SAVING THE WORLD THROUGH ZONING:
SUSTAINABLE COMMUNITY DEVELOPMENT CODE REFORM

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Solving the World Through Zoning

A couple of winters ago, being the quintessential zoning attorney, I was curled up in front of the fire at my mountain cabin reading a good development code.

I
What is a Sustainable Community?

“Then I say the earth belongs to each generation during its course, fully and in its own right, [but] no generation can contract debts greater than can be paid during the course of its own existence.”

– Thomas Jefferson (1789)
Sustainable Communities…

…meet the needs of the present while ensuring that future generations have the same or better opportunities. *Brundtland Commission 1987*

SUSTAINABLE COMMUNITIES ARE ABOUT PRESERVING CHOICES—ENVIRONMENTAL, ECONOMIC, AND SOCIAL
AMERICA’S BABY BOOMERS = THE SKI GENERATION

SKI = SPENDING the KID’S INHERITANCE
A SUSTAINABLE WORLD???

- **Fuel:** Oil production to peak in next 5-10 years...while world oil consumption increases by 50% by 2030.
- **Food:** China will demand more food in 2030 than the entire world produces today.
- **Health:** 34% of U.S. population obese. Obesity in children has tripled in last 3 decades. Costs the nation $147 billion annually in weight-related hospital bills.
- **Climate:** Last decade--hottest on record; 99% of glaciers in Alaska in retreat; 5-foot sea level rise??
- **Biodiversity:** Habitat destruction...ocean acidification = 6\textsuperscript{TH} major species extinction event looming??
Local Sustainability Programs

Typical Focus: Gov’t Operations

- Hybrid fleets
- Compact fluorescent bulbs
- Mass transit
- Plant street trees
- Green city buildings
- Purchase renewable power
- Recycling programs
Local Sustainability Programs

WHAT’S MISSING??

- Little focus on:
  - Development patterns/private development
  - Development code barriers to “green” projects and industries
  - Code incentives
WHY DO DEVELOPMENT PATTERNS AND CODES MATTER??

- 100 MILLION MORE OF US BY 2043!!
- 50-70 MILLION NEW HOUSING UNITS
- BUT NEXT ECONOMY NOT BASED ON HOUSING
How Can a Development Code Support Sustainability?

- Development codes CAN help address critical issues:
  - CLIMATE CHANGE/CARBON EMISSIONS
  - RENEWABLE ENERGY
  - FOOD SUPPLY
  - HEALTH
  - NATURAL RESOURCE CONSERVATION
  - MOBILITY
  - HOUSING CHOICES
  - AND OTHERS
THINK GLOBALLY... ACT LOCALLY

- Development codes = powerful tool to accomplish community goals.
- DON’T WAIT:
  - Mandatory elements in comp plans
  - States preempting/suing local govts.
  - Federal laws...GHGs; ESA; MBA, MS4
  - Save money
  - Federal stimulus funding for code updates
  - Adaptation alternative is expensive and uncertain
KEY FEATURES OF A SUSTAINABLE CODE?

- Covers **new topics**: energy, health, food security, climate change, recycling—and relationships among them
- **Not just reactive or prescriptive**: removes barriers, creates incentives
- **Balances** environment, economics, social aspects of development
- **Tailored** regionally to climate and ecology…Design With Nature.
THREE PATHS TO SUSTAINABILITY

THINK B-I-G!!

- **BARRIERS**
  - Allow mixed-use development by right without special hearings or conditions

- **INCENTIVES**
  - Offer more flexible development standards for infill development or accelerated permitting for green building projects.

- **GAPS**
  - Fill regulatory gaps ~ tree protection standards
Sustainable Code: Energy Conservation/Alternative Energy

- **Remove Barriers**
  - Allow solar panels by right and .... clothes lines
  - Fine-tune non-conforming use/building regs to allow “green” renovations
  - Promote mixed-use developments
Original clothes line at Duerksen house in Buhler, KS., still standing...
Sustainable Code: Energy Conservation/Alternative Energy

- **Create Incentives**
  - Green building expedited permitting (Miami-Dade County)
  - Open space credit for green roofs (Miami) or density bonuses (Portland)
Sustainable Code: Energy Conservation/Alternative

- Fill Regulatory Gaps:
  - Enact solar access protection provisions
  - Require cool roofs
  - Add **minimum** density requirements
  - Create priority parking for alternative fuel vehicles
Sustainable Code: Health/Safety

- **Remove Barriers:**
  - Automatically reduce parking requirements for mixed-use/TOD projects
  - Allow community gardens in all zone districts with off-site sales
  - Define farmers market and permit in most zone districts.
Sustainable Code: Health/Safety

- **Create Incentives:**
  - Offer bonus open space credit for maintaining public lands access and for community gardens, green roofs
  - Reduce vehicle parking requirements for projects that provide bicycle facilities or adopt transportation demand management programs
  - Increase density for MU along transit routes
Sustainable Code: Health/Safety

