

REALTORS® & Smart Growth

on common ground

FALL 2023

# ZONING *innovation*

**ALLOWING FOR  
AFFORDABLE HOUSING**

**IGNITING COMMUNITY  
ENGAGEMENT**

**ZONING TRANSFORMATION**



**NATIONAL  
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# Transformation of Zoning

Chances are, the town in which you grew up or to which you recently moved didn't always look like it does now. There was a rationale to where settlements sprang up, but land-use patterns in the early days of our nation started out haphazard, centering on the transportation technology of the day. Transportation infrastructure has always been important, be it an ocean, a river, a railroad, a road, and an airport, or perhaps someday soon, a rocket launchpad.

Thus, as the mass of buildings grew and infrastructure developed, setting order to the layout of our structures seemed like a good idea. In the early days of urbanization, the hodgepodge approach started to reveal cracks and negative impacts that needed a remedy. So, some sort of organized system was deemed desirable, if not necessary, and zoning was born.

Now, a century on, with a national housing crisis of too few housing units leading to exorbitant prices on those that do exist, zoning has emerged as a common problem among cities, towns and rural areas alike. Density construction and conversion of old buildings are prohibited with outdated zoning and building codes.

This edition of **On Common Ground** explores possible remedies to the housing shortage puzzle through a variety of zoning lenses. From the origins of zoning to innovative strategies aimed at creating more housing and finding new uses for office buildings that no longer serve their original purpose.

To figure out what we need and where we need it, citizen engagement is more important than ever. The pandemic years forced an innovation in strategies to gather the thoughts and priorities of the people who live in a community, and these techniques are yielding input that is more thorough



and equitable than we have ever had. These collective voices will be reflected in the buildings, what they contain and how they are arranged, community by community.

In this issue, we also discuss form-based codes and how that innovation has lived up to its promise and talk with Andrés Duany about his thoughts on where zoning might go from here. And, because land use and transportation go hand-in-hand, we take a fresh look at the Complete Streets movement, how it is faring and what types of zoning are necessary in an environment where all modes of transport are accommodated.

At the end of the day, the structures we are building today will likely be around for many generations. We have learned a lot about how to make zoning work for us in a durable and resilient way. This is particularly true as we sit on the cusp of an era where land use will need to take into account the various challenges of climate effects, ever-changing technologies to create the energy we live on, and the negative impacts of sprawl on our aging infrastructure. Transformation is on the way.

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## Editor

Hugh Morris  
Manager, Community Development  
& Growth  
hmorris@NAR.realtor

## Contributing Editor

Christine Windle  
Director, Community Outreach

NATIONAL ASSOCIATION OF REALTORS®  
500 New Jersey Avenue, NW  
Washington, DC 20001

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# HOW ZONING SHAPES COMMUNITIES

THE GOOD, BAD AND HOPEFUL ASPECTS OF THE CENTURY-OLD TOOL THAT DETERMINES EVERYTHING ABOUT THE PLACES WE LIVE, WORK AND PLAY



New ADU zoning



1950s-era care-dependent, single-family zoning defined the suburbs.  
Courtesy of Park Forest Library



**T**he zoning code. Amended, revised, sometimes more than 100 pages. The vast majority of people have never looked at one. But zoning codes impact where we live, how we get around, how tall our buildings become, who are our neighbors and how many parks we have.

On the good side, zoning is the reason you don't live next to a slaughterhouse, steel plant or other noxious activity that produces noise and foul and dangerous smells to the air. On the bad side, it is why so much of America is segregated — by race and income — a result that widens the gap between haves and have nots. And why people who feel they are always in their car, feel that way for good reason.

On the hopeful side, zoning reform can help solve the housing crisis while promoting transit; walkability; mixed-use; mixed-income communities; and communities that protect nature, control sprawl and address climate change.

### Zoning's history

Planetizen.com credits social reformers in the early 1900s for giving birth to zoning “as a tool to exclude undesirable uses (such as noxious industrial facilities), reduce urban congestion, protect public welfare, and prevent the spread of slums.” Its research further states that zoning's ugly side is its use “as a tool to maintain racial homogeneity and exclude ‘undesirable’ residents, sometimes outright banning specific ethnic groups, thus institutionalizing housing inequality.”

In 1910, Baltimore passed racial segregation laws, prohibiting Black people from moving into white-majority areas and vice-versa. Other cities passed similar ordinances until 1917, when the practice of racial zoning was declared unconstitutional.

But exclusionary zoning continued class and other segregation. Berkeley, California's Elmwood neighborhood adopted single-family zoning, “effectively setting up the area to exclude lower-income households into the present day,” according to Planetizen.

David Morley, AICP, American Planning Association's research program and QA manager, further explains zoning as the tool that drives everything about your quality of life, but didn't exist for all of civilized time till the early 20th century.

Morley said historians generally traced zoning back to keepers of posh shops on New York City's Fifth Avenue, who feared garment manufacturers and their employees would ruin the commercial district's exclusive experience. The city's zoning code that went into effect was quickly copied by cities around the United States.

The U.S. Supreme Court upheld the right of municipalities to impose zoning, via the 1926 Village of Euclid, Ohio vs. Ambler Realty case. Even that landmark case cast aspersions on affordable housing, when Supreme Court Justice George Sutherland wrote “very often the apartment house is a mere parasite” on a neighborhood.

“Think of zoning as rationalizing where things go and protecting people from truly noxious uses. Today, it might be hard for people to remember how dirty factories were,” Morley said. “Zoning descended from nuisance laws where cities said a slaughterhouse cannot be X number of feet from residences. They also grew to control separation between buildings, or building heights — to protect health, safety and welfare. But the concept of public welfare quickly got redefined as schemes for keeping land values high.”

Post World War II, when more than 10 million G.I.s returned from the battlefields and car ownership was exploding — auto-oriented suburbs grew like weeds. “Zoning was following real estate development trends. Large-scale homebuilders covered a lot of ground. The financial industry wants certainty in what it is lending to, so single-family zoning blanketed the nation,” Morley said.

Zoning reform can help solve the housing crisis while promoting transit, walkability, and mixed-use.



Critics taking issues with Post War development patterns appeared in the early 1960s. That is when the Planned Unit Development (PUD) came into favor. “It was an option for large-scale developers — saying you don’t have to follow the letter of the law and you can get a mix of uses,” Morley said. “That was the first seismic shift of the way zoning worked for nearly half a century.”

Performance-based zoning came next, allowing a greater mix of uses and flexibility in development scale — in return for more open space or other benefits to the community where the development takes place. Bucks County, Pa., is known for its more comprehensive zoning ordinance, from that era.

Euclidean zoning, the name attached to decades of careful separation of uses, was countered in the early 21st century with the introduction of the form-based code. “A form-based code is a land development regulation that fosters predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code,” as defined by the Form-Based Codes Institute. “Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks.”

Miami 21 is a famous citywide form-based code in South Florida. Though Morley notes that even form-based codes are hybrids, because while they encourage compact development and a mix of uses, they still regulate what uses can go where.

“The big whoopsie in zoning evolution is the way missing middle density has been erased from the landscape. In most places, it’s not allowed to happen,” he said. Missing middle refers to the range of housing that fits between single-family detached homes and mid-to-high-rise apartment buildings. It includes townhouses, duplexes, triplexes and quadplexes.

Morley said the Post War/Baby Boom era created so many single-family-only communities, that any other density started feeling unnatural. He said over the past few decades, there is a growing awareness that communities need missing middle and affordable housing.

“One point I like to make in general is that a lot of zoning is antithetical to what communities need,” Morley said. “Zoning is a powerful tool. Why not use it to create more affordable housing than to use its power to keep more of the same, aka preventing it?”

### Zoning reform

Salim Furth, senior research fellow, and Eli Kahn, research assistant, at the Mercatus Center at George Mason University, recently published a state legislature housing reform 2023 review, available at <https://www.mercatus.org/research/policy-briefs/housing-reform-states-menu-options-2024>, which discusses bipartisan bills aimed at loosening zoning regulations to rein in local regulatory power. For instance, “Montana has become the first red state to enact sweeping housing legislation to confront a cost crisis,” Furth said.

Form-based codes address the relationship between building facades and the public realm.



Bucks County, Pa. Photo by Gail Frederick.





## The entire architecture of how land use works contains a lot of local conditions.

The governor there convened a task force and several pro-affordable housing preemptive laws were passed with bipartisan support, which include:

- Streamlining the subdivision process, especially by expanding exemptions from the state’s environmental assessment requirement.
- Clarifying that cities can allow tiny homes.
- Opening commercial zones to housing development.
- Allowing duplexes anywhere that single-family homes are permitted in cities with more than 5,000 residents.
- Formalizing planning procedures and requiring each city to enact any five out of a list of 14 significant pro-housing regulatory changes.
- Limiting the use of design review.
- Requiring municipalities to permit accessory dwelling units (ADUs) without parking mandates or owner-occupancy requirements.

“When spending political capital, we like to get the most juice for the squeeze. But we know the entire architecture of how land use works contains a lot of local conditions, so we have all these variances, special-use permits, special exceptions,” Furth said.

“Cities are super regulators, so everything is done by exceptions. The developer knows to get a lawyer, give contributions and they get their exceptions approved,” he observed. “Council members love the political contributions flowing and they get some say in the development. Even in very progressive cities, you end up saying ‘yes’ to very expensive housing and ‘no’ to more budget-friendly housing.”

Furth favors fair and predictable community benefit agreements. Rather than meting out contributions in each

neighborhood, which can result in “zoning for sale,” he suggests a set payment charged to the developer and a menu of things a community can fund with it.

“New Rochelle, N.Y., introduced this approach, along with other innovations, to spark a downtown reinvestment surge that has funded tremendous city benefits,” Furth said. “There is a fixed, predictable dollar value that developers must pay. Neighbors can then help determine where the money is spent: on parks, computer space, a community center.”

Furth said adaptive re-use has worked in older, smaller mid-rise and high-rise buildings. But it will not work in office buildings with large floorplates (center units would have no windows) or single-story office park office buildings, which are too expensive to convert.

He said cities that are serious about affordable housing should buy older units to preserve existing workforce housing, and that the office apocalypse — many offices barely half full because of work from home after COVID that continues — can be addressed via zoning reform.

Furth cited a 2023 Florida bill that “allows not just the conversion of existing structures but new multifamily construction in any commercial or industrial zone, as long as a large share of the new units are restricted to moderate-income residents. ... The measure also allows new multifamily buildings in these zones to match the density of the jurisdiction’s densest zone and to match the height limit of any zone within a mile.”

### Planners favor zoning changes

Jason Jordan, the American Planning Association’s (APA) public affairs director, said planners favor zoning code reform and streamlining the process to create housing. Legislative policy shifts at the state level are a response to project-by-project local zoning cases that cause delays and impose difficult political hurdles on developments that could deliver affordable housing.

“As economic growth has rebounded post pandemic, there is an even more acute problem when it comes to workforce housing, starting housing, senior housing,” Jordan said. “In too many places, we have processes, codes and regulations that are barriers to the supplies we need. We are now seeing reform that is removing things imbedded



Reducing minimum lot sizes and on-site parking requirements, allowing for ADUs, can create a pathway to gentle density.

## Many states and cities are backing zoning reform that creates more housing options for a more diverse set of renters and buyers.

in codes that are barriers to housing. That means reducing minimum lot sizes and on-site parking requirements. It also means adding tools such as ADUs.”

Communities must come together and create a vision of what kind of housing it wants to accommodate its workforce, young families, seniors and people with disabilities. Then regulatory systems must be reformed to remove things in the zoning code that are barriers to that vision coming true.

For instance, Jordan said a defined code that allows developers to build by right is not giving the store away to developers. It is simply defining what the community wants from development, then giving developers predictability by being able to build without a string of variances, hearings and votes.

“If we know we need additional state and federal investment in tax credits to create housing, but we pour money into a broken system, we are destined to fail,” Jordan said. “We set rules that make it very difficult to get things built. Almost everything requires a variance. Variances becomes very politicized through neighborhood concerns and political agendas.”

He noted that a lot of things on the books in city zoning codes remain from industrialization, which begot separation of uses and created car-dependent suburbs. “The problem is that we have new sets of social and economic challenges that [old codes] don’t address. Seniors want to age in place. We need walkable, transit-served, age-friendly communities. People are working more from home. They want neighborhood conveniences, not only single-family homes where they live and work.”

”Many states and cities are backing zoning reform that creates more housing options for a more diverse set of renters and buyers. Utah has linked housing reform to

state infrastructure dollars, prioritizing funds to communities that are creating workforce housing. “Several cities are creating a pathway to gentle density and more housing by offering pre-approved missing middle and ADU designs,” Jordan said. “It makes it easier for small-scale and newer developers. It prevents them from getting bogged down in design and approval process that can kill a project. It can encourage more minority developers to build smaller, infill projects, like missing middle housing.”

Jordan also emphasized that those who work in city leadership, planning and zoning must also address the reality that zoning often was used as a tool of bigotry. “When we discuss zoning reform, we can’t leave out the exclusionary practices and racially directed practices. That has to be part of the conversation. We have to reconcile those ills and embrace environmental justice, the concept that land use has a role in breaking down artificial barriers that hurt marginalized people socially and economically.”

Beyond housing, land-use reform can also address climate change and transportation options. The Inflation Reduction Act gives direct financial support to communities that create a climate action plan. Vision Zero plans and Safe Streets initiatives in several cities are aimed at increasing pedestrian and bicycle safety, seeded by federal funds.

Last December, the U.S. Department of Transportation awarded nearly \$700 million through its All Stations Accessibility Program to retrofit old rail and subway stations, adding elevators, ramps, and other improvements. The program, funded through the infrastructure law, is designed to improve the accessibility of transit rail stations so everyone, including people who use wheelchairs, push strollers, or cannot easily navigate stairs, can reliably access the rail systems in their communities.



## Zoning impacts on affordable housing crisis

Senator Bob Casey, D-Pa., chair of the Senate Special Committee on Aging, held a hearing this summer to sound the alarm over the lack of affordable, accessible housing. He introduced the Visitable Inclusive Tax Credit for Accessible Living (VITAL) Act, which would increase the amount of accessible housing available for people with disabilities and older adults to meet their needs.

The Low-Income Housing Tax Credit (LIHTC) is a federal program providing tax credits to developers who build new housing for low-income renters. The VITAL Act would increase funding for the LIHTC program to increase the number of accessible homes.

“Investments in accessible housing are central to guaranteeing better outcomes in health and satisfaction for older adults and people with disabilities,” Casey said.

Casey also is developing legislation to provide assistance for land banks, which can address a number of issues by acquiring abandoned/vacant property and using it for affordable housing. Land banks serve a need while also uplifting the value of neighborhoods by replacing blighted lots with fresh infill development.

Yonah Freemark, a senior research associate at the Urban Institute, believes affordable housing has increasingly become a national issue. “When cities reform zoning to allow more construction, the impacts are small but meaningful. [But] zoning changes are inadequate alone to create affordable housing for the entire community,” he said. “We need to do a whole variety of things, such as increasing low-income housing tax credits, which has produced millions of affordable housing units around the country.”

Freemark authored a research paper on the impact of zoning changes and warns that there is no magic bullet when it comes to upzoning and housing affordability. He found that Downzonings (regulations that reduce density) definitely limit construction and worsen affordability, but he also found a mixed bag in researching upzonings, which allow increased density, concluding they “offer mixed success in terms of housing production, reduced costs, and social integration in impacted neighborhoods; outcomes depend on market demand, local context, housing types, and timing.”

Freemark said that he favors upzoning near public transit, so affordable housing is created in proximity to mobility. If the goal is to make life more affordable for the city’s workforce, that can be achieved by placing housing by transit so people can get to work without the high expense of owning and maintaining a car.

He also believes cities, counties, schools and other agencies are sitting on an asset that could be tapped for housing. “I think maximizing the use of publicly owned land is the number one most important thing we can add to the toolbox to promote affordable housing. We must identify what sites are owned by the public sector across various agencies, then maximize those sites to get more housing starts,” he said. “There is a lot of under-used public land that could be built on for zero cost of acquisition. We can then invest in a publicly owned housing developer to produce mixed-income housing units.”

Freemark said zoning reform must address affordable housing, but cities and regions should not stop there. Land use must also address preservation of nature, agricultural land and resources. “We shouldn’t just be talking about what we can build, but where we can build. We must look at infill zones versus the degree to which housing is being built in agricultural zones,” noting that development over farms not only decreases local food, but also increases municipal spending on myriad infrastructure, such as new roads, water, sewer, and schools, to serve suburban expansion into rural areas.” ●

Steve Wright is a writer, planner, educator and keynote speaker who has lectured on planning for all at the American Planning Association National Conference and at the International Making Cities Livable conference in Paris. He created a groundbreaking universal design course for architects and planners and blogs daily on the inclusive city at Urban Travel, Sustainability & Accessibility. He tweets on disability design and policy issues at @stevewright64.



When cities reform zoning to allow more construction, the impacts are small but meaningful.

# ZONING INNOVATION FROM COAST TO COAST



FEDERAL, STATE AND LOCAL REGULATIONS TO  
CRACK THE CODE FOR HOUSING AND EQUITY

By David A. Goldberg

Suddenly, it seems like everyone is talking about zoning. Yes, that zoning — the esoteric focus of interminable planning commission meetings and doorstep code books. Across the country, the critiques and calls for reform of conventional approaches to regulating development have moved from government meeting rooms to mainstream and social media.

In cities as far-flung as Greenville, S.C., and Spokane, Wash., communities have zeroed in on zoning reform as a key to boosting the supply of housing in the face of rapid population growth. Louisville, Ky., is looking to increase housing choices while addressing a legacy of exclusionary practices against Black residents. States from California to Montana to Massachusetts are wading into the local regulatory fray with motivations ranging from addressing homelessness to adapting to climate change.

“Right now, zoning is in the national consciousness,” said Tocarra Nicole Thomas, executive director of the Form-Based Codes Institute at Smart Growth America. She noted that nearly every state in the union has a severe shortage of homes, with the national shortfall nearing a record 4 million units. “It is clearly at the root of the housing crisis, and it’s getting attention for that. Before 2020 you would say ‘zoning’ and their eyes would glaze over. Now, everyone knows it’s critical.”

“In terms of the housing crisis, zoning out apartments is a huge culprit,” said Yonah Freemark, research director, Land Use Lab at Urban Institute. Across the country, the nation’s more than 30,000 local governments have outlawed more than one home per lot on the vast majority of land available for housing, and often impose onerous restrictions on land that is available for multiple units, he noted. “NIMBYs have been around forever, but in the past four years the concept of YIMBYs has risen,” or Yes In My Back Yard, said Freemark’s colleague, Lydia Lo, research associate with the Metropolitan Housing and Communities Policy Center at Urban Institute. Organizing through social media and local meetups, housing advocates have begun pushing for zoning overhauls in localities and states nationwide, with growing success.



