

# Commonwealth Communities: Zoning for Equity

Virtual Symposium: December 15, 2021

## Speaker highlights: how has zoning led to inequalities?



**Tracy Hadden Loh, Fellow, Anne T. and Robert M. Bass Center for Transformative Placemaking, Brookings Metro**

“The greatest accessibility to public transit is reserved for low-intensity uses. Even though everyone in the region pays for transportation, it is not effectively or equally distributed, in part because of zoning.”



**George Proakis, Executive Director, Mayor’s Office of Strategic Planning and Community Development, Somerville, MA**

“Zoning has historically been used to facilitate inequalities. Things like form-based codes and inclusionary zoning are excellent mechanisms to [address this].”



**Marques G. King, Managing Principal, Fabric[K] Design**

“Zoning is often an obstacle for individuals who want to start businesses as inclusionary zoning is hyper-focused on downtowns. Who can start businesses? Where can they start businesses? How has zoning affected who can participate in the market?”

## Background

COVID-19 has dramatically altered our sense of community and place. Massachusetts communities faced unprecedented hardships, but met them with resilience, innovation, sacrifice, and strength. During the Fall and Winter of 2021, LOCUS, Smart Growth America’s program to promote responsible real estate development and investment, hosted Commonwealth Communities: Smart Growth Strategies for Our Emergent Future. This series of five virtual symposia provided Massachusetts’ elected officials and local government staff a platform to hear from experts across the country and discuss strategies for enhancing placemaking and equity in the Commonwealth to bring health, prosperity, and resilience to their communities over the long term. This five-part technical assistance series, summarized in these five discussion guides, addressed walkability, transit-oriented development, small businesses development, and zoning reform. The symposium series resulted in engaging conversation, opportunities for partnerships, and the development of new ideas in the realm of smart growth and sustainability.

During this session, speakers outlined the historical effects of zoning on low-income communities and communities of color and how that legacy influences zoning today. Key themes discussed in this session included: how to make zoning equitable, addressing the disparate impacts of zoning on communities of color, and how to use zoning as a tool for transformative placemaking.

## Theme 1: How can zoning be more equitable?

Conventional zoning--a system for regulating development based on the segregation of uses and people--has been predominant in communities across the United State for the last century. This "use-based" or "Euclidean" zoning (named for a Supreme Court case that originated in Euclid, OH) has created environments that are segregated, auto-centric, disjointed, and sprawling. What can communities do to reform their zoning codes to mitigate these inherent biases?

- **Focus on placemaking rather than separation.** Rather than starting with the premise that different uses and people should be isolated from one another, zoning codes should focus on the physical character of the places they regulate and the inherent value of diversity of form, use, and people. Often, the places that are most appealing are those that are walkable and varied with an integration of uses, building types, and opportunities for social interaction. Even in areas that are predominantly residential, for example, use-based zoning segregates large from small and single-family detached from multi-family. A code based in placemaking, referred to as form-based zoning, will allow for structures that accommodate both large and small units to be proximate to one another, as long as the structures fit in with the context of the surrounding area.
- **Prioritize people over cars.** Cars are the most expensive form of ground transportation available to households. Zoning codes that enable and encourage opportunities to use alternative modes of transportation--walking, biking, transit--put the areas regulated by these codes within reach of households with a wider range of incomes. An example of how code writers can do this is by reducing parking requirements, which can make areas more compact and accessible by non-motorized modes, with the added benefit of reducing the cost of housing.

**“What we have done is create a system that focuses primarily on regulating what land can be used for, regulating who can occupy the land, and regulating who has access to the land. We’ve created environments that are segregated, disjointed, and sprawling. They are lacking spatial form and quality spaces, and we have come to value land based on uses and not on productivity.”**

**Marques G. King, Fabric[K] Design**

- **Power to (all) the people.** Conventional forms of community engagement--public hearings, weekday charrettes, written surveys--favor those who have the luxury of time or level of education to fully participate. Public officials must broaden the techniques and opportunities that they use in order to engage a wider variety of residents in the visioning and planning process. Opportunities to participate online, at hours within and outside the traditional 9-5 work day and cell phone-based surveys are just a few examples of strategies to broaden community engagement. Partnering with faith-based institutions, community-based organizations and grassroots organizations, and compensating partners for their time and engagement, presents another method to reach a more representative proportion of a community and ensure that everyone affected by changes in zoning can engage.
- **Inter-governmental support.** Zoning reform is neither easy nor inexpensive. State and federal agencies must provide financial support, technical assistance, and examples of best practices to local governments to encourage zoning reform and to ensure that the outcomes are equitable. National partners, including in the non-profit sector, have an important role to play in connecting the dots about national best practices and effective methods for advocacy.

