professions; in addition, such language can lead to arguments over the interpretation of the codes.

Across the country, a movement to reform the fashioning of zoning codes is gaining momentum, and an increasingly popular approach is to use graphics and photos in place of lengthy, repetitive text to explain the details of zoning requirements.¹ As more communities choose to use an inclusive planning process that includes broad resident involvement and active participation by multiple community sectors, a pictorial approach allows everyone involved to concentrate their efforts on the essence of the ordinance's requirements rather than spending energy and time on interpreting legal wording or the meaning of specific expressions, or on "word-smithing" language in the hopes of clearly spelling out what is to be achieved.

Reference:

¹ *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission.

Benefits:

For residents:

- Pictorial zoning codes are more democratic instruments:
 - They are more readily understood by individuals who are not familiar with the language of the land use and development professions, and
 - Pictures and graphs are less technical and easier for the lay public to readily understand, thereby encouraging the public to become more involved in the planning efforts and development projects in their communities.

For the community:

- A pictorial zoning approach is particularly well-suited to form-based codes (see *Form-Based Codes* in the Resource Manual), as the physical form and arrangement of buildings and other public amenities can be more easily conveyed through a picture or a graph.

Impediments or barriers to development or implementation:

- Municipal planning officials and legal staff often prefer the more familiar, more traditional, technical approach to zoning.

Resource—examples and ordinances:

- City Council—Downtown Action Team (2000), *Downtown 2010 Sector Development Plan*. Albuquerque, NM: City of Albuquerque, Planning Department, Downtown Action Team.
<http://www.cabq.gov/planning/publications/down2010/preface.pdf>.
- Andres Duany and Elizabeth Plater-Zyberk (2001), *Onondaga County Settlement Plan*. Syracuse, NY: Syracuse-Onondaga Planning Agency.
<http://syracusehenandnow.org/SettlementPlan/SettlementPlan.htm>.
<http://www.esf.edu/la/resources/TNDCode/TNTCode.PDF>.

Resource—written and web:

- *Form-Based Codes: Implementing Smart Growth*. Sacramento, CA: Local Government Commission.
http://www.lgc.org/freepub/docs/community_design/fact_sheets/form_based_codes.pdf.
- Thomas Comitta Associates (March 16, 2010), "Evolution of Form-Based Code," *Planning and Development*. <http://www.comitta.com/blog/?p=10>.

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PLANNED UNIT DEVELOPMENT (PUD)

Description:

There is no statutory definition of a Planned Unit Development (PUD) in New York State.¹ However, in general, the term "Planned Unit Development" describes a *type* of development, as well as the regulatory process itself, that permits a developer to meet community land use goals without being bound by existing zoning requirements; for example, a PUD may be used to encourage clustering of buildings, incorporate a variety of building types, promote energy-efficiency systems, allow mixed land uses, and create housing for specific resident groups. Most PUDs offer a variety of housing types built around a commercial center, and open spaces are often created for public enjoyment.

According to the New York State Legislative Commission on Rural Resources, a PUD is a planning tool that offers municipalities "a constructive way to incorporate many innovative land use techniques (such as incentive zoning and cluster development) within a single, coordinated development plan . . . encouraging the efficient use of public facilities and services while also conserving open space, and restoring main streets as centerpieces of community pride."²

A PUD designation permits great flexibility to allow more creative, imaginative, innovative design in site planning, zoning, and building design—a blank slate, of sorts. This flexibility permits the developer to incorporate amenities in the project that exceed those that could have been achieved under the general provisions of the municipality's zoning regulations—creating a designed grouping of varied and compatible land uses, such as housing, recreation, commercial centers, and industrial parks, all within one contained development or subdivision.

A PUD is a special type of floating overlay district (see Overlay Zoning Districts in the *Resource Manual*) that generally does not appear on the municipal zoning map until a PUD designation is requested and a project is approved. When a PUD designation is applied (to a single building, a multi-unit development, or to a large or small area of land), the zoning commission/board usually mandates that standards be developed that are specifically tailored to the PUD project. The PUD is planned and built as a unit, thus fixing the type and location of uses and buildings over the entire project. PUDs differ from "mapped overlay zones" in that a PUD is usually planned and negotiated between the municipality and one single developer, whereas the provisions of an overlay zone district apply to multiple developers who choose to develop a project or area that lies within the overlay district.

References:

¹ John Nolan (2001), *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth*. Washington, DC: Island Press.

² New York State Legislative Commission on Rural Resources (Fall, 2005), *A Guide to Planned Unit Development*. Albany, NY: NYS Legislative Commission on Rural Resources.

Benefits:

- The flexibility inherent in using PUDs as a planning tool allows a municipality to custom-design an area or a development to achieve specific community goals and benefits; for example, the design of compact, walkable, mixed-use communities can offer various housing alternatives and amenities that effectively respond to the needs and preferences of all residents, but that also address specific mobility and accessibility needs of older adults and individuals with disabilities, can support successful aging-in-place of elderly adults, and can meet the specific housing needs of distinct population groups such as single parents, grandparents raising grandchildren, empty-nesters, low-income families, young working adults, and others.
- Open spaces, protected for the benefit of all residents, are often incorporated into PUDs.
- Typically in PUDs, homes with smaller yards (which require minimal upkeep) and apartments for people at different life stages are within close proximity to one another—encouraging interaction and socializing among inhabitants of different ages.
- Unlike conventional zoning, which often limits density and consumes larger lots more quickly, PUDs can be designed for greater density and with flexibility in set-backs.
- Larger PUDs have conveniently close, mixed uses—making shopping, dining, working, and recreating close to home more feasible.