Communities have zeroed in on zoning reform as a key to boosting the supply of housing.



## Middle housing and ADU changes alone will still leave a formidable gap in available and affordable housing.

### States act to limit local restrictions on housing

Over the last few legislative sessions, a wave of states considered or adopted reforms that require localities to plan and zone for more housing. In 2023 alone, legislatures in Washington, Montana, Rhode Island, Colorado and Arizona considered bills to allow, by right, additional residences on the same property as stand-alone houses, also known as accessory dwelling units, or ADUs. Ultimately Montana and Washington voted to join California, Oregon and Maine, who made similar moves in recent years. Legislatures also considered measures to legalize so-called middle housing in single-family zones. Those are the smaller multi-unit buildings — such as duplexes, triplexes, quadruplexes, townhouses, courtyard apartments — that were common in popular neighborhoods from the early 20th century before being outlawed by mid-century zoning changes. Also, this year, California, Oregon and Montana strengthened ADU rules by barring localities from imposing mandatory parking requirements on new accessory units.

Washington state drew particular attention this year. In a session billed as “the year of housing,” and with Governor Jay Inslee as a prominent cheerleader, legislators considered a raft of bills aimed at opening vastly more territory to a variety of housing types, especially in proximity to high-capacity transit. While bills to eliminate restrictions on apartments near rail and rapid-bus stations were left to another year, the legislature did adopt sweeping bills to legalize middle housing and ADUs across the state. “On the vast majority of residential lots all across Washington, cities will no longer be able to restrict choice to a single-detached house,” says Dan Bertolet, director of housing and urbanism at the Seattle-based Sightline Institute. Writing in the immediate aftermath of the session, he noted: “The most pervasive and harmful form of exclusionary zoning is a thing of the past.”

In cities with populations of 75,000 or more, House Bill 1110 legalizes four homes per residential lot, and six per lot within a quarter mile of a major transit stop, or anywhere if two of the homes are affordable to lower-income residents. In smaller cities, two to three units will be allowed. Cities must adopt zoning that complies with the bill within six months of completing their next comprehensive plan

update in accord with state deadlines. Washington’s middle housing law goes a step farther than Oregon’s groundbreaking 2019 measure, which legalized four homes per lot in Portland metro-area cities over 25,000 and two per lot in smaller cities statewide. The Seattle-area metropolitan planning agency estimated that HB 1110 will yield an additional 75,000 to 150,000 homes over the next 20 to 30 years in the Puget Sound region.

But the middle housing and ADU changes alone will still leave a formidable gap in available and affordable housing in proximity to the Puget Sound region’s burgeoning job centers, Freemark said. The region has been growing at a rate of 1,000 new residents every week and another 1.6 million people are expected to call the region home by 2050. He noted that the region is investing over \$50 billion to develop a light rail network of 116 miles and 80-plus stations and bus-rapid transit connecting 30 cities. Making the most of that investment and ensuring that residents of all incomes have access to homes and jobs, will require thousands of units of new housing within a half-mile of transit stations. “The Puget Sound region is investing more in transit than any other region at the moment, but local jurisdictions could undermine it,” said Freemark, who worked with colleagues at the Urban Institute to create a report on the housing potential of the transit network. “Some communities have gone out of their way to limit apartments, despite gaining the advantages of new rail and bus rapid transit lines.” While a pair of bills that would have overridden local bans to legalize apartments in proximity to transit stations failed this year, Freemark expects there will be continued pressure for state and regional action to ensure attainable housing along light rail and bus lines.

### In California, a toothless tiger bites

Struggles over local limitations on housing construction have plagued California for years. In the 1980s, the state adopted a Regional Housing Needs Allocation that attempts to assign a target for new housing to each jurisdiction according to expected growth. Every eight years, jurisdictions must update the “housing element” of their plans to show how they will comply. To add teeth to that requirement after it was ignored for several years, the state passed a Housing Accountability Act that provided for

a “builder’s remedy” when municipalities fail to zone to meet the housing target: The jurisdiction’s zoning is suspended and proposed projects that include at least 20 percent affordable units may proceed, with or without local approval. Intended more as a threat than a promise of action, the builder’s remedy was rarely invoked. But recently, the state has run out of patience as the housing crisis has become overwhelming, even as it ratcheted up the number of affordable units expected from communities.

Last fall, Santa Monica became the cautionary tale. After missing a deadline to comply in the face of multiple warnings, the state revoked the city’s control over height and density for residential projects meeting goals for moderately priced and affordable housing, pending compliance. During the window that followed, developers proposed 16 projects with 4,562 units up to 15 stories tall that met the criteria for approval under the builder’s remedy. Having gotten the city’s attention, the developers later negotiated down to 10 projects of more modest proportions. State officials, land-use attorneys and local officials continue to debate the legality and practicality of the builder’s remedy, but meanwhile dozens of jurisdictions have raced to submit compliant plans.

**From conventional zoning to a “form-based” approach**

While more states are getting into the act to loosen local restrictions on housing, the truth is that in most places municipal governments continue to hold nearly all the cards in regulating land use and development. And many are themselves realizing that tight restrictions on housing supply are leading to soaring rents and home prices, while displacing all but the highest-earning workers to far-flung locales. As they look to provide more options for middle housing in walkable, less car-dependent neighborhoods, some are recognizing the limitations of conventional zoning, which typically isolates housing types from each other and from daily needs such as shopping, schools and work and connects them by car trips. In addition, most zoning regimes add a layer of discretionary review that tends to make development more expensive and the outcome less predictable.

Over the last 20 years, about 400 such jurisdictions have turned to form-based codes, according to Thomas of the Form-Based Codes Institute. Rather than establish single-focus zones where most land uses are excluded and



The best codes are created with a lot of resident input about how the finished product should look and feel.



Louisville, Ky, and Greenville, S.C., actively sought input from diverse populations to inform their zoning reform.  
Above: Courtesy of City of Louisville, Ky.  
Left & Below: Courtesy of Greenville, S.C.





Photos:

(Top)

Buffalo, N.Y.

(Middle)

Spokane, Wash.

(Bottom)

Louisville, Ky.

Form-based codes work to foster neighborhoods of varying types that can have a mix of uses.



densities tend to be low, form-based codes work to foster neighborhoods of varying types that can have a mix of uses. The best codes, Thomas said, are created with a lot of resident input about how the finished product should look and feel. Development proposals that meet those criteria can proceed without discretionary code or design review.

These days, Thomas is fielding a rising number of queries about how form-based codes can replace or augment conventional zoning. Some are exploring whether to use the codes as an overlay for districts that are destined for density, in cities such as Buffalo, N.Y.; Arlington, Va.; Birmingham, Ala.; or as an option that neighbors and/or developers may choose, as in Cincinnati, Ohio. Other cities are looking into form-based codes as part of a wholesale overhaul of their approach to shaping development, as Miami, Fla., and Beaufort, S.C., have done. While she expects an upsurge in use of form-based codes amid today's intense zoning debates, she doesn't foresee anything like the original promulgation of "Euclidian" zoning, so named for the 1926 Supreme Court case that declared regulatory segregation of uses to be legal.

"Two years after that decision, 19,000 communities had adopted zoning," she said. "There was a federal push, multiple agencies championed it. It was almost like you couldn't escape it. Form-based codes have taken an opposite tack, working their way up from the bottom, when communities go looking for an alternative that promotes a better mix of uses, encourages gentle density to create more walkable neighborhoods. Do you want a people-oriented community or car-oriented community? It gives you the streetscape and the building form. You can build at a human scale that is appealing to people.

"The conventional zoning of separated uses surrounded by parking does not do that. If you want Main Street Americana, you're not going to get it with Euclidian zoning."

### Louisville confronts a legacy of racial exclusion

Metro Louisville, Ky., was an early adopter of form-based codes. Since 2003, the city has employed a two-tiered system, as their website explains: "Traditional 'use zones' govern permitted uses while 11 overlying 'Form Districts' govern urban form and dimensional standards of structures."

"People liked the way things looked with form-based codes, but weren't ready to do away with conventional zoning," said Joe Haberman, planning manager for the Louisville

Metro government. As a result, city codes have continued to perpetuate a legacy of racial segregation that in 2021 became the subject of intense municipal soul-searching.

Noting that most Black residents continued to be concentrated in areas west of downtown, while earning less and paying a larger share of income for housing than their white counterparts, the city partnered with the Urban Institute to highlight the reasons why, as a precursor to action. The city created a website with a “story map” detailing the racist origins of zoning, beginning with a 1914 segregation ordinance prohibiting Black families from living on blocks with a white majority, and vice versa. That ordinance would become the flashpoint for a landmark 1917 Supreme Court decision, *Buchanan v. Warley*, in which the court declared it a violation of the 14th Amendment to prevent owners from selling to a particular race. But because it focused on property rights without addressing the goal of racial exclusion, the decision opened the door for myriad regulatory workarounds that had the effect of segregation without overt reference to race.

Like many other cities, Louisville in 1929 hired Harland Bartholomew to write what would become the 1931 Comprehensive Plan. His plan recommended using eminent domain to acquire and clear the “slums” where Black families lived, and to use zoning to prevent incursion of Black families into areas reserved for white residents.

Future iterations of the city’s planning and zoning documents avoided outright reference to race but used coded language — and land use codes — to achieve the same ends. The 1958 Plan, for example, called for “deed restrictions, larger single-family lots, and private open space to create exclusionary single-family neighborhoods,” the story map notes. The 1970 comprehensive plan used the needs of the automobile as an additional exclusionary tool, promoting car-only development and leaving out public transit and sidewalks.

“The main thing we tried to do was first be honest with ourselves and look at past practices and acknowledge their legacy,” Haberman said. “Sometimes looking at negative things your profession did makes you uncomfortable, but it helps when you have the support of local elected officials.”

To undo the lingering harms, city officials began engaging with the community to explore ways to prevent displacement of Black families as downtown-adjacent neighborhoods become more sought-after by developers



Courtesy  
of City of  
Louisville, Ky.

and to encourage more attainable housing in areas where Blacks had previously been excluded. “We made a concerted effort to talk with as many people as we could. Historically Black communities in West Louisville felt they were neglected by government and didn’t participate in traditional outreach efforts, where people had to come downtown,” Haberman said. “Instead, we had sessions in community hubs and got more engagement than we ever had. We held meetings at multiple times of day, had open houses, and tried to be as flexible as possible. We also tried to be creative in how we presented information and had people available to talk to people one on one. Now we have much more diversity by geography, race and age participating than we ever have before.”

Like many jurisdictions, Louisville started by successfully proposing to ease restrictions on ADUs, allowing them on most lots and reducing parking requirements in urban zones. Planners are now working to update land-use maps to allow more middle housing in various parts of the consolidated city-county. “We have comp plan policies that support a mix of housing styles and choices throughout,” Haberman said. “Our goal with middle housing is to make sure we have options throughout the county and aren’t limited to certain parts of it.”

The politics of the changes can be difficult, he acknowledged. “Most of our zoning does not allow multifamily. For anything different, we really have to get out in the community and explain how more density in certain places can be a good thing.” As of late summer, planners were six months or more from proposing new middle housing rules. “In general, we’re offering it as choice, not as a requirement. You can do multifamily in more places if it’s designed properly for that place.” Those design considerations could point to greater reliance on form-based codes in the future, and a potential shifting away from use-based zoning, he said.

### Spokane opts for quick action with pilot programs

As previously reported in *On Common Ground*, in 2021, The Spokane Association of REALTORS® (SAR) and collaborative partners, enlisted the Counselors of Real Estate's CRE® Consulting Corps to undertake a housing survey. The Counselors' resulting report, "Action Steps to Increase Spokane's Housing Supply," included data illustrating Spokane's current housing situation, recommendations on how to address the crisis such as density and zoning changes, and examples of best practices from around the country to serve as a guide. "Everybody the CRE team spoke to recognized the housing situation as a crisis," said Darin Watkins, government affairs director for SAR. "There are going to be multiple approaches and many solutions to the challenges we're facing, and in the year since our efforts began, the report has already helped change the narrative in a positive direction."

Watkins, said they also met with the city's planning director, which is essential because the director acts as the public interface, the gatekeeper for developers, coordinator with the city council and manager and influencer throughout the process. It is important for REALTORS® to become involved in the process, as "they have the data and information and can be the driver for change," Watkins emphasized.

In response to the crisis, city planners in 2022 developed the Building Opportunities and Choices for All initiative, or BOCA, a one-year, emergency pilot program that suspended single-family zoning restrictions citywide and made it legal to build duplexes, fourplexes and townhomes in any residential area. The idea was to have a real-world look at what the changes might produce, both in terms of housing product and effects on neighborhoods. Rather than engage in a lengthy and potentially contentious public process at the outset, the city would conduct an experiment then conduct outreach based on what was observed. "There have always been voices calling into question the ways we regulate housing," said Spokane planning director Spencer Gardner. "You can go back to the 60s and 70s and find people criticizing exclusive single-family detached zoning. It's not a new topic. But the housing crisis has really elevated it."

The experiment appeared to produce results. In the first five months of 2023, the city issued 509 multifamily and mixed-use housing permits, more than any other time period on record. In the mix were a couple dozen duplexes and half-dozen fourplexes, housing types that in recent

decades were few and far between. Not only that, but Spokane's program gave juice to what became House Bill 1110, the law that legalizes fourplexes statewide.

It's a back-to-the-future moment in Gardner's view. He noted that Spokane in 1900 to 1910 tripled in size to 70,000 residents. "That's monstrous growth. But it's also the period when we built these beautiful neighborhoods that people love. Part of the solution to our housing crisis is looking to what our ancestors did for their housing crisis.

"The classic example is the Cliff/Cannon neighborhood on the south side of downtown. When you walk around, you find that housing built in late 19th and early 20th centuries is housing that is mixed in terms of size and types. It provides a lot of the type of neighborhood feel that our comp plan says we should encourage. And, over the last year, new development has been occurring on vacant or underused properties within the city. These are infill lots that have sat undeveloped for decades. They are coming back into play as a result of market forces and the code change," he added.

Gardner's office is working to develop the permanent code changes, which he expects to happen in November, and to look very similar to the pilot program. Meanwhile, the mayor and council have launched additional pilots. In February 2023, the council passed an ordinance dubbed "Pavement to People," which offers tax breaks to incentivize developers to build affordable housing on downtown surface parking lots. And in July, the city started a one-year pilot removing the requirement that developers construct parking spots when building new apartments or houses within a half-mile of transit stops. Spokane also made it legal for a landlord to charge less for units that don't come with parking.



A multifamily home under construction under the BOCA (Building Opportunity and Choices for All) interim ordinance. Courtesy of the City of Spokane.



If you want Main Street Americana, you're not going to get it with Euclidian zoning.

### Missing housing meets resistance in Greenville, S.C.

Like Spokane, metro Greenville, S.C., is a formerly sleepy area that has become a sought-after refuge of lower home prices and high quality of life, a success story high-profile enough to earn a 60 Minutes segment last year. The city of Greenville has seen its population surge by 20 percent over the last decade, with the pace growing in recent years. In an effort to shape that growth while promoting more housing construction, the city in June adopted a new development code and zoning map that identifies 11 “nodes” with mixed housing types and walkable densities, as well as four “corridors” along thoroughfares linking the nodes. Missing from the new code, though, is a provision to allow missing middle housing in more single-family zones, said Chris Bailey, CEO of Greater Greenville Association of REALTORS®.

Beginning in 2019 Bailey and other REALTORS® had partnered with Upstate Forever, a smart growth and conservation advocacy group, to launch a public discourse about missing middle housing, its role in shaping traditional Greenville and potential to offer more housing choices to more people. The partners worked to bring the firm Opticos Design in to conduct a scan of existing middle housing that could be used as a guide for introducing it more places through code changes.

“When we first explored this topic with a coalition, it was at a time when people in this part of the world weren't talking about missing middle,” Bailey said. “It was pre-COVID, housing affordability wasn't such an issue. The timing was good because Greenville city and county were required to update their 10-year comp plan.”

After a year and a half of stakeholder meetings and several drafts of the plan, “missing middle ended up being a part of the proposed policy documents,” Bailey added. “That missing middle housing product showed our planners how to do density without it looking like density. It's not an alien concept, you already have it in your community, and it's not high density that will swallow up your neighborhood.”

Any time you can increase housing choice you are meeting key parts of the market. For first-time buyers it can be perfect. But even rental helps, because the more housing choices you have, the more it drives-down costs and gives people a chance to move up.”



Courtesy of Charlottesville, Va.

Implementation has proved to be a challenge, he said. “The planners are identifying places in the city where density makes sense, but then in response to neighborhood push-back you see them decreasing density. There is a lot of NIMBY-driven stepping back. As much as I would like to write a feel-good success story, we have realized that this is a long-term game. The good thing is that we have put ourselves at the table for so many policy discussions.”

### State and regional action to stem the housing crisis

Greenville's situation is more the norm than an outlier, the Urban Institute's Lo noted. “At the local level, the cost of reform in political capital can be enormous,” she said. “But we need results-based zoning and land-use policy, wherein local governments are held accountable for meeting housing demand for all incomes and circumstances, and for reducing costs associated with housing and transportation. To ensure that all jurisdictions participate, and to be fair to the more willing participants, action needs to happen at the state or regional level. Don't dictate the means for meeting targets, but set the expectation that the jurisdiction must find a way to meet results.”

“I've been on record in the past of being skeptical of state action,” Spokane's Gardner said. “There are times when state imposing top-down solutions can lead to suboptimal outcomes. With the housing issue, my thinking has changed a little. There is a collective action problem. When you have a crisis like this, no locality can gain by trying to address this on their own. If you're the only one to open up to more housing, you might get the radical change people fear. The way to get around that is for all to go at once, and that's where state action helps. As the crisis has worn on, it has become more and more apparent that state action was necessary.” ●

David A. Goldberg is a nationally recognized journalist and founding communications director of two national nonprofits, Smart Growth America and Transportation for America. In 2002, Mr. Goldberg was awarded a Loeb Fellowship at Harvard University, where he studied urban policy.



# DOWNTOWN *innovation*

Move to convert office buildings to apartments is picking up steam

By Brian E. Clark

To say that the U.S. economy and American cities took a punch to the gut as a result of the pandemic would be an understatement of colossal proportions. The loss will amount to more than \$14 trillion by the end of this year, according to a recent Stanford University report.

Downtowns and the commercial real estate market took a major hit from COVID, losing hundreds of billions of dollars in value, with thousands of office buildings around the country even now only partially full because of the shift to remote working.