- **Fill Regulatory Gaps:**
  - Require pedestrian connectivity—sidewalks, complete streets, and safe-street routes.
  - Consider CPTED principles in development reviews.
  - Adopt standards for shade structures along sidewalks and in parking lots.
  - Adopt Wildland Urban Interface Standards (wildfire).
Sustainable Code: Housing Choices

- **Remove Barriers:**
  - Allow live/work units in commercial and office zones by right.
  - Permit detached accessory dwelling units by right in residential zone districts.
  - Allow small and non-conforming lot development with contextual dimensional and compatibility standards.
Sustainable Code: Housing Choices

Create Incentives:
- Offer density bonuses for projects with a mix of housing types and units
- Grant parking reductions for affordable multi-family projects
Sustainable Code: Housing Choices

- **Fill Regulatory Gaps:**
  - Enact affordable housing mitigation requirements (Denver)
  - Require mix of housing types or units in new developments (Chapel Hill, NC)
Sustainable Code: Other Issues

- Green Infrastructure
- Recycling
- Climate Change
THE TIME IS RIPE: PEOPLE ARE READY!!!
CAN WE REVOLUTIONIZE ZONING???

EUCLIDEAN ZONING MILESTONES:

- 1916—New York City adopts city wide zoning scheme. Only 48 cities by 1921
- 1921—Standard State Zoning Enabling Act
- 1926—Upheld by U.S. Supreme Court
- 1926—425 zoned cities=1/2 U.S. population
Sustainable Code Implementation: Low-Hanging Fruit Strategy

Energy Conservation
- Allow clothes lines
- Require cool roofs

Community Health
- Permit community gardens by right in most zone districts

Housing Choices
- Allow live/work units in commercial zone districts
- Grant parking reductions for affordable housing
Sustainable Code Implementation: Use Menus As A First Step

C. Table of Design Options

<table>
<thead>
<tr>
<th>Option</th>
<th>Description / Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Group A: Each option worth 1 point</strong></td>
<td></td>
</tr>
<tr>
<td>Achieve star rating under the City of Austin Green Building program.</td>
<td>Each star of the rating qualifies for one point. No double credit for Green Building points from Group B.</td>
</tr>
<tr>
<td>Provide for linear stores in building façade. (1 point for each linear store)</td>
<td>See Article 5, Definitions</td>
</tr>
<tr>
<td>Provide façade articulation.</td>
<td>See definition D.1. below.</td>
</tr>
<tr>
<td>Provide primary entrance design.</td>
<td>See definition D.2. below.</td>
</tr>
<tr>
<td>Provide roof design.</td>
<td>See definition D.3. below.</td>
</tr>
<tr>
<td>Provide building materials meeting the standards of this section.</td>
<td>See definition D.5. below.</td>
</tr>
<tr>
<td>Improve storefronts to new regulatory standard of Section 3.2.2 for glazing type/size &amp; shading.</td>
<td>Applies only for buildings existing at the effective date of this Subchapter.</td>
</tr>
<tr>
<td>100% of glazing on ground-floor façades that face any street or parking lot have a Visible Transmittance (VT) of 0.6 or higher.</td>
<td></td>
</tr>
<tr>
<td>Complies with neighborhood design guidelines</td>
<td></td>
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<tr>
<td><strong>Group B: Each option worth 2 points</strong></td>
<td></td>
</tr>
<tr>
<td>Design building so that at least 75% of the façade facing the principal street consists of storefronts with at least two separate entrances facing the principal street</td>
<td></td>
</tr>
<tr>
<td>Provide sustainable roof.</td>
<td>See definition D.4. below.</td>
</tr>
<tr>
<td>Integrate solar power generation into building design.</td>
<td>The specific features and design shall be approved by the Director. Examples may include, but are not limited to, rooftop solar panels or Building Integrated Photovoltaics.</td>
</tr>
<tr>
<td>Achieve Green Building rating of 2 stars.</td>
<td></td>
</tr>
</tbody>
</table>
Addressing Costs & Benefits of Sustainable Codes

- **Strategy #1**: Stress Focus on Removing Barriers/Creating Incentives
- **Strategy #2**: Demonstrate Site First Cost Savings
- **Strategy #3**: Think Beyond the Site—Long-Term and Community Impacts
THE TIME IS RIPE: LOCAL GOVERNMENTS ARE LEADING THE WAY!!!

SALT LAKE CITY GREEN
http://www.slcgreen.com/CodeRevision.htm

OMAHA SUSTAINABLE PLAN AND CODE REVIEW
http://www.cityofomaha.org/ecomaha/
Sustainable Community Development Code
A Code for the 21st Century
Beta Version 1.1
HERE’S TO THE CRAZY ONES…
THE ONES WHO ARE CRAZY ENOUGH TO THINK THAT THEY CAN CHANGE THE WORLD AND ARE THE ONES WHO DO IT!

Steve Jobs
SUSTAINABLE COMMUNITIES BEGIN WITH SUSTAINABLE PLANS AND DEVELOPMENT CODES

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