# Theme 2: How can cities address the discriminatory impacts of zoning?

The results of a century of Euclidean zoning have contributed to deteriorated urban neighborhoods, featureless suburbs, increased air pollution, and social isolation. These, in turn, have led to disparities in generational wealth, educational attainment levels, and health outcomes between wealthier white households and lower income, Black, and Hispanic households. Reforming zoning codes that have contributed to these patterns and disparities is a necessary but insufficient solution to zoning's history of discrimination. What can local governments do to begin to address the impact of these inequities?

- **Reverse disinvestment.** Places that have been isolated by zoning, generally, are also the places that have been neglected by local governments. Localities must disproportionately invest in these places to support communities which have been historically marginalized by land use policy. Actions could range from improving public infrastructure, to reforming the zoning code for these areas, to requiring developers of major projects to reinvest in the people who live there through community benefits agreements.
- **Mitigate displacement.** Everyone deserves to live in a great place, regardless of race, ethnicity, or wealth. But the demand for vibrant, walkable, transit-accessible neighborhoods far outpaces the supply, and, for that reason, walkable neighborhoods tend to be more costly. When historically disinvested places receive an infusion of investment--whether public, private or both--prices go up and long-term residents with limited incomes are pushed out. It is essential that municipalities anticipate this before it happens and institute anti-displacement and housing affordability measures to ensure that long-time residents can stay in their neighborhood as they improve.
- **Measure and publish.** What is measured can be managed. The term "quality of life" is important, but impossible to measure. In order to ensure that the negative impacts of historic and institutional racism are addressed, local governments must define the metrics they will use to measure improvement over time—educational attainment, involuntary relocation, health outcomes, etc— and make the data available to policymakers and citizens in a form that they can use to measure the impact of change and advocate.

## Equity

The state, quality or ideal of being just, impartial and fair. Equity involves trying to understand and give people what they need to enjoy full, healthy lives, and is synonymous with fairness and justice (Annie E. Casey Foundation).

## Equality

Equality aims to ensure that everyone gets the same things in order to enjoy full, healthy lives. Like equity, equality aims to promote fairness and justice, but it can only work if everyone starts from the same place and needs the same things (Annie E. Casey Foundation).

## Disparate impacts

Practices that adversely affect one group of people of a protected characteristic more than another, even though the rules formally applied are neutral and equal (Marques G. King, Fabric[K] Design).



Example of Reinvesting in the Community:

(Left) Image of the Detroit "8 Mile" wall in 1941.

Source: John Vachon.

(Right) Image of the "8 Mile" wall in 2018, now turned into public art space.

Source: Kiraly-Seth.



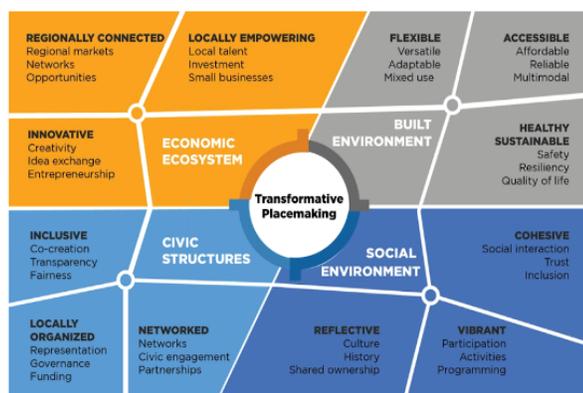
## Theme 3: How can zoning be a tool for transformative placemaking?

According to Tracy Hadden Loh of the Anne. M. and Robert M. Bass Center for Transformative Placemaking at the Brookings Institution, transformative placemaking addresses a number of hyperlocal topics that foster communities of opportunity: the economic ecosystem, the built environment, civic structures, and the social environment. Aspects of transformative placemaking include:

- **Scale:** Transformative placemaking concentrates investments not only in public spaces, individual lots, or city blocks, but in hubs or "districts" where economic, physical, and civic assets cluster and connect.
- **Scope of investment:** Transformative placemaking encourages investments not only to create high-quality places, but to foster equitable, opportunity-rich communities that generate broad-based prosperity.
- **Integration:** Transformative placemaking seeks to break down barriers between key fields to advance integrated, system-level solutions.

### Transformative Placemaking: The outcomes

Transformative Placemaking leads to **four critical hyperlocal outcomes** that together foster communities of opportunity.