Impediments or barriers to development or implementation:

- Without education and repeated discussions during the planning process, neighbors often oppose denser, mixed-use, and mixed-income development that differs from their familiar low-density subdivisions.
- Because PUDs usually involve one owner of a large parcel of land, such development opportunities are more rare; purchasing and assembling parcels to create sufficient space can be costly, complicated, and time-consuming.
- Municipalities may not have the resources and expertise to create a PUD, which may compromise a positive outcome for the community. For example, because the process of creating a PUD leaves so much discretion to the local governing board and planning board at the time the project is proposed, uncooperative developers can sometimes take advantage of board members' inexperience, with resulting projects providing a much greater benefit to the developer than to the community.

Resource—statutory authority:

- Planned Unit Development districts:
 - General City Law, §81-f;
 - Town Law, §261-c;
 - Village Law, §7-703-a.

Resource—examples and ordinances:

- New York State Legislative Commission on Rural Resources (Fall, 2005), "A Local Law in Relation to the Establishment of Planned Unit Development Districts and the Review of Planned Unit Development Plans" (pp. 1-6), *A Guide to Planned Unit Development*. Albany, NY: NY State Legislative Commission on Rural Resources. Includes photos of examples of projects designed as Planned Unit Developments.
http://www.dos.ny.gov/lg/publications/Planned_Unit_Development_Guide.pdf.
- Allisonville Meadows Planned Unit Development Ordinance, Town of Fishers, Indiana: http://www.fishers.in.us/egov/docs/1087406705_520080.pdf.
- Planned Unit Developments:
 - Village of Hagaman, Montgomery County, NY
 - River Bridge, Palm Beach County, FL
 - King farm, Rockville, MD
 - Corning, Steuben County, NY
 - Longs Peak, Boulder County, Boulder, CO

Resource—written and web:

- New York State Legislative Commission on Rural Resources (Fall, 2005), *A Guide to Planned Unit Development*. Albany, NY: NYS Legislative Commission on Rural Resources.
http://www.dos.ny.gov/lg/publications/Planned_Unit_Development_Guide.pdf.
- Kevin Nelson (February, 2012), *Essential Smart Growth Fixes for Rural Planning, Zoning, and Development Codes*. Washington, DC: U. S. Environmental Protection Agency.
http://www.epa.gov/dced/pdf/rural_essential_fixes_508_030612.pdf.
- Steve Smith (2007), "I-69 Planning Toolbox," *Directing Development and Growth*. Indiana, Indianapolis: State Department of Transportation:
 - Complete *Planning Toolbox*:
<http://www.in.gov/indot/div/projects/i69planningtoolbox/growth.html>.
<http://www.in.gov/indot/div/projects/i69planningtoolbox/list.html>.
 - "Planned Unit Developments" section of toolbox:
<http://www.in.gov/indot/div/projects/i69planningtoolbox/pdf/Planned%20Unit%20Developments.pdf>.
- John Nolan (2001), *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth*. Washington, DC: Island Press.

- Chapter 6—"Balancing Development and Conservation": Section D: Planned Unit Developments, pp. 226-232.

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REDUCED MINIMUM LOT SIZES / SPECIFIED MAXIMUM LOT SIZES

Description:

Residential lot sizes are established in municipal zoning codes. Codes can set the minimum and/or the maximum acreage or square footage on which a residential unit can be built.

Minimum lot sizes: By setting minimum lot sizes, many municipalities effectively preclude (or "zone out") the possibility of providing smaller, more affordable homes and lots. Relaxing zoning restrictions to reduce or eliminate minimum lot-size requirements gives developers the flexibility to build smaller, more affordable homes on smaller, more affordable lots for a variety of consumer groups who need and desire such options, including empty nesters, elderly adults, younger individuals with disabilities, young single workers, childless couples, and others.

Maximum lot sizes: In response to restrictive minimum lot-size requirements and a growing demand for smaller, more affordable residential options, some communities have enacted "maximum" lot sizes; that is, land parcels cannot exceed a certain size for individual housing units, which allows smaller, less expensive homes and higher-density development. A maximum lot size requirement can be used to achieve a community development goal/purpose for designated areas, such as a Planned Unit Development, a senior housing overlay zone, a transit-oriented walkable community, or a mixed-use development project.

Benefits:

For residents:

- Greater zoning flexibility in specifying lot sizes allows more alternatives in housing types and housing affordability, which:
 - Responds more effectively to the diversity in housing needs and preferences that characterizes a community's resident population.
 - Supports the ability of older adults and individuals with disabilities to successfully age in place in their own communities.
 - Supports the substantial efforts of family caregivers of older adults and younger people with disabilities by providing much greater housing choices from which to organize the living environment that works best for both the caregiver and the individual needing on-going care.