One solution, which cities from New York to Chicago to Denver to San Francisco are trying as a way to revitalize their downtowns, is lowering barriers that have made it difficult to convert moribund office buildings into residential housing.

Santiago Ferrer, a managing director and partner with the Boston Consulting Group, said the situation for many downtowns is dire, but they can rebound if government agencies, developers, lenders and other key entities — including occupants — work together. “I think cities will be different in the future,” he said. “However, it doesn’t have to be a doomsday scenario if people act.

“The biggest struggle for me is coordination. There needs to be a strong civic alliance where everyone comes together and acts in unison. In some cities, that works better than others.”

Even if they do all get on the same page, he said converting office buildings into apartments won’t happen overnight. “At the fastest, it will be a five-year process. But it could be a decade because you can’t bring all this new capacity onto the market right away. The built environment takes time to change.”

Ferrer said a recent survey found that many office buildings are at risk of becoming “zombies, with low use, high vacancy and rapidly diminishing financial viability” and rising interest rates are compounding the financial pressure for building owners, whose rental income stands to drop 35 to 45 percent as corporate leases expire in some cities.



The LaSalle corridor; photo courtesy of Chicago Department of Planning and Development.

“Higher borrowing costs coupled with lower valuations could leave some owners owing more than their buildings are worth, leading in turn to a wave of defaults that suddenly make lenders the owners and managers of these buildings,” he said.

In February, he said a fund managed by Brookfield Properties defaulted on \$784 million in loans on two well-known office skyscrapers in downtown Los Angeles, “which was seen by some as a turning point for the U.S. office market.”

In New York City — where the office market covers 400 million square feet — many office buildings are only half full on some days.

Another recent study by researchers at Columbia and New York Universities said the value of the Big Apple’s office buildings could fall by nearly \$50 billion in coming years because the lowered demand for office space may well be permanent.

Ferrer said the problem is also acute in Los Angeles and San Francisco, where weekday office building use has fallen to around 40 percent.

In New York City, the official office vacancy rate rose to a record 16.1 percent in the first quarter, representing more than 76 million square feet, according to a report by commercial real estate firm JLL.

That vacancy rate means about 84 percent of available space is leased. However, it doesn’t mean it’s being used. New York’s actual office occupancy rate is about 49 percent, according to Kastle Systems, which tracks card swipes through its security systems.

These new workplace and financial realities will require property owners, city leaders and lenders to take action to reimagine downtowns,

### ESTABLISH A BASELINE



This means assessing the likelihood of office buildings for low occupancy and default, then estimating the resulting budget shortfalls from lower tax revenue.

### ENCOURAGE USE



Cities should evaluate land-use rules to ensure they don't impede downtown revitalization. They should invest in public spaces and keep them safe, with a special focus on transit. They should also encourage government workers to return to office buildings to boost the vitality of downtown corridors.

### SUPPORT NEW USES



Zoning and development regulations should be revised to allow for more downtown housing, hotels and retail and office space. Incentives such as tax breaks and subsidies can boost conversions to residential use, affordable housing and energy-efficient retrofits.

### REPLACE LOST REVENUE



City leaders can delay property reappraisals. They can make better use of public spaces for art, music and theater programming to draw people downtown to spend time and money. They can find new sources of revenue such as tourism and arts and culture districts.

Providing incentives and easing regulatory burdens are key.

As a result of this drop-off in San Francisco and Los Angeles, public transit revenue has plummeted by 80 percent or more, and office property values and tax revenues may drop by as much as half, according to an analysis of public data done by the Boston Consulting Group.

So, what are cities to do? Experts say two key answers include providing incentives and easing regulatory burdens to make it easier to convert office buildings to apartments.

They can also try other options, ranging from adding more mixed-use development in their downtowns to building casinos (New York), adding a soccer stadium (San Francisco) and creating other amenities to attract visitors and residents.

That should help counter what some call the “urban doom loop,” a vicious circle in which lower office-building use leads to less spending at surrounding businesses, closures and, as leases turn over, less rent revenue.

“This leaves less money available for building improvements, which further decreases property values and resources for maintenance and upgrades,” Ferrer said. “As vacancies persist, businesses that cater to office workers close or relocate, creating more vacancies and often causing public safety problems that cities struggle to address with diminished tax revenues.”

These new workplace and financial realities will require property owners, city leaders and lenders to take action to break the cycle and reimagine downtowns, Ferrer said. (See sidebar at left for recommendations.)

Ferrer said property owners, for their part, need to evaluate their commercial real estate portfolios and decide how to revive or relinquish zombie buildings. He said commercial office properties will fall into one of five categories:

- Continued high occupancy and profitability.
- Viable with a moderate decline in income.
- Appropriate for conversion to housing, hotel or other uses.
- Suitable for redevelopment with public support.
- Unsuitable for reuse or subsidies and subject to default.





Photos: (Left) San Francisco; (Middle top) Denver; (Middle bottom) New York City; (Above) Chicago

“Making these decisions will be difficult, but necessary. The pandemic created a permanent change in workplace behavior, so even a national economic rebound or a pause in interest rate hikes will not solve the problem for many buildings. Our analysis suggests that a third or more of U.S. office space won’t be needed.”

Lenders should work closely with property owners and city governments to try to prevent a wave of building defaults that could force them to become the owners and managers of zombie buildings, setting off a spiral of declining property values. “They will need to manage risk, restructure loans near or in default, and develop markets where they can sell those loans. They’ll also have to evaluate and finance reuse and redevelopment projects as downtown districts take on new functions,” he said.

“The U.S. office market faces dramatic upheaval over the next three years, forcing the nation to deal with moribund office buildings in stressed urban neighborhoods. Given the stakes, cities, owners and lenders must rethink how we use commercial buildings after the pandemic and what we want for downtowns.”

The NATIONAL ASSOCIATION OF REALTORS® (NAR) has been working with a dozen other real estate groups, including the Real Estate Roundtable, lobbying Congress to provide tax credits of up to 20 percent for owners of office buildings to readapt or convert them to housing and other uses.

“We see this as a way to revitalize downtowns at a time when buildings in many cases are half empty or more and downtowns seem like they are dying because nobody goes there anymore to work,” said Evan Liddiard, who directs tax policy for the NAR.

“Late last year, the group came up with parameters for legislation we wanted to see and sent it around to many members of Congress,” he said. “Since then, we have been following up with key members of the tax writing committees to see if we can get them interested in introducing legislation to do just that.”

“We have interested bipartisan members on the House Ways and Means Committee who are working together to develop the legislation. But it’s not quite ready to be introduced yet.”

The group is also speaking with members of the Senate Finance Committee, which is the counterpart to the House Ways and Means Committee. “Many states and local governments are finding ways to subsidize readapting old buildings, too, and we’re hopeful Congress will move forward on this because it’s important, especially for housing,” Liddiard said.

In San Francisco, which has been hard hit by the shift of the tech sector to remote work, Lily Langlois, the city’s principal planner and downtown economic recovery lead, said “there is a strong appetite right now to try some new things because our downtown is clearly struggling.”

According to Newmark Research, San Francisco’s office vacancy rate stands at 25.6 percent. That means only 75 percent of office buildings are being leased and actual use is only 41.6 percent.

In July, the San Francisco Board of Supervisors passed adaptive reuse legislation to facilitate the conversions of older buildings by significantly lowering affordable housing and other impact fees, as well as waving planning code

requirements that make more sense for new structures. “So, if you have an older building and you want to convert it to housing, you no longer need to provide things like open space or bike parking,” Langlois said. “We’re trying to take advantage of the older, historic buildings that exist today in a way that doesn’t feel prohibitive to the conversion project. We want to limit the requirements that are needed.”

Langlois said the city also has also issued an RFI (request for interest) for adaptive reuse projects, “asking sponsors to come forward and tell the city what they need, whether that is additional legislative changes or financial support.”

She doesn’t expect conversions to happen overnight. “Overall, the development pipeline in the city is slow. And, we haven’t gotten a large number of projects right now because the financing is really challenging. But we want to be prepared when things improve.”

San Francisco plans to conduct a survey of its office buildings downtown — many of which are historically significant and in conservation districts — to determine which ones are suitable for conversion to apartments and other uses. It is also looking at what other cities — such as Denver and Chicago — are doing to revitalize their downtowns.

“Our mayor’s Roadmap, which is updated every six months, has a number of strategies, including enhancing the public spaces we have downtown, providing more places to gather for events and activities and providing opportunities for programming.

“Our downtown has really strong community benefit districts (CBDs), that have ideas and plans to support activation, so we’ve been trying to support them.

“There is also the idea of transforming downtown into an arts, entertainment and culture destination zone, making it easier to both permit nighttime activities, but also provide the space and incentives for more activities to give a reason to be there when they aren’t working.”

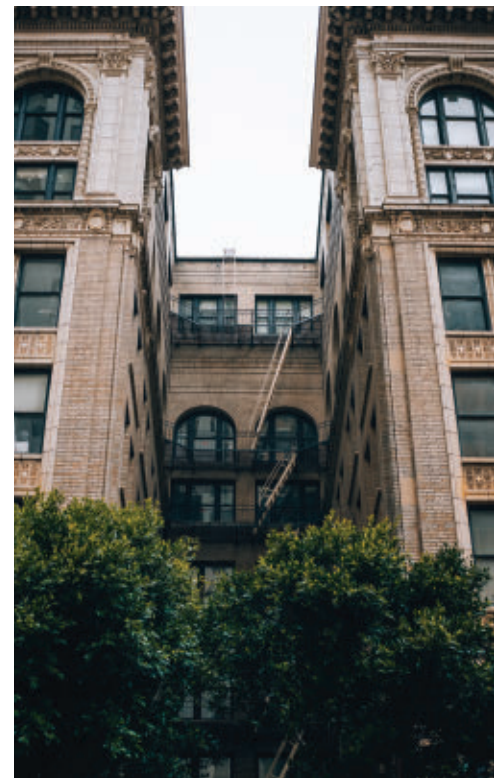
She said the city wants to grow and diversify the city’s workforce so it is not as heavily dependent on technology. “We want to bring different jobs downtown and support and start businesses through streamlining. We have a grant program called Vacant to Vibrant which is matching empty ground-floor space with businesses that want to do a pop-up. The first round of applications has been announced and there are 15 to 18 that are coming into downtown for a trial period to activate buildings that currently don’t have a ground-floor tenant.”

The mayor also has suggested tearing down the downtown Westfield center mall, where Nordstrom’s flagship store departed in late August, and using it for a soccer stadium, which could help revitalize the downtown core and be used for concerts and other activities.

The city would also like to diversify the financial district with university buildings, medical and dental offices as well as a lot more housing. “Our downtown is very unique in many ways because it is very flexible,” Langlois said. “You could almost have any type of use.”



San Francisco passed adaptive reuse legislation to facilitate the conversions of older buildings.



Langlois is optimistic that the city's downtown will bounce back. "We just had such a vibrant downtown before the pandemic so what happened feels particularly devastating in many ways. But we are being proactive and are looking for solutions to the problems we're facing to bring life and activity back to our downtown. More housing is certainly part of that."

In Denver, the pandemic had a massive impact on the Mile High City's downtown, said Jennifer Ramsey, an adaptive reuse administrator with Denver's Department of Community Planning and Development.

She said Denver also has a large homeless population, which also has affected the downtown area. In August, Mayor Mike Johnston declared a state of emergency to deal with the problem and find housing for those on the streets and in encampments.

The pandemic caused a "major dip in use with many fewer people coming downtown and we are still seeing some of the after effects, with the Upper Downtown vacancy rate hovering around 28 percent," Ramsey said. "In addition, the utilization rate within many buildings is not 100 percent.

"We've also observed a pretty significant reduction in street traffic, so in that sense there are less customers and fewer people enjoying our great parks and visiting the convention center and our arts complex that have traditionally been pretty big draws to outside traffic and national traffic to our downtown.

"We have seen a rebound in some of that traffic to the convention center events, for example. However, we haven't yet seen a return in terms of shopping interest."

Ramsey noted that even during the pandemic, the city invested \$150 million to begin renovation of its primary downtown thoroughfare, the 16th Street Mall. "That will be done in the next year, and we're hoping to see a lot more interest in retail downtown."

To bring more residents to the city's core, Denver is hoping to rebalance office space with housing and stores, eventually turning Denver's Central Business District into a Central Neighborhood District that is less reliant on cars and more pedestrian friendly.

"We believe there will be less demand for cars and parking in the future. We are looking to consolidate parking and free up that space for other uses," she said. "We're also creating more tree cover and other design interventions

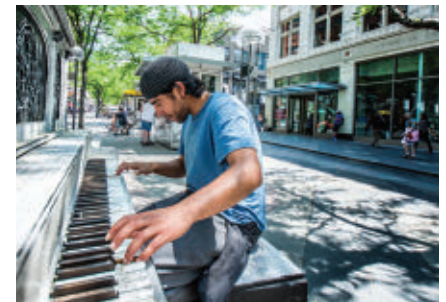
that could make downtown Denver a much more walkable environment."

To move the rebalancing effort along, Denver has launched a pilot program for two areas of the city, including downtown, that will push a number of adaptive reuse projects through review process to understand which code changes will most effectively support adaptive reuse.

"We hope this will help stimulate the conversion of offices into apartments," she said. Denver already has a leg up in this effort with its progressive zoning code that allows office to residential conversions without rezoning and also exempts residential conversion projects from parking requirements.



Denver is focused on downtown innovation, including addressing homelessness and office vacancy and increasing foot traffic downtown by rebalancing office space with housing and stores.



The city is also working with the Downtown Denver Partnership to provide funding to encourage greater retail diversity, get smaller businesses into former downtown retail spaces and encourage pop-ups.

Ramsey said she is convinced that a downtown with more residents is more vibrant than one dominated by offices. “Absolutely! We want more people living and working and playing downtown and using it 24/7.

“In downtown Denver, there is about 10 percent residential, and we are looking to increase that to 30 to 40 percent to get more stability in tenancy and create a more vibrant downtown feel.

“We still have a pretty heavy tech center and lots of diversity in professional services as well as government. So, from an office standpoint, we do have more diversity than other cities. But we really are looking at increasing residential opportunities here as well.”

Ramsey said the pilot program is focused on the Upper Downtown area and its older, less utilized office towers. Some older office buildings that have good potential for conversion to apartments may become available because of the “flight to quality” trend in which office tenants are moving out for newer digs with more bells and whistles.

“The program provides an accelerated review period and a dedicated project coordinator to assist those projects through the process of getting approved,” she said. “We are also working with them to identify other incentives that would be appropriate like code changes or different approaches. We are really interested in learning what long-term changes the city can enact to support adaptive reuse in the future.

“We’re looking beyond the immediate interest in office to residential conversion downtown to other areas of the city that could benefit from this, too.”

Next up would be extending the pilot program to East Colfax Avenue. Today, the street is lined with an eclectic mix of eateries, bars, brewpubs and shops, as well as entertainment and live music venues like the Ogden and Bluebird theaters. “We want to see how this process can support smaller developers and tenants. It would be a little different focus because it’s a slightly different neighborhood, but it’s important to look at other areas of the city that could benefit.”

In Chicago, the city has launched an effort called “LaSalle Reimagined” that includes converting older office buildings into housing along a five-block corridor in what was historically a monoculture of banks, financial institutions and trading companies.

Peter Strazzabosco, managing deputy for the Chicago Planning Department, said this section of LaSalle has some of the highest commercial and retail vacancy rates in the city at 26 and 35 percent respectively. The LaSalle Reimagined is a “threefold attempt to turn the central Loop into a neighborhood type of environment.

“With the addition of the planned conversion of five projects that have been selected to go forward, more than 1,600 new housing units will be created and 600 of them will be offered at affordable levels” thanks to public tax increment financing.

The program also includes grants to repurpose vacant retail spaces at ground level and in some of the former banking floors near ground level to create more neighborhood-oriented amenities, such as grocery stores, restaurants and cultural spaces.

The element aims to improve what he called the “public realm” along the street. “It’s a very vertical concrete steel and glass canyon that doesn’t have a whole lot of welcoming public areas along its length where people can linger and enjoy passive recreation outside,” he said.



A downtown with more residents is more vibrant.



New York City is shepherding new rules that make it easier for office buildings to convert to housing.

“So, there is city funding to create more welcoming streetscape amenities along the corridor to further promote a neighborhood feel in the heart of the Loop.

“Five years from now, LaSalle Street should have a completely different feel with a 24-hour environment where people are working, living, going to grocery stores, restaurants, shopping and enjoying cultural spaces.”

In New York, the city recently unveiled an Office Conversion Accelerator team that creates a single point of contact within city hall for all projects of more than 50 housing units aimed at turning commercial real estate into residential units.

It is part of the Big Apple’s “City of Yes” initiative, which is designed to increase the amount of affordable housing options. “We are throwing open the door to more housing — with a proposal that will allow us to create as many as 20,000 new homes where the building owner wants to convert offices into housing but needs help cutting through the red tape,” Mayor Eric Adams said in announcing the new effort.

The city also created a consortium called “Get Stuff Built,” also aimed at cutting through New York’s notorious red tape, sometimes known as “kludge,” which generally means an ill-assorted, inefficient system that is difficult to manage.

Dan Garodnick, New York City’s Planning Department director, said his role includes “shepherding new rules that make it easier for office buildings to convert to housing. It’s brand new and was just kicked off in mid-August.

“The notion is that we will bring together representatives from a variety of city agencies that have a part in office conversions to help any building that could convert more than 50 units to get through the regulatory process. The goal of the accelerator is to issue building permits in six months or less for projects that have zoning in place. Right now, it takes significantly longer.”

He said the demand for office space in New York City has dropped significantly because of the pandemic. “We have seen a major change in the way that people are living and working in a post-pandemic world.

“It has affected commercial office buildings and their opportunities to fill space. In many cases, it harmed businesses that counted on five-day-a-week worker presence from those offices. Today, we have a 19 percent vacancy rate for commercial office space. At the same time, we are



also in the midst of a housing crisis. So, the moment is ripe for us to enable more offices to convert to residential.”

Garodnick said the accelerator program is one part of the broader initiative to change the city’s very strict rules to permit more buildings across more geographies to be eligible for conversion to residential. In sum, we expect our plan to enable another 136 million square feet of office space to be eligible for conversion and about 20,000 apartment units to be built over the next decade. And because it would be a permanent change, this would continue to happen over time.”

He said the city is also looking at allowing housing in a Midtown neighborhood that is zoned as a manufacturing district. “Residential is currently prohibited there, but we think there is an opportunity for us to enable a more mixed-use experience, a 24-hour neighborhood in that part of Manhattan.”