ANNE T. AND ROBERT M. BASS CENTER FOR TRANSFORMATIVE PLACEMAKING

Source: Tracy Hadden Loh, Brookings Metro

Transformative placemaking requires that we rethink zoning to create the places we want to be, move through, and inhabit, rather than the places and spaces of the recent past. Tracy Hadden Loh of the Brookings Institute noted that the COVID-19 pandemic has shifted demand across real estate products, not just in the short-term but in the long-term as well. More people than ever are working from home. Office and home environments have changed, and so have the needs of those who are spending more and more time at home. She also stated that, for those who are traveling into places of work, convenience is key. Being able to efficiently travel from work to home, meet daily needs, and feel a sense of security wherever you are is more important than ever.

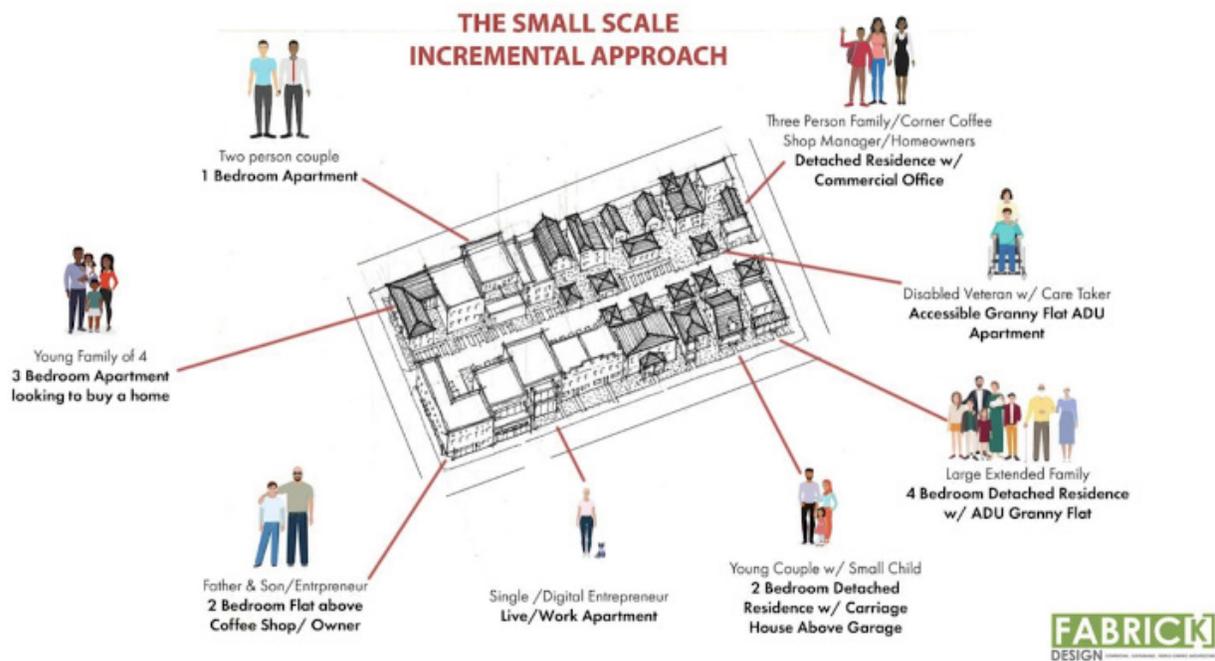
Walkability is a key objective of transformative placemaking. Zoning can determine whether a place is walkable by enabling or inhibiting mixed land uses, pre-determining density or floor area ratio (FAR) and by defining public and private spaces through frontage, set-back and other requirements. Zoning can limit sprawl or encourage land use patterns where development is connected only by autocentric infrastructure, which is a barrier to walkability and placemaking, generally.

**“The phrase, ‘everyone can live in this neighborhood if they can afford it’ is not true, and it never has been.”**

**- Tracy Hadden Loh, Brookings Metro**

Housing, and how we create our homes, is also an essential part of placemaking. Today, more than 70 percent of zoned land in the U.S. is zoned for single-family detached housing. But less than 30 percent of households in the U.S. include children under the age of 18, which is the demographic most likely to benefit from a single-family home, and almost the same percent of households have one person. Neither our zoning nor our housing stock matches the composition of today’s households.