For communities:

- Greater zoning flexibility in specifying residential lot sizes allows much greater development innovation, which:
 - Stabilizes the community's residential base by providing residents with greater choices for successfully remaining in the community instead of relocating to other communities or states to find housing choices that better meet their needs.

- Improves the overall well-being of the community by promoting the development of alternative housing choices, which is a critical element of a *livable community*.

Impediments or barriers to development or implementation:

- Reducing minimum lot sizes or specifying maximum lot sizes changes familiar development codes (and familiar community design), which can elicit fear among residents of density, overcrowding, reduced property values, and altered neighborhood character.

Resource—examples and ordinances:

- City Council—Downtown Action Team (2000), *Downtown 2010 Sector Development Plan*. Albuquerque, NM: City of Albuquerque, Planning Department, Downtown Action Team.
<http://www.cabq.gov/planning/publications/down2010/preface.pdf>.
- Andres Duany and Elizabeth Plater-Zyberk (2001), *Onondaga County Settlement Plan*. Syracuse, NY: Syracuse-Onondaga Planning Agency.
<http://syracusehenandnow.org/SettlementPlan/SettlementPlan.htm>.
<http://www.esf.edu/la/resources/TNDCode/TNTCode.PDF>.

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RELAXED / FLEXIBLE BUILDING SET-BACK REQUIREMENTS

Description:

Zoning codes stipulate the minimum distance (set-back requirements) that a structure or home can be built from the front, side, and rear property lines that separate the structure or home from adjoining properties or lands. Each municipality determines/writes its own zoning codes, which dictate land- and building-use in different areas (zoned districts) of the municipality. The uses that are allowed on a particular residential lot or land area are governed by the regulations for the zoning district in which the lot or land area is located (in addition to other general regulations). Thus, code requirements, including set-back requirements, can differ among the various zoned districts within a municipality, and can differ among various municipalities.

Set-backs are used as devices to achieve various purposes. For example, in ancient times, set-backs (called step-backs) were initially used for structural reasons. Builders could build taller clay, stone, or brick structures (such as the pyramids) by using a step-like recession (step-back) design to systematically reduce the footprint of each tier/level of a building that was located successively higher from the ground—thereby distributing gravity loads produced by these types of building materials and allowing natural erosion to occur without compromising the structural integrity of the building.

Over time, as improved building materials came into use, architects used building step-back designs as an architectural feature for their aesthetic value; or to achieve such features as views of the sky, roof gardens, terraces, and outdoor dining far above the ground; or for safety reasons, such as allowing fire apparatus to pass more easily between buildings. In compact-development urban areas, health concerns led to the greater use of set-backs as a means of increasing sunlight and air circulation between neighboring properties and between buildings and streetscapes. For example, codes might dictate that the lower section of a building facing the street will be limited to a specified height or number of stories, with stories above that height required to be "set back" to form a theoretical inclined plane (sky exposure plane). Often, set-back guidelines governing the space in front of a building at street level are a strategy to create plazas, with the intent of increasing the amount of public space in a city.

In suburban areas, set-back requirements are used to create more open spaces and to promote design consistency within residential neighborhoods. Most suburban zoning codes or subdivision regulations require significant building set-backs.

As zoning codes are determined locally, local governments possess the authority/flexibility to reduce or change set-back distances in order to accommodate more, or differently configured, housing units on a residential parcel

or structures in a defined land area. Such flexibility can be a valuable tool for communities that are searching for alternative ways to successfully respond to the diverse housing needs of their various resident populations, effective solutions for creating walkable communities, innovative features for improving their community's livability, and other creative methods for promoting the well-being of community members.

Reference:

"Setback (Architecture)," *Wikipedia*, citing: Irving L. Allen (1995), "Skyscrapers," *The Encyclopedia of New York City*. New Haven, CT: Yale University Press and the New York Historical Society.

Benefits:

For residents:

- Set-back flexibility can better accommodate greater density and smaller homes, which can allow homeowners to add accessory units for older family members (attached or detached) on their property without seeking a variance.

For communities:

- The ability to build up to or nearer the property line:
 - Creates a village/urban feel that many homebuyers now desire.
 - Allows greater vigilance of street activity from the buildings, which deters crime.

Impediments or barriers to development or implementation:

- Neighbors may perceive relaxed set-backs as inviting overcrowding or undesirable urban-form development.

Resource—examples and ordinances:

- City Council—Downtown Action Team (2000), *Downtown 2010 Sector Development Plan*. Albuquerque, NM: City of Albuquerque, Planning Department, Downtown Action Team.
<http://www.cabq.gov/planning/publications/down2010/preface.pdf>.
- Andres Duany and Elizabeth Plater-Zyberk (2001), *Onondaga County Settlement Plan*. Syracuse, NY: Syracuse-Onondaga Planning Agency.
<http://syracusesthenandnow.org/SettlementPlan/SettlementPlan.htm>.
<http://www.esf.edu/la/resources/TNDCode/TNTCode.PDF>.