“Deciding which office structures are suitable for conversion to housing is building-by-building determination. Some will be a fit for this program and others will not,” Garodnick concluded. “But we know that vacant space is doing nothing for anyone. We want to do more to activate our streetscape, enhance our tax rolls and put our buildings to their best possible use.” ●

Brian E. Clark is a Wisconsin-based journalist and a former staff writer on the business desk of The San Diego Union-Tribune. He is a contributor to the Los Angeles Times, Chicago Sun-Times, Milwaukee Journal Sentinel, Dallas Morning News and other publications.



# PROMOTING AFFORDABLE HOUSING VIA ZONING REFORM



By Steve Wright

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America has an affordable housing crisis. For more than two decades, supply has not kept pace with demand. The result is housing — rental and homeownership — is out of reach for an increasing number of Americans each day.

It is not something impacting only poor people. It is crushing the workforce's pocketbook. Even if you are wealthy, if you buy a house that costs double what it did just a few years ago, the crisis is impacting your life negatively. Wealthy business owners are closing their shops, holding back on expanding their brand and unable to maintain production of their product, because they cannot recruit and retain workers. All because of the housing affordability gap.

Using zoning, land use and incentive programs closely linked to the planning/zoning toolbox is the way many cities and states are searching for the light at the end of the tunnel.

The situation is so dire that “red” states that may have shunned subsidies and workforce housing programs are voting for land-use reform. And “blue” states that may have been viewed as protectionist are removing restrictions that slow bringing housing to market or drive up its cost.

Many states have grown so tired of local rules that make it impossible to build affordable and missing middle housing, that they have passed laws that preempt local control over some land-use decisions. Some have done away with single-family-only zoning — the majority of zoning in all of the land — and allowed Accessory Dwelling Units (ADUs), or even duplexes or triplexes, by right, in single-family districts.



Housing is out of reach for an increasing number of Americans each day.

Missing middle refers to the range of housing that fits between single-family detached homes and mid-to-high-rise apartment buildings. Many people grew up in such housing in the 20th century, but zoning restrictions tended to eliminate townhouses and fourplexes and segregated housing into only larger-lot, single-family zones or denser, taller apartment districts.

ADUs, also known as granny flats, are ancillary buildings on a single-family lot. They could be over a carriage house, in a converted garage or in a stand-alone building usually about 500 to 750 square feet. They add gentle density to a neighborhood while creating affordable housing and an income stream for the lot owner to help keep up with rising costs.

In Vermont, a pair of energetic planners is creating a new toolbox of affordable housing solutions in one of the nation's oldest states. Amy Tomasso is the planning coordinator and Jacob Hemmerick, AICP, is a community planning & policy manager for Vermont Department of Housing & Community Development.

“We knew we had to do a zoning guide. Local zoning codes in Vermont were stuck on midcentury values with large lots and rules that made it hard to build housing that matched our needs,” Tomasso said. “We contracted with Congress for the New Urbanism to design a zoning guide called ‘Enabling Better Places: A Zoning Guide for Vermont Neighborhoods’ based on New Urbanist Principles such as complete streets, a mix of uses, and ways of expanding housing opportunities. The Vermont Association of REALTORS® (VAR), AARP and others helped fund it.”

Hemmerick explained that the Vermont Legislature backed the implementation of the guide with funding for a grant program to provide municipalities with resources to hire consultants to write local zoning that supports great neighborhoods. The legislators renewed that two times since the initial round.

The legislature has also added other benefits for designated neighborhoods, including a freeze on land gains tax for properties upzoned under the new scheme, as well as fee breaks for state wastewater permits in

## What is Missing Middle Housing?

Courtesy of Vermont Agency of Commerce and Community Development

A housing term describing a range of house-scale residential building types with multiple units compatible in scale and form with detached single-family homes.



Two Household Dwellings



Fourplexes

Sixplexes

Village Live-Work

Vermont neighborhoods planned and zoned for compact development.

“Going back to Colonial times, Vermont villages had a pattern colloquially characterized as big house, little house in back and barn, small homes above general stores, carriage houses, and buildings with many porches and apartments. This accommodated multiple families and cottage commerce and industry in the barn or store,” she said. “Then our mid-20th century zoning code made it harder to build that historically occurring range of options and mix of uses. We stopped building missing middle housing, which is very much needed to accommodate a growing population of young families, the workforce and seniors wanting to downsize.”

To remove barriers to convenient and diverse neighborhoods with affordable housing, Tomasso said, “Vermont is presently building a toolkit for small-scale developers of less than 10 units.” It will show housing types, from an Accessory Dwelling Unit to a six plex, for incremental developers.

Hemmerick said the Homes for All project will have community infill case studies and a training summit for small-scale developers. The Vermont Department of Housing & Community Development, led by Commissioner Josh Hanford, selected five communities across the state — to include a range of demographics and existing infrastructure — and creates visualizations of neighborhood infill.

“The toolkit takes a comprehensive approach from permitting to financing. It will look at zoning as a foundation and visualize the missing middle housing types we need, so people can wrap their heads around what missing middle housing looks like and welcome it next door.”

Tomasso said much of Vermont’s housing is out of the price range of its workforce. There also is a need for affordable, accessible housing to meet the needs of seniors, young people, and people with disabilities.

Vermont just launched a pilot program with predevelopment funding for architecture, engineering and other expenses for smart growth neighborhoods in the state.

Accessory Dwelling Units (ADUs), duplexes, townhouses, courtyard apartments and mixed-use neighborhoods are all examples of middle housing.



**Townhouses**



**Cluster & Courtyards**



**Detached Accessory Dwelling Units (ADUs) & Cottages**

“Most land-use controls in Vermont are held by municipalities, so we want to give them a suite of tools designed to help them take the next step,” Hemmerick said. “We want to help make it easier to build a home in a livable neighborhood that Vermonters can afford. We want to get people thinking about working across multiple agencies and governments, so we can eliminate hurdles that stand in the way of homes people can afford.”

Earlier this year, Vermont joined Oregon, California, Washington and Montana as a state that preemptively banned local zoning codes that allowed only single-family houses. Now, duplexes are allowed in all single-family residential zones and triplexes and fourplexes in all areas served by water and sewer. Many activists for equity and inclusion have applauded these preemptions as a giant step toward reversing the impact exclusionary zoning has had on affordable housing and racial/economic segregation.

Planners and REALTORS® are spreading the message about the upside of zoning reform, which goes beyond affordable housing and includes equity, environmental and economic benefits.

VAR has made the creation of new housing the association’s top priority,” said Kathleen Sweeten, VAR CEO. “VAR supports policies that will create ownership and rental opportunities for workforce housing and the provision of incentives for employers who invest in the creation of housing for their employees. We support policies that will expand availability and affordability for homeownership.”

“We’ve seen a shift in the conversation in Vermont. The NIMBY comments common years ago are changing because the housing crisis has become so acute,” said Hemmerick. “Their kids can’t buy a home. Their grandkids can’t buy a home. Seniors can’t downsize. Their favorite hamburger shop is closing because they can’t find workers.”

Vermont has the second oldest housing stock in the nation. So there also are issues to renovations or allowing ADUs on a lot to meet 21st century housing needs and aging-in-place opportunities.

Tomasso said the agency works with AARP and other partners to focus on livability and walkability. Vermonters are buying into the benefits of universal design and housing and communities that support aging in place.

Aaron Shroyer is a senior advisor with the U.S. Department of Housing and Urban Development Office of Policy Development & Research.

“It’s clear that in cities there is downtown and areas where job centers are and these are the hubs of economic activity. But you look at how most of these big cities are zoned, they reserve an outsized portion of their land for single-family housing,” he said. “It sets an artificial cap on the number of people who can live there and the number who can live near the jobs. [People] pay a higher rent because the scarcity of housing.”

Shroyer said cities and the early suburbs had a mix of housing types, then areas were downzoned to allow only

Planners and REALTORS® are spreading the message about the upside of zoning reform.



Courtesy of SDOT



Bristol Cohousing in Bristol, Vt., is a good example of a cottage court. Photo by Richard Amore.

single-family houses, often on large lots. “That affordable housing stock is illegal to build in most cities, so it’s important to re-legalize it,” he noted.

Shroyer said cities should eliminate minimum parking requirements, which often mandate more parking spaces than the market requires. Studies have shown that parking spaces in a garage can add \$30,000 or more to the price of a unit.

“I’m not the first person to say this, but our focus should be on building affordable housing for people and not for cars,” he said, noting that jurisdictions that do away with parking requirements often see more housing units on a development site.

In the single-family realm, Shroyer suggests removing something that is omnipresent in local zoning codes — minimum lot sizes.

“Larger-lot-size zoning forces a person to buy a house and a yard. Some people don’t want yards,” he said. “What you’re doing is guaranteeing less density. Houston lowered minimum lot sizes from 5,000 square feet to 1,400 about 25 years ago. I’ve read that it produced 80,000 more houses. Now we can’t say the smaller lot sizes are the causation for every house, but it seemed to bring more units to market and more options means more affordability.”

Shroyer agrees with many affordable housing advocates who say cities should allow missing middle and larger multifamily development by right — meaning no expensive variances or land-use changes are required. He also said cities could remove barriers to adaptive reuse and conversion of office or commercial buildings into housing.

“Cities and states can also enable housing production by converting land previously zoned for other uses. As work-from-home continues to be prevalent, the demand for commercial real estate has plummeted, so allow housing in commercial districts,” he said. “We also need to promote affordable housing options near transit and create more people-centered neighborhoods.”

Shroyer is encouraged by a year that has seen about 200 affordable housing policy bills introduced in various states and the majority of them approved. He said all political parties are realizing that more housing supply will help hedge against prices going up so dramatically.

Tom Larson, executive vice president of the Wisconsin REALTORS® Association (WRA), has been working on

smart growth and housing affordability issues with state and local lawmakers for a quarter century.

In 2019, WRA commissioned University of Wisconsin-Madison professor of urban and regional planning, Dr. Kurt Paulsen, Ph.D., AICP, and his report, “Falling Behind,” highlights three main causes of the workforce housing shortage:

- Not building enough homes to keep up with population and income growth.
- Construction costs outpacing inflation and incomes.
- Outdated land-use regulations that significantly drive up the cost of housing.

The results of these root causes of the workforce housing shortage bring about the following results:

- Housing costs on the rise.
- A severe decline in homeownership.
- A continued decline in overall housing affordability.

The report and WRA’s government relations work struck a chord, because eight different pro-housing legislative measures passed with bipartisan backing last year and in the most recent session, five major housing bills passed with almost unanimous support. The highlight is a \$525-million revolving loan program for workforce housing.

“Our legislature is not a fan of TIF (Tax Increment Financing), tax credits or grants. It favors a revolving loan program, so the money gets paid back,” Larson observed.

Larson said another issue in the Badger State has been Not In My Back Yard (NIMBY) opposition to affordable housing, saying “you can enact the best land-use regulations you want, but you can’t get a project approved if neighbors oppose everything.”

Larson said two new statewide rules address this. The first is a development-by-right framework, which requires local governments to approve a residential development if the development is consistent with the local development regulations. It gives local officials the spine to make the correct, but politically unpopular decision.

The other change is if local government turns down a development, the applicant can appeal directly to the court and that ruling stands. In the past, courts overturned zoning decisions, but remanded it back to the municipality. The long cycle of winding through staff review, lower hearing boards and a vote by elected officials drove up costs and

sometimes killed missing middle and urban infill projects that would have addressed the housing crisis.

Josh Schoemann, county executive of Washington County, Wis., is leading the charge for affordable workforce housing in his area north of Milwaukee.

“The biggest challenge is having housing the workforce can actually afford. They are costed out of our community,” he said. “I looked up on REALTOR.com and found three houses for sale at \$300,000 and below in the whole county.”

Schoemann said the skyrocketing cost of homeownership is making it hard to recruit a workforce and to keep local college graduates in the community. “We focused on Next Generation Housing. We identified very early on that our zoning would not let you build on a single-family lot less than 8,000 square feet and our regulatory hard and soft costs added about \$80,000 per lot. Builders tell us they can create a 1,200 square-foot home in the \$250,000 range — but when you tack on all the regulatory and infrastructure costs, the price pretty quickly hits about \$400,000.”

The county created a pilot project in the village of Jackson, where it funded some infrastructure and allowed smaller lots. The Oaks of Jackson features 105 units — mostly single family with some duplexes and quadplexes — on about 20 acres next to the village hall. Seventy-five percent of the units will sell at \$320,000, and 25 percent will be \$420,000 or below.

The county invested \$7.5 million to lower the cost of homes in the pilot project. Another \$2.5 million is in a down-payment assistance program. To get \$20,000 of forgivable downpayment funds, a person has to commit to volunteering at a nonprofit to serve the community for five years. If the person does not volunteer, they must pay back the loan five years after receiving it, but at zero-percent interest.

Schoemann said the county has a “fair amount of rentals” so it is not funding affordable apartments. The goal is to create 1,000 units of owner-occupied Next Generation Housing over a decade.

Larson said another provision in Wisconsin, aimed at streamlining workforce housing, places limits on what neighbors have standing to file a court appeal on a zoning decision.

“It limits appeals to those who suffer actual damages. If you’re a neighbor with stormwater put onto your property, that’s actual damage,” he said. “If you are down the road a mile or two and you worry about a few more cars on the road, (due to the development) you do not have standing.

“Under prior law, if you were within a quarter mile of a rezoning, you could file a protest and that triggered a super majority vote. Now that does not happen — only a simple majority is required,” he said.

The state housing authority’s loans to developers involves a competitive process. One of the ways to earn a higher ranking is to be located in a community that has engaged in the most significant zoning regulatory reform.

Larson said part of the reform is allowing smaller lot sizes and more units per acre. “We have found it very persuasive to explain to local officials and members of the public that today you can’t build the housing that most of us grew up in — because local regulations won’t allow it. That frames it. It changes the narrative,” he said.

“We hear ‘We don’t want the others, those people,’” Larson said about the argument for exclusionary zoning. “But when they see the regulations wouldn’t allow themselves or their children to move into the community, it personalizes it. They think of it differently.”



The biggest challenge is having housing the workforce can actually afford.







The U.S. housing shortage is creating acute housing affordability challenges for older adults and people with disabilities.

Larson noted that zoning that allows smaller units close to neighborhood conveniences gives seniors a place to downsize into. That frees up housing inventory for young families. Young families, in turn, can rehab Wisconsin's aging housing stock, where more than half of single-family homes were built before 1980.

Jenny Schuetz, a senior fellow at The Brookings Institution, who gave testimony this summer to the United States Senate Special Committee On Aging, emphasized that her views were her own. Her expert testimony to the committee, chaired by U.S. Senator Bob Casey, focused on an oft-overlooked aspect — housing that is both affordable and accessible to older adults and people with disabilities.

She said the U.S. housing shortage, caused by a gap of nearly 3.8 million additional houses needed to match population growth, is creating acute housing affordability challenges for older adults and people with disabilities. Zoning rules that prohibit all structures except single-family detached homes create direct barriers to building accessible homes.

“Single-family homes are less likely to have accessible features, such as a no-step entry into the home or a bedroom and bath on the main living floor,” she testified. “Historically, duplexes and triplexes have enabled multiple generations and extended families to live together — an important source of informal caregiving.”

CDC research shows one in four million Americans have some kind of disability. But Schuetz noted research has proven that less than 5 percent of homes are accessible for people with moderate mobility difficulties.

“Many older adults and people with disabilities need or prefer fully accessible apartments in elevator buildings. Yet all of these diverse structure types are illegal to build on the majority of residential land in communities across the United States,” she testified. “The lack of small, accessible homes in many neighborhoods limits the ability of older adults ... to right-size their home while staying in the same community.”

While acknowledging that local government has most of the power of zoning and land-use regulations, Schuetz noted “the federal government has some policy levers that could help expand the supply and diversity of housing.”

“Congress should create financial incentives for local governments to revise their zoning in favor of allowing a wider range of structure types, and better integrate federal investments in housing, land use and transportation,” she testified. “Local governments and regional planning agencies would also benefit from federally funded technical assistance and clearer guidance on what types of zoning reforms work best in different local housing markets — tasks that fall well within the scope and mission of the U.S. Department of Housing and Urban Development.”

Schuetz said accessible housing and the housing needs of people with disabilities is a serious omission in publicly available data and academic research. “Federal agencies including HUD, HHS, and the Census Bureau should explore ways to address knowledge gaps and support high-quality, policy-relevant research on these topics,” she said of housing needs of people with disabilities. “Rising housing costs create more financial stress for low-income households and people living on fixed incomes.”

U.S. Department of Labor statistics show that people with disabilities are the most under- and un-employed of all minorities. Underscoring a crisis that marginalizes and denies dignity and quality of life for people with disabilities, Schuetz reported that only about 16 percent of low-income disabled Americans receive housing subsidies. ●

Steve Wright is a writer, planner, educator and keynote speaker who has lectured on planning for all at the American Planning Association National Conference and at the International Making Cities Livable conference in Paris. He created a groundbreaking universal design course for architects and planners and blogs daily on the inclusive city at Urban Travel, Sustainability & Accessibility. He tweets on disability design and policy issues at @stevewright64.

# SUSTAINABILITY - AND - ZONING

THE ROLE OF ZONING CODES  
IN MITIGATION EFFORTS



Photo credits: (Top) Courtesy of Great Plains Institute and Center for Neighborhood Technology. (Left) Courtesy of Great Plains Institute. Photo by Katharine Chute. (Middle) Courtesy of Great Plains Institute. Photo by Brian Ross. (Right) Courtesy of Town of Paradise.

By Michele Lerner

**E**mploying zoning codes against raging wildfires, extreme heat, intense storms, sea level rise and other impacts of climate change may seem on the surface like a mild-mannered approach to a crisis, but zoning can be a powerful tool.

“Zoning dictates where and how nearly everything in the United States is built, so it has a significant impact on the environment,” said Sara Bronin, a professor in the city and regional planning and real estate departments at Cornell University in Ithaca, N.Y. “Depending on how a local government articulates it, zoning can protect communities from climate impacts and encourage a community to take steps to mitigate their environmental impact.”

The United States has established a goal of using 100 percent clean electricity by 2035 and to achieve net-zero carbon emissions by 2050. The Energy Department estimates that 40 percent of our nation’s total energy use, 70 percent of electricity use and 40 percent of total emissions come from homes and buildings. While some of these issues can be addressed with building codes and other mandates, zoning codes have an important role to play.

“Lots of policies at various levels of government all need to work in concert to drive down energy consumption,” said Arah Schuur, executive director of the Northeast Energy Efficiency Partnerships (NEEP), a Boston-based nonprofit organization that partners with other organizations to accelerate energy efficiency and electrification in buildings. “Communities often lead in those policies faster than the state government and can use their local authority to drive faster progress.”

Zoning changes are increasingly used as a complement to state-level policies related to energy use, Schuur said.

While they’re not a panacea, zoning codes can be used to encourage, incentivize or regulate actions that impact the environment, said Brian Ross, vice president of the renewable energy program at the Great Plains Institute in Minneapolis.

Zoning codes can address long-term planning that can contribute to walkable communities that rely less on cars, water usage, landscaping and waste management, all of which can mitigate climate risk.



Zoning dictates where and how nearly everything in the United States is built.

### Urban planning and sustainability

Traditional zoning tends to encourage large-lot sprawl that pushes development into farmlands and forests, which ends up destroying the local food supply and trees that clean our air,” Bronin said. “Making changes in residential development patterns can encourage even modestly more dense communities, which can reduce emissions because residents become less dependent on cars.”

Zoning changes impact transportation and both commercial and residential buildings, two of the biggest sectors that contribute to energy use.

“Communities often find talking about housing easier than talking about climate change because housing is tangible, local and immediate,” said Evan Manvel, a climate mitigation planner for the Oregon Department of Land Conservation and Development in Salem, Ore. “The Climate-Friendly and Equitable Communities project, which is being implemented now, focuses in part on making it legal to build taller buildings and to establish a minimum density requirement in some communities to make it easier for transit to serve the neighborhood.”

Eliminating single-family, home-only requirements in those communities can encourage density for better energy efficiency, but Manvel said that parking reform is also a big piece of designing climate-friendly communities.

“Parking lots push buildings apart and make communities less walkable,” Manvel said. Less walkability means more wasted energy.

In one study about zoning and urban microclimates, researchers from several universities looked at how cities could mitigate extreme heat, including with parking reform.

“The way cities work isn’t simple,” said Mehdi P. Heris, one of the study authors and an assistant professor in Urban Policy and Planning at Hunter College in New York City. “You can’t just plant more trees. You need a comprehensive plan to manage microclimates that includes better shade, more trees, especially mature trees, and different parking lot locations to make a difference to urban heat.”

The researchers found that open parking lots increase the near-surface air temperature, so taller parking structures are desirable to reduce the number of lots. In addition, they found that wind direction and speed can be improved with grid patterns for streets, and that shade from taller buildings and trees mitigates the heat island effect. Their study found that zoning can help the health and comfort of residents.

“Regulations around landscape and shade can be comprehensive and have a variety of impacts,” Heris said. “For example, in Tucson, Ariz., there are landscaping regulations that require the use of native plants, which reduce water use.”

Other potential code changes include how much permeable surface must be in certain areas to reduce heat islands and for stormwater management, he said.

## Energy policies and zoning

Perhaps the boldest use of zoning codes to drive change and reduce the carbon footprint of buildings is the fossil fuel ban in New York and in 10 pilot communities in Massachusetts, Schuur said. In New York City, new construction buildings must be all-electric beginning in 2024. New York State passed a similar mandate for new buildings that will begin in 2026.

So far, the fossil fuel bans are just for new construction, but Schuur said that eventually there could be requirements for existing buildings to be retrofitted.

“People are watching Massachusetts and New York to monitor their metrics to see what impact the fossil fuel bans will have on these communities, such as how new construction is affected,” Schuur said. “The drive to electrification will be led by cities and communities, then it will spread to state governments.”

Zoning has an important role to play in the electrification of transportation, too.

“Zoning is critical to the transformation of the electric vehicle market because it’s dependent on access to charging opportunities,” Ross said. “Right now, 80 percent of charging happens at home, but what if there’s no charging equipment there, such as in a rental community? Lower-income areas are most vulnerable to this and they need an option to benefit from the electrification of transportation.”

Regulations around landscape and shade can be comprehensive and have a variety of impacts.



Courtesy of Great Plains Institute. Photo by the Center for Neighborhood Technology.



Building codes can require EV charging stations, but local control over those codes is not always allowed, Ross said. “If we want to futureproof developments and we want all new commercial buildings to have an EV charging station, the only way to do that in those areas is with a zoning ordinance.”

Many communities are interested in EVs as a long-term goal to diminish emissions and increase decarbonization through electrification, which means they’re open to using zoning ordinances to increase EV infrastructure, Ross said.

“Cities need to consider EV charging from a land-use standpoint,” he said. “Fast chargers can create traffic because they are kind of like a gas station and cars can block traffic while they’re waiting for their turn. EV chargers are often installed as a bank of chargers, which can also potentially change traffic patterns. They’re not the same as a gas station because they don’t have tanker deliveries or underground storage, but they may need some special attention.”

Some states, such as New Jersey, mandate that every jurisdiction must have a zoning code that includes EV chargers in all new construction. Ross recommends the New York State Energy Research and Development Authority’s (NYSERDA) EV guidance for best practices on regulation and infrastructure.

“Hartford, Conn., was the first city to require a certain number of parking spaces to have EV charging stations and to eliminate minimum parking requirements,” Bronin

said. “The city also enables property owners to install solar panels unless it has a significant impact on the historically significant position of the property.”

Zoning codes primarily impact solar farms and ground installations of solar panels, Ross said.

The National Renewable Energy Laboratory (NREL) has a database of ordinances for wind and solar energy projects to demonstrate best practices.

“Zoning codes can be used to encourage electrification,” Schuur said. “For example, areas that don’t ban fossil fuel but want to encourage electric-only buildings can offer a density bonus to developers who build an all-electric property.”

In Somerville, Mass., a new green zoning code passed in 2019 includes LEED requirements for new construction such as green roofs and a “Green Score” that is calculated based on landscaping to reduce heat island effects, storm-water runoff and improve the air quality.

### Zoning to mitigate natural disasters

While wildfires, tornados, hurricanes, floods and extreme temperatures cause the destruction of lives and property, many communities use zoning codes to prevent disasters and to repair neighborhoods. In 2018, a wildfire destroyed 95 percent of the town of Paradise, Calif., and killed at least 85 people. The recovery process for the town, which continues today, required both temporary

## Zoning ordinances will increase EV infrastructure and impact solar farms and ground installation of solar panels.



Courtesy of Great Plains Institute. Photo by Brian Ross.



Courtesy of Great Plains Institute.



Courtesy of  
Town of  
Paradise

## The zoning code now requires a five-foot circle of landscape with noncombustible materials around the perimeter of every house.

ordinance changes that will sunset when the recovery is complete, and permanent changes that will make the area more resilient to wildfires, said Susan Hartman, community development director for planning and wastewater for the town of Paradise.

“The two big changes that we had to make temporarily were to allow people to live in RVs as interim housing on their property through April 2024,” Hartman said. “Some people are still waiting for payments to rebuild their homes, especially if their insurance wasn’t enough. We also allowed for ‘laydown yards’ for staging areas for the materials needed for the massive utility repairs.”

Some commercial and residential areas needed to be rezoned.

“Paradise is an old mining town and the last zoning changes were made around 1979,” Hartman said. “In many instances, older residences were located in what was later zoned for commercial use, so we waived some of the restrictions so people can rebuild on their property.”

To be more resilient to wildfires, Paradise passed zoning ordinances prohibiting the use of railroad ties for landscaping or other projects because they are soaked in creosote and contributed to the rapid spread of the fire.

“The zoning code now requires a five-foot circle of landscape with noncombustible materials around the perimeter of every house, so only noncombustible fencing

is allowed,” Hartman said. “We also increased the allowable size of ADUs [accessory dwelling units] because of the need for housing for multigenerational families and to use as temporary workforce housing for people doing tree removal and utility work.”

In addition, Paradise has a zoning overlay that will allow double the density in the commercial corridor once a sewer system is installed to allow for multifamily development.

“We want to pull more residents away from the canyons and into town or at least closer to evacuation routes,” Hartman said.

The zoning code in Paradise is approved by a local council without requiring approval by the county and many of the ordinance changes were voted on by residents, Hartman said. Part of the process of making changes to the zoning code has been to educate homeowners and commercial property owners about how to live in a rural area that’s prone to fire, especially since 50 percent of Paradise residents today were not there during the fire.

The Paradise Association of REALTORS® supported the zoning changes during recovery and looks forward to permanent implementation of some of the changes for future growth. “Paradise can serve as a model for communities across the country that face natural disasters — both for the aftermath and prevention,” said Aubrey Prius, the association’s CEO.



## Zoning codes are being updated in many locations to address water issues.

Photos courtesy of Center for Neighborhood Technology.

Zoning codes are being updated in many locations to address water issues. For example, in Norfolk, Va., zoning changes introduced in 2018 incentivize development on higher ground and enhance flood resilience.

“Zoning can be used in waterfront areas to reduce flood risk and mitigate the impact of sea level rise by requiring buildings in that zone to be built on a higher elevation or at least to have their utilities elevated to avoid flood damage,” Heris said.

Zoning codes can be used in a variety of ways around water use, such as to set standards that require native plants that use less water, to encourage or require infrastructure to manage stormwater or to mandate buffers to protect wildlife habitats, Bronin said.

### Lessons learned when zoning for sustainability

Zoning can quickly become a politically heated topic, Manvel said.

“To overcome opposition to some of the climate-friendly zoning recommendations, we’ve demonstrated our willingness to listen to the concerns of people in every community,” Manvel said. “We started out with a more aggressive plan and scaled back some. We’ve learned to be flexible with local governments because we realize they have limited resources and lots of priorities. If we get to 80 percent of our goal now, we can always try again later to go farther.”

Manvel said Oregon works hard to bring resources and funding to local governments to help them make changes to meet climate goals.

In Paradise, the disastrous fire led to a new understanding of the importance of property insurance and what can be done to mitigate risk, Hartman said.

“We’ve seen cancelled insurance and astronomical rate hikes, so our focus is on zoning codes and building code adjustments to make our community as safe as possible for everyone and to demonstrate that to insurance companies,” Hartman said. “We adopted standards so that

every house will meet the criteria to be certified as a wild-fire resistant home.”

If a community cannot get insurance, then it can’t recover, Hartman added.

### REALTOR® role in zoning for sustainability

Zoning changes often involve a task force and sessions for public input, which is where REALTORS® can provide expertise, Bronin said. “Agents are familiar with people’s changing preferences and likely to be seeing that people want a more sustainable lifestyle.”

City leaders could use the insights of commercial and residential real estate agents to help drive zoning changes and guide homebuyers to experts on sustainable residences. “REALTORS® can also be champions of efficient and low-carbon buildings in their communities, sell around that concept, and provide information about the financial value of these buildings for owners and operators,” Schuur said. “For example, an all-electric, single-family home is cheaper to build and costs less to run. People should be educated on the operational cost savings that come with energy efficiency.”

Schuur recently saw a real estate listing in Massachusetts that read, “No fossil fuel here — this is the clean house of the future.”

Making measurable progress to reduce carbon emissions and mitigate the effects of climate change takes multiple actions including zoning changes.

“Each community should do their own risk assessment and review their zoning codes in the context of new information about those risks,” said Bronin. “Zoning codes are not changing fast enough.” ●

Michele Lerner is an award-winning freelance writer, editor and author who writes about real estate, personal finance and business topics. Her work has been published in *The Washington Post*, *USA Today*, and *Urban Land* magazine, among others. She is frequently interviewed as an expert source on housing topics and her books have assisted homebuyers, planners, lenders, housing counselors, and real estate agents.

# CARS... STEP ASIDE!



Courtesy of  
Howard County

Complete street designs, zoning tweaks to encourage TODs and community preferences are prioritized to provide safe and effective movement for everyone.



By Brad Broberg

Streets are built by people, but they belong to cars.

Designed to make driving the fastest and most convenient way to get around, many streets around the country were never intended to share the road. Walking, biking and other forms of active transportation are — at best — afterthoughts.

Today the tide is turning as a growing number of cities, counties and states are embracing complete streets policies that try to balance the needs of all modes of travel — whether powered by four wheels, two feet, a pair of pedals or a set of rails — and all types of people regardless of age, ability or socio-economic status.

What started as a trickle when the term complete street was coined 20 years ago has turned into a wave with more than 1,700 state and local jurisdictions adopting various complete street policies. The bandwagon includes the Federal Highway Administration, which encourages jurisdictions to make complete streets their default design standard and helps fund many complete street projects.

“The term complete streets really helped the profession think about the need to make sure all modes are accommodated on every street,” said Jennifer Toole, president of Toole Design, a transportation planning firm based in Silver Spring, Md., with offices across the country. “Today ... if a street project doesn’t include pedestrians and bikes, it’s notable in their absence, and it’s really pretty much ignoring all the federal guidance that has come out about roadway design in the past 20 years.”

The first rule of real estate also comes into play.

“The old adage location, location, location. What you’re really talking about is transportation,” said Russel Riggs, senior policy representative with the NATIONAL ASSOCIATION OF REALTORS® (NAR).

“Location means in a good place that allows you to get to places easily and quickly and efficiently,” he explained. “This idea of complete streets is about ... making sure all methods of transportation are connected and you have the ability to move safely and quickly from Point A to Point B, whether it’s on your feet or on your bicycle or in your car or in a mass transit system.”



Courtesy of Toole Design

A growing number of cities, counties and states are embracing complete streets policies.



Courtesy of RTD Denver



Courtesy of City of Boston



Courtesy of City of Boston

The ability to easily walk to shops, parks and other destinations was important or very important to roughly eight out of 10 respondents.



While complete streets as such are not necessarily top-of-mind when choosing a place to call home, they can be a difference-maker to a sizable group who recognize that active transportation is a healthier, less expensive and more environmentally friendly way to get to daily destinations than cars.

“There is a growing cohort of buyers ... who are looking for a more walkable experience, places that they can go to easily or get to easily on foot or on bike or perhaps take some form of mass transit,” Riggs said.

Results from this year’s National Community and Transportation Preferences Survey from the NAR show the desire for walkability — the cornerstone of complete streets — ticking steadily upward based on the tradeoffs people said they would make.

The majority of survey respondents (56%) said they would trade a house with a large yard for a house with a small yard if it meant they could walk to more places instead of driving. That’s up from 49 percent in 2015.

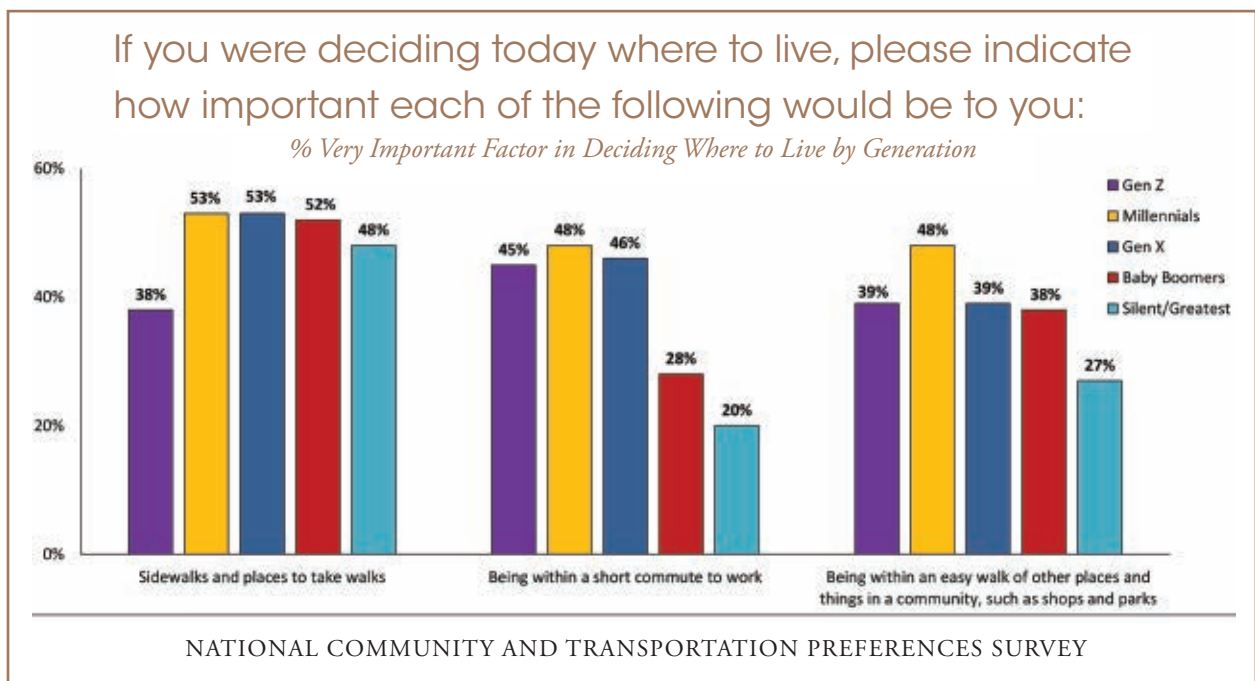
More than half of all respondents (53%) also said they would rather live in an apartment or townhome rather than a detached single-family home if it meant living within an

easy walk to shops and restaurants and a shorter commute. That’s up from 45 percent in 2015. When sorted by age group, nearly seven out of 10 members of Gen Z favored the more walkable option in this year’s survey.

The number of people who would be willing to pay more to live in a walkable neighborhood inched from 60 percent in 2017 to 61 percent. Gen Z and millennials were by far the most likely age groups to say they would spend more for walkability. Roughly 90 percent said they would pay more to live in a walkable community. A third said they would pay a lot more.

The ability to easily walk to shops, parks and other destinations was important or very important to roughly eight out of 10 respondents. Walkability ranked ahead of size of house, quality of schools, size of yard and length of commute as important factors when considering a new home. Low levels of crime ranked first.

Although those who said they like walking (79%) and driving (70%) remained virtually unchanged from 2015, those who said they liked biking dipped to 48 percent from 54 percent while the number of people who liked taking trains and buses rose to 44 percent from 36 percent.



Those who agreed they drive because they don't have many options held relatively steady at 59 percent. However, there was a spike in the number who said safety concerns prevented them from walking. Nearly 40 percent said they don't feel safe because of traffic compared to 26 percent in 2015. Roughly the same number said they don't feel safe because of crime.

Making walking and biking safer after decades of catering to cars is at the heart of complete streets. "A lot of the newest strategies ... are around slowing vehicles down," Toole said. "It's a win-win for drivers, for pedestrians, for bicyclists to have vehicles going slower."

The number of people struck and killed while walking rose by 62 percent between 2009 (4,109) and 2020 (6,529), according to a 2022 report published by Smart Growth America and the National Complete Streets Coalition.

The report, titled "Dangerous by Design," blames traffic speeds, but argues that lower speed limits and strict enforcement won't slow traffic enough to solve the problem. The answer is to recognize that many urban arterials that were built for local traffic were designed the same as restricted access highways that were built for speed.