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RETIREMENT HOUSING ZONING

Description:

Localities can use several zoning tools/methods to achieve a community's goal of creating various housing alternatives for older people—both affordable and market-rate units. For example, tools such as Planned Unit Developments, variances, special use permits, a senior housing (golden zoning) district, a senior overlay zone, or a floating senior district can be used to allow/promote single-family homes for people over a specified age, a variety of multi-unit senior housing models, accessory apartments, elder cottages in either single locations or in a cluster, grandfamilies housing (for grandparents raising grandchildren), assisted living facilities, shared living residences, and shared apartments.

Retirement Zoning District: A locality can set aside specific areas as “retirement community districts” in their zoning ordinances. These districts (base zone, overlay zone, or floating zone) are also known as golden zones, senior housing districts, and housing for the elderly district; and the ordinance typically restricts tenancy to residents (or the householders) who are aged 55, 60, 62, or 65 and older.

Using a floating zone for senior housing development provides municipalities with flexibility in establishing the location of this particular type of use. The standards and allowable uses for a floating zone are defined in the zoning regulations, but the location of the district is not mapped; instead, it “floats” until a proposal is made for the development of a specific parcel of land and the project is determined to be in accordance with all the applicable floating zone standards. At that point, the floating zone is attached to the particular parcel(s) on the zoning map.¹

Retirement community districts often allow greater density to accommodate multi-unit dwellings, and they may include smaller homes on smaller lots to accommodate both affordability issues and frailties that may occur during the elder years, and to encourage the benefits of socialization. Well-planned retirement districts are located closer to important amenities, such as health care, social services, retail stores, public spaces and buildings, and other amenities, as well as transit options to support both walkability and the need for accessible transportation. Within a retirement district boundary, the site should provide ample open space for safe and convenient recreational and social facilities, such as walking paths and community rooms. Residential units and community buildings should be designed and constructed using universal design and visitability principles (see Walkability and Visitability in the Resource Manual), which supports successful aging-in-place, as well as easy access for those residents and visitors who have mobility impairments.

Reference:

¹ *Local Government Handbook*, p. 152. Albany, NY: New York State Department of State.

Benefits:

- Well-planned and well-zoned retirement districts are an effective strategy to support successful aging in place, by providing older adults with an opportunity to socialize with contemporaries, interact with community members of all ages in the surrounding residential neighborhood, and have easy access to social and other amenities that are necessary for carrying out routine activities and tasks of daily life.
- Availability of a variety of housing types for older adults, as well as the flexibility of various allowable site locations, is a substantial support for caregivers of older relatives—reducing caregivers' transportation burdens, reducing time commitments involved in providing help with activities of daily living, reducing financial expenses associated with caring for an elderly relative, reducing lost employment hours, and reducing the amount of time caregivers must spend away from their responsibilities to their immediate families.
- Well-planned and well-zoned retirement districts encourage developers to site senior housing in locations that are appropriate for the well-being of older adults, countering common inclinations to locate senior housing and other facilities (such as senior service centers, adult day programs, assisted living facilities, and health centers) on the outskirts of town, far from neighborhoods, activities, and amenities.
- Retirement district projects can be sited to lessen environmental impacts by clustering units, which use less land and require less infrastructure.

Impediments or barriers to development or implementation:

- Many existing local zoning codes do not accommodate or favor the type of compact, mixed-use development that is characteristic of a well-planned retirement district.
- Land for senior housing and related amenities is often cheaper on the municipal fringe, providing a financial incentive to choose these sites over more appropriate sites.
- Because a floating retirement district zone is not part of the zoning map until a particular proposal is approved, establishing its boundaries on the zoning map requires an amendment to the zoning law or ordinance, for which all proper procedures must be met.
- Without carefully establishing, through comprehensive planning or a similar process, the rationale behind the ultimate location of a floating zone, neighbors may accuse the municipality of spot zoning—using the zoning regulations to benefit one or a few land owners by zoning their property differently from those

surrounding them. Theoretically, an area could have several floating zones, which may also raise the concern of spot-zoning.

Resource—statutory authority:

- Floating zones are not treated specifically in enabling statutes, but are considered lawful within the general statutory grants of zoning power.

Resource—examples and ordinances:

- *Golden Age Housing*: Town of Oyster Bay, Long Island, NY (The "RSC-25" Residence Senior Citizen District (previously known as "S-2") allows for higher density development—25 units to the acre—which helps keep down the price. Since the program was adopted, more than 1,400 units of affordable senior housing units have been approved in the Town.
http://www.oysterbaytown.com/index.asp?Type=B_BASIC&SEC=%7B11668C1C-ED2F-40D5-A2D8-6C8867D63946%7D&DE=%7B57BB3CC2-4C6B-4E6A-A752-ED113DEB569E%7D.
- Town of North Castle, NY, Westchester County, local law filing: to amend Article III, Section 213-4 (enumeration of districts) of the Code of the Town of North Castle, NY, so as to add a proposed new R-MF-SCH multi-family senior citizen housing district to the current list of districts:
<http://www.northcastleny.com/planning/Local%20Laws%2012-11-06/Local%20Law%20A-3.pdf>.
- Long Island, NY: Golden Age Zoning Districts:
 - Town of Southampton
 - Town of Hempstead
 - Village of Massapequa (Local Law No. 4 of 1998)
 - Town of Brookhaven
- Town of Clarkstown, NY, Rockland County:
 - Active Adult Residence floating zone.
- Town of Fishkill, NY, Dutchess County:
 - Senior Citizen Housing floating zone
 - Senior Citizen Housing District overlay zone
- Falmouth Town Council, Falmouth, ME, "Retirement Community Overlay District" (Section 3.16, adopted November 23, 1998; amended May 30, 2012), *Town of Falmouth Zoning and Site Plan Review Ordinance, amended May 30, 2012*:
http://www.town.falmouth.me.us/Pages/FalmouthME_Admin/docs/ZSPRO_0530_2012.pdf.
- Patricia E. Salkin (March 8, 2002), *Considerations in Land Use Planning and Zoning for the Aging Baby-Boomers*. Albany, NY: Albany Law School, Government Law Center. Presentation at Rocky Mountain Land Use Institute Sturm College of Law, University of Denver, Denver CO. Discussion of topics for consideration when planning for housing for older adults, including various

zoning tools communities can use to effectively provide appropriate senior housing alternatives, including the use of Planned Unit Developments, special use permits, variances, floating senior housing zone (example: Town of North Greenbush, NY), and senior/retirement housing zones (examples: Town of Warwick, NY; Village of Massapequa Park, NY; and Town of Huntington, NY).

- River Street Planning and Development (August, 2009), *Integrated Housing Needs and Opportunities Study: Otsego County New York*. Cooperstown, NY: Otsego County Planning Department and Ad Hoc Advisory Committee. Pages 96-98 of the Report describes: Strategy 1: Identify specific subsidized or market rate senior housing developments that will assist the senior population in Otsego County. Under Strategy 1: Action 1.1—Work with local municipalities on their land use regulations to allow various housing development for seniors, including rezoning to allow senior housing, senior housing zoning districts, overlay district for senior housing, senior housing in a planned unit development; Action 1.2—Accessory Apartments; Action 1.3—Elder Cottages; Action 2.1—allow seniors to age in place.

Resource—written and web:

- Patricia E. Salkin (Fall, 2003), "Zoning and Land Use Planning: Where Will the Baby Boomers Go? Planning and Zoning for an Aging Population," *Real Estate Law Journal*, Vol. 32. Also available online—Albany, NY: Albany Law School, Government Law Center:
http://www.governmentlaw.org/files/planning_zoning_for_aging.pdf.
- John Nolan (2001), *Well Grounded: Using Local Land Use Authority to Achieve Smart Growth*. Washington, DC: Island Press.
 - Chapter 6—"Balancing Development and Conservation":
 - Pages 207-232:
 - Section A: Overlay Zoning.
 - Section B: Floating Zones.
 - Section C: Cluster Development.
 - Section D: Planned Unit Developments.
 - Pages 249-254:
 - Section H: Senior Citizen Housing Zoning.
- Patricia Salkin (December, 2004), *Current Trends and Practical Strategies in Land Use Law and Zoning*. Chicago, IL: American Bar Association.

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SPECIAL USE PERMIT

Description:

A Special Use Permit (SUP) is a regulatory control tool that is used in conjunction with zoning, and a municipality must have zoning in order to use special use permits. A special use permit is sometimes referred to as conditional use, special permit, or special exception.

In most municipal zoning regulations, there are many uses that are permitted as-of-right; that is, with no discretionary review of the proposed project. In the case of a SUP, the proposed project's use is allowed, but presents challenges that need special attention in order to lessen those impacts upon the area. An SUP is often utilized when the use is acceptable or desired in zoning districts, for the convenience of residents/businesses—for example, gas stations, banks, convenient stores, senior housing communities, or converting a carriage house into an accessory apartment for a senior citizen or his caregiver.

Concerns associated with SUPs include traffic impacts, noise, lighting, landscaping, and screening. The goal of the review is to assure that the proposed project is in harmony with its surroundings, and will not adversely affect the neighborhood. A special use permit allows a board discretionary authority to review proposed development projects for designated uses or for uses in specific zoning districts.

A special use permit is applied for and granted by a review board. The review board is typically the planning board or zoning board of appeals, as authorized in the local zoning ordinance or law. State statutes prescribe the procedure for all special use permit applications.¹

Reference:

¹ *Local Government Handbook* (2009), 6th edition, p. 149. Albany, NY: New York State Department of State.

Benefits:

- If there is a concern that a proposed project will diminish the community character or have an adverse effect on neighboring property values, a special use permit provides a municipality with the ability to mitigate any possible adverse impacts. For example, in the case of an accessory dwelling unit, a review to ensure that a garage apartment blends with the architectural styles of the neighborhood could make the difference between a housing addition that fits into the neighborhood versus one that is in stark contrast to existing architecture and, therefore, a neighborhood detractor. For a variety of housing models, secondary dwelling units, or temporary residential units, a more routine use of the special-use-permit review process could keep their development to a

more consistent high standard, leading more community residents to be more willing to accept them.