"When roads are wide and straight, lanes are wide and plentiful, and intersections are infrequent or non-signalized, people feel safe and comfortable driving faster — even when the speed limit is low," the report states. "We send drivers two conflicting messages with low speed limits but designs that nudge them toward high speeds."

Except for freeways and limited access highways, it's "impossible to prioritize both safety and keeping cars moving quickly ... on every other street where there are ... people walking biking or otherwise getting around outside of a car, safety and speed are fundamentally incompatible goals."

The report cites Union Avenue in the heart of Memphis as a poster child for the type of road that could use a complete street makeover. Though the speed limit ranges from a mere 25 to 35 mph, the road is long and straight with clear sight lanes and five lanes, inviting motorists to drive much faster.

Although other streets regularly intersect Union Avenue, many of these intersections lack crosswalks or traffic signals because keeping vehicles moving freely is a higher priority than providing frequent crossings. In addition, gently rounded corners allow right turns at high speeds



Above left: Courtesy of WALKABLE Communities. Photo by Dan Burden.  
Above right: Courtesy of NACTO. Below: Courtesy of Michigan Municipal League.



— even though pedestrians have the right-of-way — and increase the distance needed to cross on foot.

Traffic speeds aren't Union Avenue's only red flag. Crosswalks are spaced far apart and sidewalks are narrow with frequent curb cuts for turns and driveways and no barrier between pedestrians and vehicles. With numerous destinations including grocery stores, a college, a high school, a hospital, shops and apartments, the street generates heavy foot traffic that is in constant conflict with a river of cars.

Although the transformation is not always easy, hazardous streets like Union Avenue can be made more welcoming for all users through addition but also subtraction. The equation varies based on the community (urban, suburban, rural) and the context (downtown, commercial strip, transit corridor, neighborhood main street, residential) but the goal is always a more complete street.

The additions can be as basic as sidewalks, crosswalks and bike lanes but can also include: barriers separating traffic from sidewalks and bike lanes; flashing beacons alerting drivers that someone is entering a crosswalk; parking lanes that shield sidewalks and bike lanes; curb extensions at the mouth of intersections; dedicated bus lanes and shelters; bus bulbs (curb extensions that serve as bus stops); pedestrian refuge islands; chicanes (slight curves in the road that slow traffic); and landscaping buffers.



But all this addition often requires some subtraction. Transforming a conventional street into a complete street is typically a zero-sum game in which the needs of all users must vie for space within a fixed right-of-way.

A road diet is one formula for creating a complete street. It typically involves converting an existing four-lane roadway segment to a three-lane segment consisting of two through lanes and a center turn lane. By eliminating one lane and limiting the width of the others to 10-11 feet, a road diet prods drivers to take their foot off the gas and makes room for features that make walking, biking and other forms of active transportation more appealing.

Toole Design applied that tactic to transform Jackson Street in downtown St. Paul into a complete street that makes biking and walking safe and comfortable for all users. The project involved a full reconstruction of the roadway that reduced the number of lanes to two from three and created a sidewalk and two-way bike lane separated from traffic by an attractively landscaped buffer.

While the tactics for creating complete streets are well known, executing those tactics can be easier said than done. “We have a lot of streets that are very unsafe and unfriendly and fixing them costs a lot of money, but it’s also about attitudes,” Toole said. “Sometimes making sure a pedestrian or bicyclist is safer means giving something

## Complete streets and TOD go hand-in-hand.

up because we don’t want to just make streets wider and wider and wider. Sometimes that means tradeoffs.”

Not to be overlooked in complete street plans are transit and trails. Although they may or may not be directly incorporated into a complete street project, transit (primarily in the form of rail stations) and trail links expand regional connectivity and support development that reduces reliance on cars.

Complete streets and transit-oriented development go “hand in-hand,” said Andy Kunz, president of the Transit-Oriented Development Institute. Transit-oriented development is all about creating walkable mixed-use communities that incorporate complete streets to make them viable places to live and work without a car.

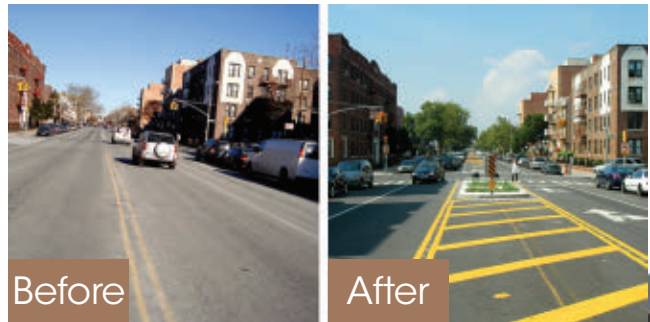
“To get real TOD, you want to design a place with everything — shopping, hotels, offices, residential — and you have the rail as the default (for traveling outside the community) rather than hopping in a car, which is the current default,” Kunz said.

A road diet is one formula for creating a complete street.

Right: Before and after a road diet.

Below: An illustration of road diet components.

Courtesy of pedbikeimages.org



What can be done to spur TOD?

“The cities can take the initiative to prepare and create TOD zones [so that] developers don’t have to endure five years of brain damage to try to change the zoning,” Kunz said.

That’s what Denver did when it began developing its light rail system. As they selected each station site, Kunz said, they proactively changed the surrounding zoning to allow mixed-use, higher density development served by complete streets so that as projects are completed one building at a time, they eventually create a series of TODs.

Trails can also be an important complement to any complete street system. Even in places with sidewalks and bike lanes, “The concept of walking or cycling with traffic right there just scares the bejesus out of [some] people, so the opportunity for off-street trails to augment the transportation system opens things up to a much broader spectrum,” said Mike Passo, executive director of American Trails.

Similar to the transformative potential of transit, trails can also spur development based on their ability to provide the active transportation alternatives that many people seek.

The Ludlum Trail in Miami is a stellar example. Built within a former rail corridor, the 5.6-mile landscaped trail provides dedicated pathways for biking, walking and running that connect users to schools, parks, transit and several large residential and mixed-use projects in various stages of design and construction.

The National Complete Streets Coalition keeps tabs on both the strength and the outcomes of newly introduced complete street policies across the nation.

The coalition’s latest Complete Streets Policies Report contains good news and bad news about more than 150 policies rolled out between 2019-2022. Although the average score rose by five points over the previous report, plenty of room for improvement remains. Rated on a 100-point scale, the average score was just 45.

The silver lining is that the average score among the top 10 policies jumped dramatically from 72 to 89 with one jurisdiction — Howard County, Md., earning the maximum 100 points based on 10 standards that give extra weight to policies with teeth, including a binding commitment to supporting complete streets, a plan to create them and a mechanism to measure their progress.

Like many areas around the country, once rural Howard County has evolved into an epicenter of urban and



Above: Ludlum Trail;  
Courtesy of Miami  
Dade County.

Right: Light rail in  
Denver, Colo.;  
Courtesy of  
RTD Denver.



suburban growth. Yet its transportation network reflected decades of catering to cars when the county began developing its complete streets policy in 2016.

Adopted in 2019, the policy is supported by a complete streets design manual approved in 2022, paving the way for the county to begin planning, designing and constructing a host of projects.

One of the things that make Howard County’s complete streets policy stand out is its commitment to equity and community engagement. The policy pinpoints areas and populations with reduced access to active transportation infrastructure (sidewalks, bike lanes, etc.) based on income, race, disabilities and other factors — ensuring the county will give priority to historically underserved communities. In addition, the county consistently collected input from all segments of the community — ensuring the policy reflects the lived experience of residents and not just the technical expertise of planners and engineers.

“As strong as a policy can be, if it’s not actually changing the community and serving all of those who live in the community, it’s not an effective policy,” said Heidi Simon, director of Thriving Communities for Smart Growth America. ●

Brad Broberg is a Seattle-based freelance writer specializing in business and development issues. His work appears regularly in the Puget Sound Business Journal and the Seattle Daily Journal of Commerce.



Courtesy of Beyond DC



Courtesy of Amy Magyar

# ADU ZONING

**Accessory Dwelling Units are gaining traction as a form of gentle density zoning.**



Courtesy of Christina Supinski

The longtime preference for single-family zoning in state laws and municipal ordinances will not disappear overnight. But the housing crunch, and especially the need for more affordable housing, is driving changes in several states, counties and cities. One area of particular interest is density zoning and ADUs — accessory dwelling units.

Density zoning allows for more homes on a parcel of land. “Missing middle” housing refers to the housing between high-rise apartment buildings and freestanding single-family houses. Duplexes, triplexes, quadplexes and townhouses are examples, as are garden apartments. Those housing options are missing in many communities with zoning ordinances that make them difficult or even illegal to build.

Adding missing middle housing to a community can be controversial. When the Arlington, Va., county board and zoning commission voted to allow such housing in the liberal, wealthy suburb of Washington, D.C., last spring, they were hit with a lawsuit by a group of single-family homeowners. The group said that adding the housing would lead to overcrowded schools and traffic problems and take away parking and trees. Part of the reason for the vote to allow more density zoning in Arlington was

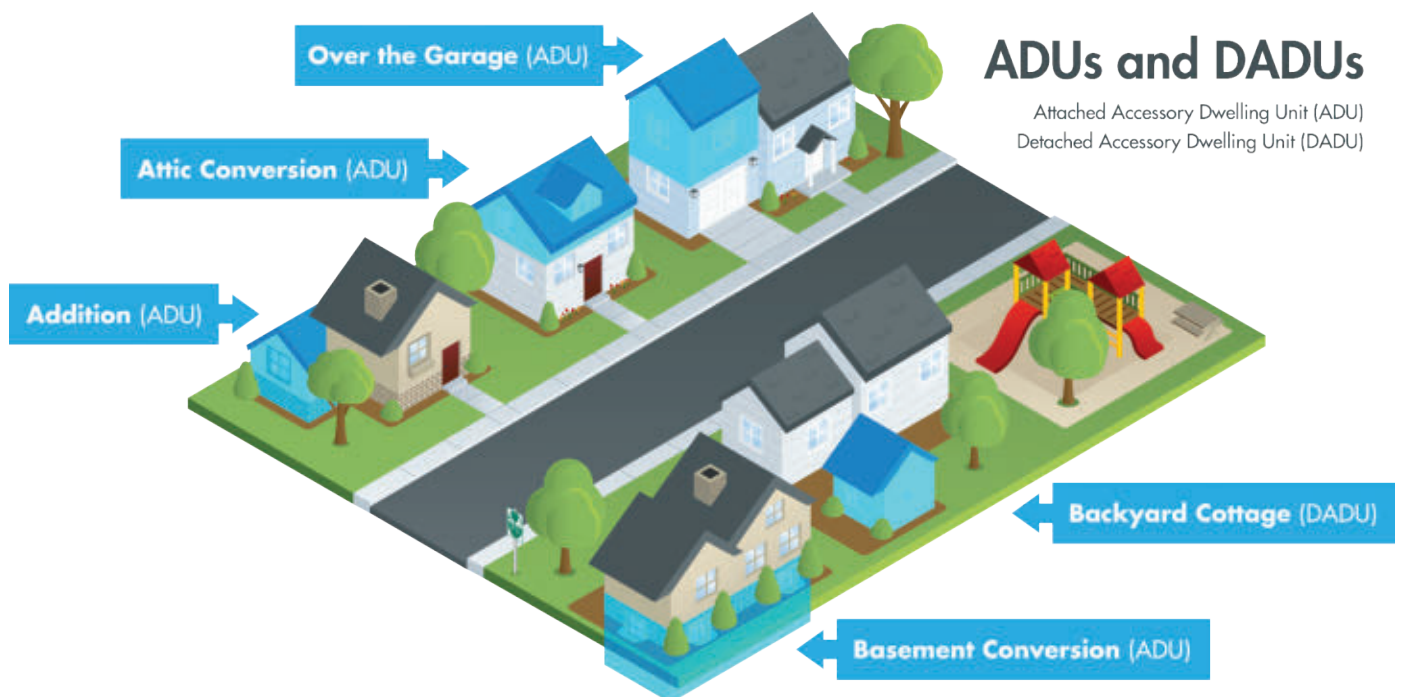
affordability. The median price of a home in the county is \$645,000, almost double the national average.

ADUs offer a single residence and come in a variety of forms, all accessory to the principal home on the property. An ADU can be a smaller home, detached from or attached to the main home. It can be a separate living space inside the home. Or it can be built above a garage or as a garage conversion. As an independent residence, it has at least a kitchen or kitchenette, bathroom and living/sleeping area.

“ADUs are a great form of gentle density,” said Christina Stacy, principal research associate at the Urban Institute. “They’re not going to solve our housing crisis, by any means. They can be one of the many tools to help us start addressing the crisis.”

Regina Gray, director of the Affordable Housing Research and Technology Division in HUD’s Office of Policy Development and Research, agreed that ADUs are a strategy to address housing supply.

“As a percentage, ADUs remain a very, very small part of the housing supply,” said Gray. “In 2019, 6.8 percent of active listings for sale were ADUs. They’re becoming much more popular. As more ordinances are adopted, about 5 million more are coming online in the next decade or so.”

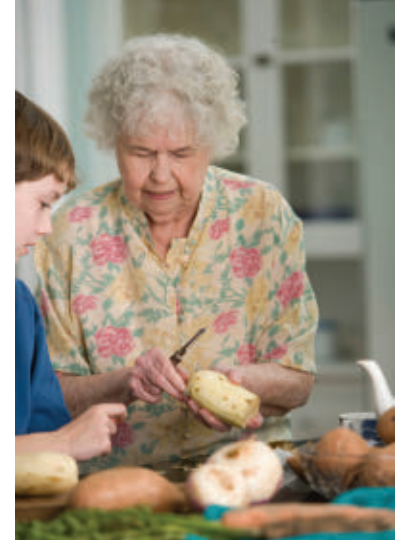


Courtesy of King County, Wash.



Courtesy of AccessoryDwellings.org.

An ADU is often used to house a family member.



### Opportunity for older residents

AARP has been involved with ADUs since at least 2000, said Rodney Harrell, AARP's vice president of Family, Home and Community. The association believes ADUs can offer more housing options for people of all ages. Harrell gives three overarching reasons: affordability, location and accessibility.

"Affordability is a key driver," said Harrell. ADUs can offer a way for seniors to age in place — the preference of most — in more expensive communities.

As for accessibility, many seniors prefer to live close to grocery stores, libraries and other places they can walk to, especially once they can no longer drive, Harrell said. But those communities tend to be expensive. Enter ADUs as an affordable solution. A senior who downsizes can live in an ADU. Or they may live in the main residence and rent out an ADU as a helpful income stream.

### For family members or rental for income

An ADU is often used to house a family member — an elderly parent or an adult child who returns home and wants more independence. Even when the ADUs are not rented out, the family members who live there might have rented a different home, so the ADU frees up a little housing, said the Urban Institute's Stacy. The other use of ADUs is as affordable rentals.

The Anne Arundel (Md.) County Council legalized ADUs in April 2023 after two years of lobbying — spearheaded by the Anne Arundel Association of REALTORS® (see sidebar). ADUs are very popular as an affordable option in a county where a one-bedroom apartment is \$2,000 a month, said Marygrace Fitzhenry, the association's government affairs director.

In Annapolis, the county seat and state capital, 40 percent of residents are renters, most of them younger, said Fitzhenry. Houses there average over \$1 million to buy — out of range for that demographic.

### Promoting equity

Another benefit of ADUs touches on equity. "People who are Black are less likely to own their homes," said Stacy of the Urban Institute. "ADUs can help people own a home who otherwise might not be able to." If an individual wants to buy a home but can't afford to maintain it, an ADU could provide an income stream to help with that.

Plus, ADUs, like other forms of gentle density, tend to be more supported by homeowners because they don't change the character of the neighborhood, Stacy said.

### Where ADUs are more prevalent

Before World War II, it was not unusual for a smaller home to share a lot with a main house. After the war, single-family zoning became the norm. That change was thanks in large part to loans guaranteed by the Federal Housing Administration and Veterans Administration, according to Alexander von Hoffman, senior research fellow at the Joint Center for Housing Studies of Harvard University.

Over time, suburban zoning ordinances imposed minimum lot sizes, and the Not in My Backyard (NIMBY) movement was born. But attitudes are starting to change as communities struggle with the housing crunch, especially affordable housing.

HUD's research has found that over half of all ADUs in the United States today are in just four states: California (30 percent), Florida (12 percent), Texas (10 percent), and Georgia (5 percent), said Gray.



Jess Remington researched ADUs for a 2021 policy brief she co-wrote with Salim Furth for the Mercatus Center at George Mason University. She found that ADUs are more prevalent on the West coast and in southern college towns.

“The housing crisis has been particularly acute on the West coast, so more serious reform attempts are happening there,” Remington said. In the South, the zoning ordinances covering ADUs don’t have as many stipulations attached as those in the Northeast, making it easier to build them in the South.

Still, each community is different. Boston has a pilot program in which the city is offering zero-interest loans of up to \$50,000 to homeowners to build an ADU, said HUD’s Gray. That can mean construction from the ground up or repurposing an existing garage.

### Varying demand

Von Hoffman, the Harvard historian, believes the problem isn’t so much zoning regulations as demand. Earlier in the twentieth century, there were a lot of smaller homes and multifamily housing for working-class and middle-class residents, he said. “There was a demand for them.” In older communities in Pennsylvania or Atlantic City, N.J., you can see a house behind a house.

“Now, in parts of the Southwest — the outer reaches of Las Vegas, greater Phoenix — there are a lot of small subdivisions with little houses,” said von Hoffman. “Developers can see a demand for low-cost housing.”

Changing zoning regulations is just the beginning, he said.

“Since the 1970s, there have been layer upon layer — open space requirements, environmental controls, requirements of town officials — of obstacles to new residential development,” von Hoffman said. “You can build an ADU now, but you have to jump through 12 hoops to do it.”

### Importance of zoning to ADUs

But zoning is an important first step. A helpful resource is the National Zoning Atlas (<https://www.zoningatlas.org>), which aims to depict key aspects of zoning codes across the country in an online, user-friendly map. It is produced by the Cornell University Legal Constructs Lab and founded by Sara Bronin, a planning and law professor at Cornell.

“It has already been used for research, advocacy and education,” said Bronin. “Connecticut, which documented

restrictions on ADUs, helped encourage state legislators to adopt laws encouraging construction of ADUs.” And that’s a state, as documented by the Zoning Atlas, where 90.6 percent of the land is zoned for single-family homes.

“The model for statewide ADU legislation is California,” Bronin said. “Statewide rules that apply to most single-family housing enable property owners to build a second unit without restrictions that are common in many housing units across the country.”

As a result, she said, “ADU construction has boomed in California.” Twenty percent of all building permits issued in the state in 2022 were for ADUs, according to the Department of Housing and Community Development.



### Obstacles that prevent or slow ADU construction

A host of restrictions, whether in zoning codes or from community objections, can stand in the way of ADU construction:

**Owner-occupancy requirements.** A recent survey by Freddie Mac showed that 73 percent of respondents — once ADUs were explained to them — would consider using an ADU for short- or long-term rental. An owner-occupancy requirement makes rental difficult, particularly because of how it might affect resale value, said ADU researcher Remington.

“An owner-occupancy requirement is almost impossible to enforce,” said Stacy of the Urban Institute. “It’s going to impede development.”

**Parking requirements.** Requirements for off-street parking can be difficult to meet and can be used as a way for homeowners to object to ADUs, as in Arlington, Va.

“If you require off-street parking for an ADU, it cuts off a lot of people,” said Stacy. “It’s a lot of cost, it reduces green space, it looks worse. There’s very little evidence that we need as much parking as we require.” Many of the seniors or adult children who live in ADUs may not even have a car.

## REALTORS® EDUCATING, THEN LOBBYING ON ADUS



Courtesy of AACAR



Courtesy of Daniel Ramirez



Courtesy of Sightline Institute

Until April 2023, ADUs were illegal in Anne Arundel County, a Maryland suburb on the Chesapeake Bay about an hour from Washington, D.C. But a lot of homeowners were renting one out anyway, said Marygrace Fitzhenry, government affairs director for the Anne Arundel Association of REALTORS®. She worked for two years on legislation to make ADUs legal.

Parking was a concern for some council members and members of the public.

“We said, ‘when you build a house or buy a house, we don’t tell you how many cars you can have in your driveway,’” said Fitzhenry. In the new regulations, the off-street parking requirement went from two spaces to one to zero.

ADUs will still have to follow all setback requirements. People were worried an ADU would be like a trailer home. The final law says no ADU can be on wheels or be able to be moved. And the homeowner will have to live in either the main home or the ADU.

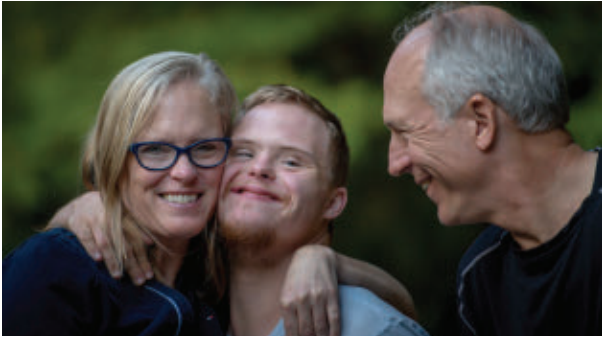
The Maryland Association of REALTORS® is still fighting for a law to allow ADUs statewide, said Lisa May, director of advocacy and public policy. After a poll showed

that three-fourths of Maryland residents didn’t know what an ADU was, the REALTOR® association used an NAR housing opportunity grant to help produce a short video called “ADUs: A Solution in Our Own Backyards.” An NAR issues mobilization grant helped the state association incorporate the video into its annual State of the Housing Market press conference. Hundreds of millions of people viewed the video, said May.

The law the state association is pushing is based on the model ADU act put together by the AARP. Now, zoning ordinances are different for every county in the state.

“When you have a statewide standard, entire industries come forward,” said May. “They say, ‘We’ll be your one-stop shop, you come to us.’ That is really important because most of the people adding ADUs are regular homeowners.”

Maryland Gov. Wes Moore, elected at the end of 2022, has said he wants a statewide housing supply bill in 2024. So, May is working to grow the REALTORS® coalition with developers, housing advocates, AARP chapters, colleges and universities, and others that want affordable housing.



Courtesy of Evelyn Broms



Courtesy of Beyond DC

**Public hearings requirement.** A requirement to hold public hearings before an ADU is approved, which is part of many zoning ordinances, may slow a project down so much that it prevents the ADU from being built, said Bronin. If ADUs are permitted “by right,” that means they can be approved without the homeowner or developer having to go through public hearings or a discretionary review process from different boards.

**Mandatory lot size.** This could be a big obstacle to building more ADUs, said von Hoffman. “Historically, there were lots of shotgun houses, worker’s cottages — but if you have to put it on an acre of land,” they’re no longer practical. Before zoning reform was passed in Connecticut in January 2023, 80 percent of homes there were required to occupy an acre of land or more.

**Size limits.** “Some homeowners want strict size limits [on an ADU] so it’s not a big, towering unit that detracts from neighborhood quality,” said Stacy. “But you don’t want to block out families.”

**Aesthetics.** HUD’s Gray found that when ADUs were discussed in Montgomery County, Md., neighbors were worried about worsening traffic congestion and whether the ADUs would create an eyesore. Some were concerned about whether ADUs would meet subdivision design requirements or bring down property value.



Courtesy of Brian Brooks

**Expense and financing.** ADUs can be expensive to build and don’t always have the same financing options as single-family homes. HUD is looking at financing tools and mortgage support for ADUs, said Gray. “How can we spur production of ADUs, incentivize the housing industry to mass produce ADUs as they become more in demand?”

Some REALTORS® have already found demand. In 2016, Washington, D.C., passed zoning changes to make it easier to build ADUs. In June 2023, the D.C. Association of REALTORS® held an information session on ADUs for its members. Speakers were from the Coalition for Smarter Growth, the city’s Department of Buildings, the owners of a construction firm, a regulatory expert, and Ileana Schinder, a local architect.

Panelists stayed an hour over the scheduled time to answer concerns about ADUs that REALTORS® brought from their clients. As a result of the meeting, the D.C. REALTORS® scheduled quarterly meetings with the Department of Buildings.

Schinder has designed ADUs for the greater Washington area for the past eight years.

“ADUs are one of those design features that starts slow,” said Schinder. “We are in the early stages of adoption. I anticipate they will become more popular in the future as more municipalities realize their zoning rules are not sustainable financially, environmentally — as politicians and voters realize that living in gentle density property is more secure, more pleasant to live in, without the need for super-density urbanism.” ●

Joan Mooney is a freelance writer in Washington, D.C., who wrote the NATIONAL ASSOCIATION OF REALTORS® Water Infrastructure Toolkit.

# FUTURE OF ZONING WITH IDEAL CODES



Courtesy of DPZ. Photos by Matthew Lambert.

By Brian E. Clark

**On Common Ground** spoke to Andrés Duany about what is on the horizon for zoning; what is a wish list of developers and smart growth advocates; and how codes should (and need to) evolve.



**W**hen Andrés Duany, a co-founder of the Congress for New Urbanism, graduated from the Yale School of Architecture in 1974, he says he was unprepared for the real world. Not that he didn't receive a good theoretical education at a prestigious university, but he says he learned little if anything about zoning and building codes — a key omission.

“I was an architect and I'd gotten a very academic training,” recalled Duany, who started the Miami-based architecture firm DPZ CoDesign in 1980 with his wife, Elizabeth

Plater-Zyberk, an architecture professor at the University of Miami School of Architecture. Today, their firm counts over 300 projects built, ranging from individual buildings and small urban infill projects to new communities, regional plans and zoning codes.

DPZ rewrote zoning codes for Miami, called Miami 21. The citywide update envisioned a city of protected neighborhoods and commercial development that enhances the neighborhood. It has a focus on pedestrians, public spaces, access to open spaces like the waterfront, transitions in density and height between buildings, and mass transit.

Duany said when he received his Master of Architecture from Yale, his knowledge of codes was sadly lacking “because nobody told us anything about them. Then when I had my first buildings, I was astounded to find out that building was so influenced by codes. And that there was a platform and a system out there that actually shapes the urban and architectural world. It was truly astonishing.”

Duany, whose career has focused on smart growth, has co-authored five books: *Suburban Nation: The Rise of Sprawl and the Decline of the American Dream*; *The New Civic Art*; *The Smart Growth Manual*; *Garden Cities*; and *Landscape Urbanism and Its Discontents*.

“I’ve been working on this now for 50 years,” mused Duany, a proponent of New Urbanism, which seeks to undo suburban sprawl and promote walkable, neighborhood-based developments that mix residential and commercial components within close proximity, puts a premium on public spaces like parks and accommodates mass transit.

“My response back then was that I’m going to learn as much as I can about this because this is where the power really lies. If I’m going to affect the world, I’m going to be writing codes. Bear in mind, I’m talking about codes and not just for zoning,” added Duany.

“And that’s a huge distinction because zoning is just a tiny subset of codes. There are lots of other things in codes that affect the cost and the look and the socio-economic situation such as fire codes, parking codes, etc., etc.”

When he began practicing in Coral Gables nearly 50 years ago, the code book was about a quarter of an inch thick. “Fortunately, I could read it and figure it out,” said Duany, who is an opponent of Euclidean zoning, which was adopted in many places in the 1920s. It is a system that separated dwellings, workplaces, and shopping areas from each other in single-use areas, ensuring that the automobile would be the indispensable re-connector of these necessities of daily life for a long time to come.

The impetus for separating uses was common sense at the time: that toxic manufacturing should be spatially separated from dwellings. But the system was not nimble and separated-use zoning persisted long after most industry ceased to harm its neighbors. Even now this kind of zoning tends to keep a nascent Apple or Whole Foods from starting up in an apartment or outbuilding, or forbids a baker from living over her store.

Duany said the Coral Gables code is now two volumes, each of which is an inch thick and there are additional codes for handicapped and hurricanes. “They are good, but they are not user friendly,” he said. “In fact, the way they are written is very complicated, lawyerly and obscure.

“That means that the threshold for entry has become almost impossible for young people and small developers. Right now, the way that codes are written forces one to retain experts, which must be amortized in the cost of a project. So basically, what we’ve wiped out in this country is the small developer and small builder.”

There are lots of other things in codes that affect the cost and the look and the socio-economic situation.





Builders and contractors should be able to sign a contract that says they are 100-percent responsible for following the codes.



Above far right:  
Courtesy of DPZ. Photo by blemmerman on flickr.com

Bottom far left:  
Courtesy of DPZ. Photo by Michael on flickr.com

Duany said he is a proponent of using artificial intelligence methods and other techniques to help younger builders search through “huge and sloppy codes” to gather only the relevant information. “I’d design search engines to deliver what I need to know in a page and a half instead of just plowing through this morass.

“The next thing is that anyone who agrees to follow the code should not have to go through the torture of public hearings and having all the neighbors say they don’t want what they are doing.”

He said builders should only be subject to a hearing if they are seeking a variance, or are not following the code. “But the politicians want to put their fingers in everything and that acts as an incredible disincentive,” he said.

“The third thing would be to offer an Option B, which is used in some places that can’t afford bureaucracy or other places that are enormously more intelligent than the United States, such as France, where I live part of the year.”

He said builders, their officers and contractors should be able to sign a contract that says they are 100-percent responsible for following the codes and that agencies “can inspect at any time, stop my job and halt my construction if there is a problem. But right now, in most places, there is a huge rigamarole,” Duany complained.

“And if the code isn’t followed, even after they’ve approved drawings, they can still come out and stop your job. So why not just go to Option B and sign on the dotted line that you are personally responsible for following the code?”

“That’s what is done in France and it’s an incredible contrast. People think France has a horrible bureaucracy, but it’s really the lightest I’ve seen in my life when it comes to building. But most places in the United States, it’s terrible, all lawyered up.”

He said another change he’d make is to have building, zoning and other codes be successional so that every five years, code provisions would be upgraded slightly so that cities become denser and more complex. “Without this, cities no longer evolve and it’s like they are fixed in amber. Now, in a lot of places, if you want to do something rational like add accessory dwelling units, it’s a crisis and you need a special variance. And that’s a disaster.”

He said people have forgotten that cities morph over time. “New York City, for example, began as a shanty town and became a three-story brick town, then a 10-story stone town and ultimately became a 50-story glass-tower town,” he said. “This was on the same sites down by Wall Street. It was successional.”



Courtesy of DPZ. Photo by Duany Plater-Zyberk.



SmartCode is a model form-based, unified land development ordinance template for planning and urban design.

Below: Phoenix, Ariz.  
Courtesy of DPZ. Photo by blemmerman on flickr.com.



Cities mature over time and he called it “the most natural thing in the world. But zoning is rigid. I would have an automatic successional increase every five years that would happen unless you vote it down. Why should it not?”

Duany said all these concepts are available in the SmartCode, a free open-source program originally developed by his company. It is a model form-based, unified land development ordinance template for planning and urban design and is designed to create walkable neighborhoods across the full spectrum of human settlement, from the most rural to the most urban, incorporating a transect of character and intensity within each.

It folds zoning, subdivision regulations, urban design and basic architectural standards into one compact document. Because the SmartCode enables community vision by coding specific outcomes that are desired in particular places, it is meant to be locally calibrated by professional planners, architects and attorneys.

He said the first SmartCode was 60 pages and a “leaning” of conventional Municode, even while regulating more scales of development. And the 2010 Neighborhood Conservation Code (NCC) of 40 pages was a trimming of the SmartCode for infill and sprawl repair. Starting in 2009, numerous supplementary modules enabled more customized code assembly and streamlined the base SmartCode.

In 2013, he said a Pocket Code of five pages was radically distilled from the NCC, and a Pink Code of four pages was written for the Ignite High Point (North Carolina) charrette. All are nimble Transect Codes that provide holistic succession over time that admit modular plugins without the regulatory contortions and compromises necessary when a Euclidean code tries to incorporate form-based elements.

Duany said he believes planning departments would be happy to follow more reasonable codes. “They are staffed by intelligent, well-intentioned people who are administering



something that has terrible outcomes,” he said. “The purpose of what I’m doing is to allow small developers to act. “They are the ones who built America, without subsidy, all throughout the 19th Century until about the 1950s. That’s what we need to get, young people being able to build. That is the purpose of what I’m saying.”

Duany said he would change how codes are presented. “There are three languages within the codes. The first is the language of numbers, the number of square feet, the number of apartments, heights, etc. The second is the language of words and the third is the language of drawing.

“I would have form-based code, which is basically the language of drawing, supplemented by the language of numbers and the language of words. I think that would be much easier to understand.”

Now, he said, you have to be a “genius to read a written code and picture in your head what is going to come out. It’s like playing three-dimensional chess. You really don’t know what you are doing. The numbers sound rational, the words sound rational and then you are unpleasantly surprised by what comes out. Because you can’t picture it.

“So basically, you’d want to have a form-based code that pictures what the intention is and then the words and numbers are just used to label it. You start with a picture and then make it slightly more precise by putting numbers on it like five stories or 22 feet or no more than 22 feet, that kind of thing.”

Now, too many codes are confusing and even in conflict because they are written by attorneys. “Lawyers are preventing lawsuits and protecting elected officials,” he said. “But they don’t have any idea what kind of city comes out the other end. None. It’s all defensive.”

Though Duany is an architect who continues to design buildings, he said writing codes is the “most purely cerebral thing that I do. It is a distillation of the conception of the city. It is the most refined intellectual activity you can do in terms of urbanism. The rest is sloppy, because you have to go out there in the mud and the rain and build the damn things with workers who have messy habits.

“But codes are wonderfully stimulating to write and should be presented as an important and refined analytical activity. It is the most abstract, and rigorous practice available to a designer. It is also verifiable: by being projected into the world, codes engage a reality that can lead to resounding failure [or success].”



Duany would have form-based code, which is basically the language of drawing.

Above:  
Courtesy  
of DPZ.  
Photo by  
danmd340  
on flickr.com.

In the new codes that Duany and his company write, city parking is lightened or sometimes removed altogether. “The way we write a new code is like this: We basically say there are two codes available, the one that has produced what you have now and one that levels the playing field and makes it easier to build walkable, mixed-use communities.”

But he said the old one is not eliminated. “Right now, the codes are biased toward suburban sprawl. They never say it, but that is the result. The result is view setbacks, a view triangle getting out of the garage, everything. Even the grade that is required on the lot.

“Nobody ever thought that suburban sprawl, which everyone hates, is exactly the result of things like hydrological codes that require no larger footprint than 45 percent of the lot. That gives you a house, not an apartment building or a townhouse.

“We say the current system is in place and we aren’t going to throw it out. But we are going to make the decision early on when you come in, you can either build the existing, suburban car-dependent sprawl or you can actually build a traditional, walkable neighborhood and it will be no harder to build than sprawl. The market is there for walkable communities. It’s just harder for a developer to do it and it shouldn’t be. Our codes just level the playing fields, they don’t eliminate what already exists. They just introduce a second option.”

Duany said writing codes is keeping him and his company busy. “Don’t think that this is just a niche,” he said. “I have several projects larger than Manhattan going.” ● ● ●

Brian E. Clark is a Wisconsin-based journalist and a former staff writer on the business desk of The San Diego Union-Tribune. He is a contributor to the Los Angeles Times, Chicago Sun-Times, Milwaukee Journal Sentinel, Dallas Morning News and other publications.

# LEED

A tool for green building and sustainable communities



Courtesy of Kendeda Building. Photo top and bottom right by Greg Willett. Photo on bottom left by Jonathan Hillyer.

It's been almost 30 years since the LEED program was unveiled. Since then, nearly 40,000 projects have been certified around the country by the U.S. Green Building Council (USGBC), which runs the effort.

And LEED (which stands for Leadership in Energy and Environmental Design) is continuing to evolve, said Elizabeth Beardsley, senior policy counsel for the USGBC.

She said LEED takes a holistic view of sustainability and is intended to support and drive specific outcomes that are important for the environment.

"That includes reducing contributions to climate change, helping restore and protect water resources, protecting human health through improved indoor environmental quality, preserving biodiversity and habitat, and enhancing community quality of life," she said.

Since its launch, she said LEED has morphed to address new markets and building types, advances in practice and technology, and greater understanding of the environmental and human health effects of the built environment.

The program is the most widely used rating system in the world and influences all building types — including new construction, interiors, operations, core and shell — while providing a framework for healthy, efficient and cost-saving green buildings. The next version of the program — LEED v5 — is set to be released at the USGBC's annual conference at the end of September.

Beardsley said the founders of the LEED program came together from disparate groups, including the real estate, environmental and HVAC worlds. "There was starting to be this demand for more efficient and sustainable buildings," she said. "But it was a free-for-all in the market and people didn't really know how to identify products or what they could rely on in terms of claims."

She said the original idea was to "develop a defined program and definition of what would be considered a green building and to get that out into the market so projects could use it and real estate owners and developers and companies buying assets could identify with more confidence what was actually a green building."

She said the program was enthusiastically received and embraced in the early days by the real estate

industry as developers and owners sought ways to differentiate from others and stand out. “We also found that in that same era that governments were seeking to do better buildings as well. Some federal agencies like the General Services Administration were early adopters of LEED as well as some cities and states.”