- Special use permits can ensure that an appropriate variety of good quality housing stock is available for residents of all ages, abilities, and incomes. The intention is to make sure the use is the right fit for a particular location or site.

Impediments or barriers to development or implementation:

- A municipality must first have zoning in place in order to utilize the special use permit tool. Municipalities have no authority to require information or conformance with standards if those standards are not spelled out in the zoning regulations. Courts will generally uphold decisions based on those standards, provided they are in accordance with the goals of the municipality's comprehensive plan.
- A municipality must authorize the code enforcement officer to enforce the special use permit conditions.
- If a municipality has a cumbersome SUP application process, it may deter applicants from applying, resulting in illegal projects. The application and review process should not be so intimidating that property owners are inclined to avoid it and compromise safety with illegal projects. For example, illegal attic, basement, or garage apartment conversions may not have adequate exits for fire emergencies, or they could lack proper utility service connections, or insufficient ventilation.

Resource—statutory authority:

- Special Use Permits defined:
 - General City Law, §27-b;
 - Town Law, §274-b;
 - Village Law §7-725-b.
- Approval of special use permit:
 - General City Law §27-b;
 - Town Law §274-b;
 - Village Law §7-725-b

Resource—written and web:

- *Local Government Handbook* (2009), 6th edition. Albany, NY: New York State Department of State.
http://www.dos.ny.gov/lg/publications/Local_Government_Handbook.pdf.
- (May, 2007; reprint January, 2008), *Guide to Planning and Zoning Laws of New York State: James A. Coon Local Government Technical Series*. Albany, NY: New York State Department of State, Division of Local Government Services.
http://www.dos.ny.gov/lg/publications/Guide_to_planning_and_zoning_laws.pdf.

- M. Scott Ball (n.d.) *Aging in Place: A Toolkit for Local Governments*. Atlanta, GA: Community Housing Resource Center and the Atlanta Regional Commission. This community tool kit addresses many aspects of aging in place, including: housing choice and affordability, planning and zoning, health care, transportation, walkability and mixed generation communities.
<http://www.co.vernon.wi.gov/VCCP/documents/agingInPlace.pdf>.
- James Coon and Sheldon Damsky (2005), *All You Ever Wanted to Know About Zoning*, 4th edition. Albany, NY: New York Planning Federation. For pricing and ordering information: New York Planning Federation Book Store:
<http://www.nypf.org/editable/bookstore1.html>. Or, Amazon:
<http://www.amazon.com/Ever-Wanted-Know-About-Zoning/dp/0811349500>.
- Thomas Daniels, John Keller, Mark Lapping, Katherine Daniels, and James Segedy (2007), *The Small Town Planning Handbook*, 3rd edition. Albany, NY: American Planning Association Publication.
<http://www.planning.org/APAStore/Search/Default.aspx?p=3656>.

SUBDIVISION REGULATIONS

Description:

The character of a municipality can be greatly altered through the subdivision of its land. Subdivision regulations guide how land is divided into smaller parcels and ensures that when development does occur, lots, streets, and infrastructure are properly and safely designed, and the municipality's land use objectives are met.

The subdivision process starts with a proposal by an applicant to subdivide land according to a plat, which is a map illustrating the topography and existing vegetation in the area to be subdivided; the proposed drainage plans and layout of lots and streets; details about the existing and proposed water and sewer infrastructure; and other information about how the development will alter the landscape of the area to be subdivided and the area surrounding it.

The subdivision process influences how a municipality will look and function after development occurs. In addition, the subdivision of large tracts of land often induces related development nearby. A municipality may use subdivision regulations to encourage a particular type of development in a certain district, such as a senior housing project.

Benefits:

- The aim of subdivision regulations is to protect the health and safety of residents by ensuring that projects will be located on buildable lots that have soil conditions and terrain that will support the proposed type of sewerage system, with a safe and adequate water supply, and with proper drainage and flood control.
- Subdivision review can be used to influence the design of local streets—for example, to reduce their transit speeds and to ensure access by emergency vehicles.
- Through subdivision regulation, land for park land, or money in lieu of park land, can be required to meet the increased demand for recreation facilities created by the approved subdivision. These recreational and open space goals should be identified in a municipality's comprehensive plan.
- While subdivision regulations are greatly strengthened when they work in conjunction with zoning, subdivision review is an important tool for municipalities that do not have a zoning ordinance in place. Through subdivision review, communities can, to a degree, still plan for pedestrians, incorporating trails and sidewalks that encourage exercise and that lessen automobile-dependency.

Impediments or barriers to development or implementation:

- Subdivision regulations alone (without a zoning ordinance in place) cannot control the uses of the property within the subdivision, nor can they establish minimum lot sizes, setbacks, or building design standards.
- Only those elements specifically listed in the regulations may be reviewed. The reviewing board has no ability to review elements not listed unless the regulations authorize that review.

Resource—statutory authority:

- Subdivision review; approval of plats; development of filed plats:
 - Town Law, §276;
 - Village Law, §7-728;
 - General City Law, §32.
- Subdivision review; approval of plats; additional requisites:
 - Town Law, §277;
 - Village Law, §7-730;
 - General City Law, §33.