Today, more than 330 registered communities around the world are registered as LEED certified. In the United States, major cities like Atlanta, Austin, Houston, Miami, Las Vegas and Washington, D.C., have been certified under the LEED for Cities and Communities program. There are also a number of smaller cities and counties that have achieved certification.

According to the “Green is Good” study by Cushman and Wakefield, LEED certified corporate buildings perform better than non-certified ones. Moreover, it said 80 percent of investors plan to include sustainability as part of their ESG (environmental, social and governance) goals.

The study said investor sustainability strategies include a range of broad issues, such as energy and water efficiency, waste management, materials and others. Certifications prove the efficiency of these strategies, and among them, LEED is one of the main ones when it comes to the real estate market. It analyzed LEED-certified buildings delivered over the 2010-2020 period, compared them to non-certified ones, and found that on average, LEED-certified buildings received higher rents and had lower vacancies.

In addition, a study by the federal General Services Administration showed that LEED-certified buildings helped cut carbon emissions and reduced energy consumption and had many notable measurements, such as:

- 34% lower CO2 emissions
- 25% less energy consumed
- 11% less water consumed
- 78 million tons of avoided CO2 emissions
- 89/100 average ENERGY STAR score for LEED projects
- 1.3 million tons of coal equivalent saved each year
- 80 million tons of waste diverted from landfills



Beardsley said LEED doesn’t focus only on energy use in buildings after they are built, but their design and construction too. “We know that achieving a sustainable building has three important pieces: design, construction, operations and maintenance,” she said. “Those all matter, so we have different ratings for different phases that are backed up by our certification process.

“Right now, we are working hard on the climate change and mitigation issues, as well as adaptation and resilience. So as far as greenhouse gas emission, buildings can contribute (negatively) to each of those in the construction and operations phases as well as end of life.

“In the construction phase, that happens with both energy use on the construction site as well as with the embodied carbon in the materials and products used in building. We have a number of credits now that articulate best practice strategies for addressing embodied carbon.”

Beardsley lauded a LEED for Cities pilot certification program that has a strong smart growth element and supports more urban infill redevelopment and renovation projects “that are so important to providing long-term access to services, transit and making communities more resilient. And, LEED v5 will be a leap ahead (in terms of climate mitigation) and will continue to take a holistic approach to building. ●



# THE IMPORTANCE OF



# Community



# Engagement



# IN ZONING REFORM

Photos courtesy of Oregon DOT

By Julie Buss

Zoning policies are usually decades old, often out-of-date and frequently revised only through patches and exemptions. And when they are revised, too often community participation in the process is minimal.

Community engagement isn't a new concept. In fact, what is now a ubiquitous feature of sidewalks — the curb-cut, which allows easy access to cross walks — is the result of members of the Berkeley, Calif., disabled community making their voices heard during a 1970s planning process. The outcome of listening to those community voices was a simple, equity-driven solution to a previously unaddressed need.

However, impactful community engagement involves much more than listening to the loudest voices at a public meeting. Researchers at Boston University analyzed public meeting records in Eastern Massachusetts and found that outspoken participants tended to be older, white, male homeowners. So, honest engagement isn't about how loud participants are speaking, but who is actually speaking and participating in the process.

Basically, it starts with conversations, connections and understanding.

What's key to successful community engagement is committing to it at the front end, creating a plan, engaging all stakeholders and staying transparent throughout the process. Tocarra Nicole Thomas, AICP, Smart Growth America's director of land use and development and executive director of the Form-Based Codes Institute, says it boils down to focusing on three things — be very open, be accountable and have metrics.

"Planners stand behind the desk and sometimes act like the Wizard. But we serve the community and we need to understand what the community needs, wants and already has," Thomas explained.

Purposeful, intentional community engagement may initially seem a bit exasperating and time consuming, but it can actually make the process easier. It results in stronger, more equitable policies. It builds trust between communities and government. And it provides a better understanding and sense of ownership with the community which can lessen push back and make implementation more successful.



Photo courtesy of Arlington County, Va.

Key to successful community engagement is committing to it at the front end, creating a plan, engaging all stakeholders and staying transparent throughout the process.



Photo by CIRTA



Courtesy of Smart Growth America



Courtesy of Smart Growth America

The importance of community engagement is pretty clear. What can get a bit murkier is how to do it. Experts suggest keeping a number of strategies and priorities in mind throughout the process. These include: understand that community input will help identify and clarify issues and recommendations; involve the most affected members of the community from the very beginning; listen and don't just tell; be transparent about expectations and how input will be used; recognize that there may be unequal power dynamics when interacting with historically marginalized communities; level the playing fields; and invest in the process.

### Arlington County, Va.

Arlington County, Va., earlier this year, unanimously passed a missing middle zoning ordinance that will allow for the development and construction of smaller two-, four- and up to six-unit multifamily housing in areas that were previously only zoned for single-family housing. The significant zoning shift makes Arlington County the first jurisdiction in the Washington, D.C. area, and one of only a few in the country, to zone for missing middle housing.

A significant zoning change like that doesn't happen quickly. Christian Dorsey, Arlington County Board Chair, said this wasn't a traditional political issue, but a long-term sustaining policy that required a thoughtful, methodical engagement strategy. It all began several years earlier. That's when the county developed an affordable housing strategy called Housing Arlington. Then in 2019, it began considering how a shift in zoning policy could increase needed housing. The public was informed and engaged from the onset. And Dorsey said planners and officials didn't avoid potential controversy.

"Many communities look at the expected intense level of opposition and don't want to go there. They feel the heat before they put their hand over the stove. So, they shy away and that fear of opposition can become a self-fulfilling prophecy. We learned there were opponents, but we learned there were even more folks who were hopeful for the possibilities.

"For a long time, Arlington County has been known for civic engagement. But, we haven't done it as well when it comes to equity. From the beginning, we looked to engage partners of all stripes," Dorsey said. To do that, planners and officials let historically marginalized communities know that "their feedback would be solicited, valued and was very important."

From the start, the public was involved and there were multiple ways for community members to engage in conversations, share comments and receive updates. Dorsey explained that local organizations were partners during the research process. All research was shared via the web. There were also a series of online products such as webinars and televised panel events that helped educate the public about the county's historical journey and path forward. The county hosted dozens of public meetings, forums and other gatherings in multiple languages and at various locations and times of the day. There were also pop-up events to educate, inform and gather input. They were opportunities to not only learn about the issue and possible recommendations, but for community members to talk with each other. That built trust.

"Those community conversations helped further frame those policies being brought forward and created several options for people to comment," Dorsey said.

The new zoning may be in place, but Dorsey says it will likely be 18 months before the first projects are finished. So, communication with the community continues.

Community conversations  
helped further frame policies.

Photos courtesy  
of Arlington  
County, Va.



“We’re currently tracking permits and developing a dashboard so the public will understand what this will look like in their neighborhood,” Dorsey said.

He adds that Arlington County’s planners are required to have core competencies in community engagement since they are usually the principle, initial points of contact with the community. Seeing the broad community spectrum can lead to sustainable, generational impact.

### Building and maintaining relationships in Atlanta

Successful community engagement means planners and officials need to go to the community rather than waiting for stakeholders to come to them. It involves intentionally seeking out comments and opinions from all demographics. For planners, it can mean stepping outside their comfort zone.

“Community engagement is a required part of the planning process. The legal requirements might require two public meetings and a public hearing. But too often we just stick to the boxes that need to be checked. We become entrenched in decades of plans. We wonder why the plans haven’t happened and we then default to updating the plan,” explained Kevin Bacon, AIA, AICP, director of urban design, southern U.S. with Toole Design. “True community engagement is not always about a mission-critical project. It’s about building and maintaining relationships and getting embedded in the community.”

Bacon, who previously served as director of design and interim deputy commissioner for strategy with the city of Atlanta, describes an approach Atlanta has used to get into neighborhoods and connect with the community. The city created a pop-up design studio that resembles a retail space and locates it in different neighborhoods for a minimum of six months. Residents are invited to come in and find out about future city plans.

Bacon said taking the process out of city hall might be labor intensive, but the results are even greater. He explained that the actual results of the pop-up design studio “weren’t the projects themselves, but answering questions and becoming part of the community. People came to realize we weren’t just an abstract government agency. We saw a lot of people who valued that space, changed their attitude and realized they can work with the city.”



Courtesy of the Atlanta City Studio

Above: The Design Studio, within the city of Atlanta planning department, moves to different locations throughout the city to make its work as publicly accessible as possible so that all residents have an opportunity to play an integral role in future city plans.



Courtesy of Atlanta City Studio

Successful community engagement means planners and officials need to go to into the community.



Courtesy of the Atlanta City Studio



Design renderings are of Washington, D.C.'s 11th St. Bridge Park, which will be the first elevated public park, spanning the Anacostia River. The primary park features were identified by local residents during a two-year intensive engagement effort and include an environmental education center, amphitheater, kayak/canoe launch, urban agriculture, rain gardens, picnic park, café and 21st century play space. Courtesy of the City of Washington, D.C.

### Understanding the community

“Planners can be proactive and get as many people to the table as possible, representing all people in the community. Cast a wide net. And there needs to be multiple feedback loops throughout the process,” Thomas said.

As an example of successful community engagement in the planning process, Thomas cites Washington, D.C.'s 11th St. Bridge Park. A 1960s-era bridge across the Anacostia River is being repurposed into a park thanks, in part, to in-depth community engagement. A steering committee was formed to guide the process and more than 11,000 pieces of public comments were collected during more than 200 meetings, which included diverse and historically marginalized communities. Engagement has also included door-to-door outreach, surveys and online opportunities. “They used every different type of modality, then came back to the community and said ‘did we get it right?’” said Thomas.

Understanding who the various stakeholder and demographic groups are and how best to communicate and connect with them is essential. Making sure your message is understood is just as important. Bacon says zoning parlance can often be wonky and mired down in technical aspects. He says one way to avoid that is to remember the intent. In other words, don't lose the forest for the trees.

Thomas agrees that language about zoning must be understandable and free from jargon. Meaningful conversations are impossible without understanding.

That can be tricky when striving to engage multilingual communities. Inviting one person to join a committee or discussion doesn't provide true representation and can smack of tokenism. In addition, there might not only be a language barrier, but a trust barrier. Carefully research the community in order to understand who lives there and why. Respect their culture and concerns. When developing informational and educational materials, translate with care. It isn't enough to simply translate from English into the native language of the community. Consider cultural nuances and use easily understandable words and phrases. Be sure that conversations happen where communities feel safe and empowered to engage. It's more than inviting them to the table, it is making sure the table is in the right place.

Going to where people are might mean going online. Share plans and updates via a dedicated, easily navigated website and provide space for feedback. And don't forget other popular social media platforms such as YouTube and TikTok. Social media must be part of the engagement mix in order to reach millennials and members of Generation Z.



## Helping community members understand the importance of zoning reform is a necessity.

### REALTORS® engaged in Charleston S.C.

The city of Charleston, S.C., is in the process of rewriting its zoning code that dates back in the 1930s. It's expected that the process will take approximately two years. So far, the city has hired a consultant and created a technical advisory committee. One member of that committee is Josh Dix, government affairs director for the Charleston Trident Association of REALTORS® (CTAR). When connecting with the community, Dix says that REALTORS® possess a unique knowledge and can serve as links throughout the process.

"We have the best access to the everyday citizen. We know what the community has and what the quality-of-life amenities are that make the community stronger. We get that feedback from the end users," Dix explained.

Equally important as being a conduit for community input is helping community members understand the importance of zoning reform.

"Zoning must match future use and not past use. It must be reflective," Dix explained. "People tend to see the community as the place they moved to or what they want it to be and not necessarily the direction it's actually moving. Zoning and land use must match the land value. Without appropriate zoning, future plans can't be fulfilled."

Bacon agrees that understanding is essential and often requires education.

"There will be times when you're not even talking about the process. It's about education. Don't be afraid to pump the brakes, back up and make sure everyone understands."

### Newport, R.I.

Thomas explains that sometimes outside help is needed in order to facilitate productive engagement. That's where consultants might be beneficial. Smart Growth America provides technical assistance, thought leadership and advocacy.

Newport, R.I., is an example where technical assistance became a gamechanger.

The North End neighborhood of Newport had seen a downturn due to an urban renewal bridge that cut the neighborhood off from the rest of the city. Neighborhood residents feared their voices weren't being heard as the city tackled long-term plans and zoning reform.

In response, neighborhood leaders formed a Local Advocacy Group (LAG) and began collecting opinions and comments from neighborhood residents. The LAG partnered with the Newport Health Equity Zone and sought the guidance of Smart Growth America. Priorities were developed and a set of zoning amendments were drafted and presented to city officials. The amendments addressed affordable housing, green space and ensuring future participation in the process and were unanimously adopted by the Newport City Council earlier this year. The LAG's work was also recognized with the GrowSmartRI Smart Policy Award.

"The city passed a Comprehensive Plan update. But it was created in a vacuum and finished without any engagement. The community pushed back and Smart Growth America was invited to provide assistance with community engagement. The community made recommendations and those recommendations included an equitable development strategy that became part of the comprehensive plan," Thomas said. "It changed the relationship with the city."

And that is the real bottom line to successful community engagement — creating sustainable, meaningful relationships. When everyone feels that they are a partner in the process and that their opinions are valued and their voices are being heard; it's possible for a community to not only meet its current needs, but create a visionary plan for the future. ●

Julie Buss is a frequent contributor to *On Common Ground*. She is a news journalist who worked for more than 20 years in Wisconsin and Texas.



Courtesy of CTAR

# Take Action: **THAT'S WHO WE**

## Making Smart Growth Happen

### Charleston REALTORS® Successfully Stack NAR Resources

Every community creates a Comprehensive Plan and is required to regularly update it. The plan is supposed to help guide local officials and stakeholders make thoughtful decisions concerning far-reaching issues like housing, zoning and development. But sometimes, the best-intended plans just end up gathering dust on a planning office shelf. That's not the case in Charleston S.C., thanks, in part, to the leadership and membership of the Charleston Trident Association of REALTORS® (CTAR). Using a variety of NAR resources and grants, CTAR has taken a leadership role in local housing policy development and implementation.

But as Josh Dix, government affairs director for CTAR shared during a June 9th NAR/REALTOR® Party webinar (<https://realtorparty.realtor/campaign-services/apex-training>), making a difference involves not only using available resources, but also careful planning.

“Start thinking ahead. Next year or the year beyond,” Dix explained. “Have a plan in place. You don't want to miss your opportunity to lose out on this grant funding. And don't be afraid to ask for help. NAR wants to give money away.”

For CTAR, it all began with a placemaking grant. That grant helped CTAR better understand the community's housing realities. CTAR organized a first-of-its-kind planning summit in the spring of 2021 that brought together more than 50 area mayors, city and county council members and planning directors for in-depth discussions about land use. A partnership with the Urban Land Institute made it possible for summit attendees to earn Continuing Education credits and that helped incentivize attendance.

“That launched us into a series of grant programs that we've been stacking on year after year,” Dix explained. “From the planning summit, we leaned into using other NAR resources. We did a housing study which we used NAR resources for. We leveraged that with South Carolina REALTORS® (SCR), which is our state association, and we did a comprehensive housing study for our market.”

That study caught the attention of Charleston County leaders and helped set up the next step in the process.

“That led the county of Charleston to do a Housing Our Future study. They formed a task force and because we had done the comprehensive planning study, they made us





**In Charleston County, S.C., an April 2023 Comprehensive Planning Summit was convened to examine land use and future growth. Using regional maps and Monopoly and Lego pieces to illustrate different types of housing, participants considered future growth and how to add 40,000 housing units in the future. Courtesy of CTAR.**

chairman of the committee that looked at housing opportunities in Charleston County. That allowed us to continue to grow and advance a lot of the policy ideas that we've been cultivating over the years."

Jenny Costa Honeycutt, Charleston County council member, describes the importance and impact of the plan. "The Housing Our Future Plan is a comprehensive framework for implementing Charleston County's housing goals and strategies through collective action. It has also guided our decision making in supporting mixed-income units that provide housing for all economic strata. Affordable housing is crucial to ensuring people at varying income levels can live, work and play together."

"We were able to help drive the conversation and the study provided the county with a tool box with a variety of options," Dix explained.

Ann Birdseye, a member of the Charleston Area Justice Ministry agreed. In a Post & Courier newspaper article published when the Housing Our Future study was released in January 2023, Birdseye described the study as "very thorough, very comprehensive and puts out a great blueprint for how Charleston County could make a difference in affordable housing."

"We're influencing the county of Charleston on their housing policy and that is influencing the state of South Carolina on their housing policy," said Dix.

Recently, state lawmakers passed Senate Bill 284 that allows municipalities to use a portion of accommodation tax

revenue towards affordable housing strategies, including gap financing and downpayment assistance for qualified buyers. In Charleston County, that translates to approximately \$4 million a year in a regular funding stream for affordable housing initiatives.

And there has been such community energy generated by these housing discussions that local officials urged CTAR to organize a second comprehensive planning summit. So, in April 2023 a 2.0 Summit was convened to examine land use and future growth. There were even more participants than had attended the 2021 summit. Attendees were divided into six teams all with the same task. Using regional maps and Monopoly and Lego pieces to illustrate different types of housing, each team considered future growth and how to add 40,000 housing units in the future. The exercise provided an 'aha' moment for participants.

"Six different teams working independently all plotted the same course for growth," Dix said. Participants then took ideas generated at the summit back to their home communities.

What started with a placemaking grant has blossomed into Charleston-area REALTORS® becoming impactful leaders in the discussion and implementation of affordable housing policy.

"NAR has such great resources. We stack capital and use everything in a coordinated effort. If you do it correctly, grants can complement each other, give you more bang for your buck and create a bigger impact," Dix advised. ●

# People in walkable communities are more likely to be satisfied with their quality of life.

RESULTS ARE IN!

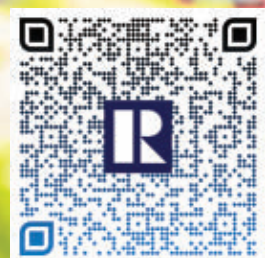
Most notably, people in walkable communities with lots of places nearby like shops, cafes and restaurants are more satisfied with their quality of life than those who don't live within walking distance to amenities.

In this issue of *On Common Ground*, we explore how zoning and codes affect our built environment and how zoning reform can enable more affordable housing, enhanced quality of life, and walkable places to live, work and play.

89%

of people who live in walkable communities are satisfied with their quality of life

NAR COMMUNITY & TRANSPORTATION PREFERENCES SURVEY RESULTS



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