Resource—written and web:

- Randal G. Arendt (June 1, 1996), *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*. Washington, DC: Island Press.

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TRANSFER of DEVELOPMENT RIGHTS (TDR)

Description:

A Transfer of Development Rights (TDR) establishes a market for development rights; that is, TDR allows the transfer of zoning privileges from areas with low population needs (such as farmland) to areas of high population needs (such as downtown areas); these transfers, which occur on the open market, allow for the preservation of the open spaces, while giving urbanized areas a chance to expand and experience continued growth.¹

Through this zoning strategy, developers purchases the zoned, legal development rights from the landowners in areas that have been designated for preservation or conservation (referred to as the "sender district"), then transfer those development rights to areas designated for higher-density, urban-form development (referred to as the "receiving district"). This transference adds density to the existing zoning allowances in that "receiving district." The owner of the open space parcel retains the fee title interest and all other rights to the open space property, including the ability to use the land for non-intensive uses such as conservation, recreation, farming, or forestry. However, once a development right has been sold, a development restriction is recorded on the deed, thereby creating a permanent conservation easement on the land.

TDR is a creative land use strategy that a community can use to permanently protect natural lands or cultural/historic resources in one area of the community and, at the same time, increase the development and economic potential of other land areas in the community. Ideally, TDR protects vital open space and directs development toward areas better equipped to sustain and accommodate higher density—e.g., municipal centers, Main Streets, downtowns, industrial districts, business districts, etc.

TDR has also been used as an historic landmark preservation tool; the unused building height or density of an historic building or area can be purchased (leaving/preserving the historic nature of the building or area) and transferred to a targeted high-density growth area.

Reference:

¹ (March, 2009), *Field Guide to Transfer of Development Rights*. Chicago, IL: National Association of Realtors.

Benefits:

For residents:

- TDR is an effective means of allowing cluster development, multi-unit dwellings, and other housing types, which provides more available housing units; more creative housing alternatives, such as cottage neighborhoods and shared

housing alternatives; and more creatively in site development, such as walkable communities, transit-oriented development, and mixed-use communities—all of which more effectively respond to the needs of the variety of population groups that typify any community, including older adults, individuals with disabilities, young workers, and others.

For the community:

- Transfer of Development Rights is a market-based approach to development and zoning that does not require public subsidies and is less expensive than an outright land-purchase program.
- By preserving vital land resources, TDR supports traditional growth patterns directly by sending development to existing centers that are more appropriate for residential development.
- When used effectively, TDR can revitalize city/town centers, protect open space, and reverse the tendency to build sprawl on suburban or rural greenfields.
- When used appropriately, TDR is a tool that can support the livability of a community, with positive impacts on economic vitality and stability of the population base.

Impediments or barriers to development or implementation:

- TDR is a sophisticated land-management tool—complicated and labor-intensive, requiring professional and experienced staff to administer; thus, municipalities may not have the staff or resources to implement this strategy properly.
- It is often difficult for municipalities to find and to select a financial institution to handle the transfer of credits from the buyer/developer to the owners of the land to be preserved in the sending area.
- Because of the time- and labor-intensive nature of the TDR process, developers may simply choose to seek an "up-zoning" in the receiving district from municipal officials who may be willing to grant them in the scramble for development; such action may achieve a goal in the "receiver district" but does nothing to curtail development sprawl or protect a community's open spaces, rural green areas, or historic sites.
- TDR is most successful in states with county-level land use regulatory authority; with a larger geographic scope, there are a greater number of appropriate locations to send development rights. New York's multi-layered system of local governments makes TDR (already a complicated tool to administer) even more of a challenge to implement successfully.
- Municipalities must be certain that receiver areas have sufficient infrastructure to accommodate additional growth.

Resource—statutory authority:

- General City Law, §20-f;
- Town Law, §261-a;
- Village Law §7-701.

Resource—examples and ordinances:

- (August 6, 2008), *Transfer of Development Rights Program (draft)*, Article XXVII, Town of Lysander TDR Program Policy and Procedures. Town of Lysander, Onondaga County, NY:
[http://www.townoflysander.org/News/TDR%20Program%208-6-08%20-%20BW%20\(2\).pdf](http://www.townoflysander.org/News/TDR%20Program%208-6-08%20-%20BW%20(2).pdf).
- Central Pine Barrens Joint Planning and Policy Commission (January, 2010), *The Pine Barrens Credit Program: Transferable Development Rights in Central Suffolk County, NY*: http://www.pb.state.ny.us/pbc/pbc_overview.pdf.
- R. Johnston and M. Madison (1997), "From Landmarks to Landscapes: A Review of Current Practices in the Transfer of Development Rights," *Journal of the American Planning Association*, Vol. 63, No. 3, pp. 365-378. Transfer of Development Rights statute—Montgomery County, MD: Montgomery County Planning Department.

Resource—written and web:

- Robert Lane (March, 1998), "Transfer of Development Rights for Balanced Development," *Land Lines*, Vol. 10, Number 2. Cambridge, MA: Lincoln Institute of Land Policy: <http://www.lincolninst.edu/pubs/PubDetail.aspx?pubid=424>.
- Jill Clark (Director, Center for Farmland Policy Innovation, Ohio State University) (nd), *Preserving Resources and Property Rights: Transfer of Development Rights*. Ravenna, Ohio: Portage County Regional Planning Commission. Power Point presentation:
http://www.morpc.org/energy/green_region/Jill%20Clark%20TDR.pdf.
- (January, 2004), *Transfer of Development Rights: A Flexible Option for Redirecting Growth in Pennsylvania*, publication #001. Chadds Ford, PA: Environmental Management Center, Brandywine Conservancy. 84-page manual explains the legal framework for using TDR in Pennsylvania and defines a series of seven steps toward creating a successful TDR program, including a sample TDR ordinance, a model TDR restrictive covenant, and a sample TDR deed. May be purchased by contacting: Email: emc@brandywine.org, (610) 388-8326.
- Capital Region Council of Governments (nd), Chapter 3: "Transfer of Development Rights—Fact Sheet," *Best Practices Manual*. Hartford, CT: Capital Region Council of Governments.
www.crcog.org/publications/CommDevDocs/TCSP/Ch03_factsheet_TDR.pdf.
- Rick Taintor (April, 2001), *Transfer of Development Rights Report: South County Watersheds Technical Planning Project*. Providence, RI: Rhode Island State

Department of Environmental Management.

<http://www.dem.ri.gov/programs/bpoladm/suswshed/pdfs/tdrreprt.pdf>.

VARIANCES

Description:

A zoning ordinance regulates the use of land and the density and siting of development in each of a community's zoned districts—spelling out what can and cannot be done with property in each district (see *Zoning—Introduction* in the *Resource Manual*). A variance is permission granted to allow property to be used in a way that is not allowed by the zoning ordinance. A variance can be granted only by the municipality's zoning board of appeals.

There are two types of variances: a use variance and an area variance. A use variance applies to the purpose or function for which a parcel of land or a structure on the land will be used, and an area variance applies to the land itself.¹

Use variance—

A use variance can only be granted if the owner of the property proves an inability to use the land as designated by the zoning ordinance. For example, if the owners of a parcel of land that is zoned for single-family homes apply for a use variance to build a multi-unit housing complex, in order to receive that use variance, they must prove that the land is incapable of realizing a reasonable return on their investment with any use that is allowed under the zoning ordinance. An applicant must pass a strict four-part statutory test (specified in New York State statute) to receive a use variance. The *overall* statutory test is "unnecessary hardship," and the applicant must show *all* of the following:²

- That under existing zoning ordinance, the applicant cannot realize a reasonable return on his investment in the property, provided that the lack of return is substantial, as demonstrated by competent financial evidence;
- That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- That the requested use variance, if granted, will not alter the essential character of the neighborhood; *and*
- That the alleged hardship has not been self-created.

Area variance—

An area variance gives permission to use the land in a zoned district in a way that is not allowed by the dimensional and physical requirements of the zoning ordinance. For example, a property owner might request an area variance if a proposed garage were to encroach into the required setback from a property line or if the design of a new building exceeded the maximum allowed height in a certain district. To grant the area variance, members of the zoning board of appeals must agree that the benefit of the applicant's receiving the area variance is greater than the burden that granting the variance might impose on the surrounding community, after considering a five-part balancing test, which is specified in New York State statute. Overall, the board of appeals must balance the benefit to be realized by

the applicant against the potential detriment to the health, safety, and general welfare of the community if the variance were to be granted. For each application, the board must consider the following:³

- Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
- Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
- Whether the requested area variance is substantial.
- Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

Though the area variance test is not as strict as that for use variances, if a municipality finds itself granting many similar area variances, it might be time for members of the local governing board to consider amending zoning ordinance itself.

References:

^{1, 2, 3} (November, 2005; reprinted January, 2008), "Variances," *Zoning Board of Appeals, James A. Coon Technical Series*, pp. 17, 12, 17. Albany, NY: New York State Department of State. Includes all statutory changes through the 2005 Legislative session.

Resource—statutory authority:

- General City Law, §81-b (3)(4);
- Town Law, §267-b (2)(3);
- Village Law, §7-712-b (2)(3).

Resource—written and web:

- (November, 2005; reprinted January, 2008), "Variances," *Zoning Board of Appeals, James A. Coon Technical Series*, pp. 10-20. Albany, NY: New York State Department of State. Includes all statutory changes through the 2005 Legislative session.
http://www.dos.ny.gov/lg/publications/Zoning_Board_of_Appeals.pdf.
 - "Guidelines for Applicants to the Zoning Board of Appeals," *Zoning Board of Appeals, James A. Coon Technical Series* :
http://www.dos.ny.gov/lg/publications/Guidelines_for_Applicants_to_the_Zoning_Board_of_Appeals.pdf
 - "Zoning Board of Appeals Overview"—on-line interactive training course:
http://www.dos.ny.gov/lg/onlinetraining/zoning_board_of_appeals_course_outline.html.