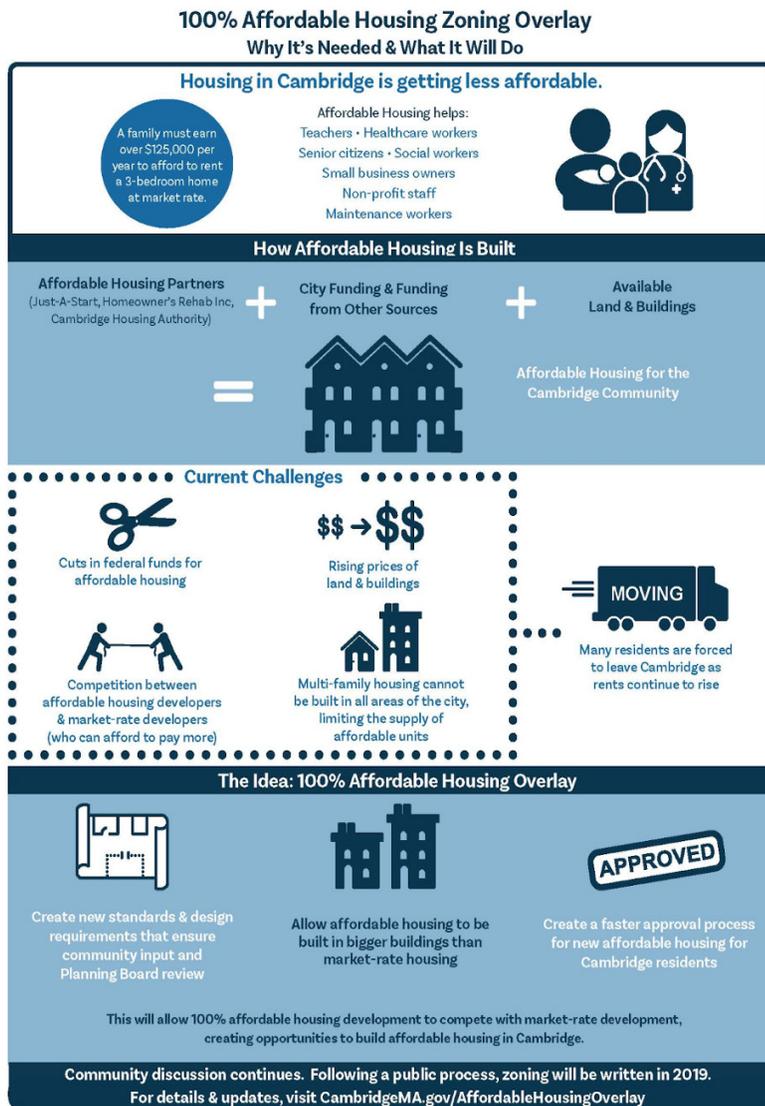
Going forward, our residential zoning must allow sufficient supply to meet this demand, which now includes a significant cohort of single individuals, single-parent families, and older “empty nester” couples. Marques G. King, Co-Founder of Fabric[K] Design, explained that housing supply needs to be more diverse in order to meet these different needs as well as different incomes, and it is important to acknowledge that this mismatch disproportionately affects people of color.



Source: Marques G. King, Fabric[K] Design

Meeting demand and current household demographics will require a significant diversification of the types of housing we build, as well as zoning that allows and even encourages this diversity. Missing middle housing has emerged as a helpful term to characterize this range of housing types that, from a design perspective, falls between single-family detached housing and mid- and high-rise multi-family housing. The image below provides examples of how missing middle housing can fit into an existing single-family neighborhood. Localities can learn more about this category of housing type--and the zoning that allows and encourages it--[at this website](#).

## Highlight: Inclusionary zoning



**Inclusionary zoning** requires that the developer set aside a portion of rental units to be affordable to households earning a set percentage of area median income (AMI). In order to successfully implement inclusionary zoning, local governments must ensure that developers can achieve a net positive “bottom line” by compensating for the loss of income from the restricted units by allowing additional density or providing other financial incentives. Another way to ensure affordability is to provide an optional housing overlay, like one used in Cambridge, MA.

### Example: affordable housing overlay in Cambridge, MA

The idea for a 100 percent affordable housing zoning overlay grew out of discussions with the City Council and Housing Committee in Cambridge eager to consider policy changes to address the housing crisis. The goal of the overlay is to help affordable housing developers, using public funds, create new affordable units more quickly, more cost effectively, and in areas where there are fewer affordable housing options for residents. The overlay gives property owners the “as-of-right” ability to develop affordable housing in Cambridge which helps developers interested in building affordable housing to make competitive offers for developable land in the City. While the overlay will not entirely solve Cambridge’s current lack

Source: Community Development Department, City of Cambridge

of affordable housing, it has the potential to add a significant number of new affordable units and set a new industry standard for cities using comprehensive zoning tools to alleviate affordability burdens.

# Highlight: Form-based codes

**Form-based codes** are land development regulations that foster predictable built environment results and a high-quality public realm by using physical form rather than separation of uses as the organizing principle for the code. Form-based codes and inclusionary zoning work well together.

These are both integrated tools that code the outcome of a visioning or planning process to provide certainty to property owners and to demystify the zoning process.

## Example: form-based code overhaul in Somerville, MA

Somerville is the first and largest municipality in the Boston metropolitan area to adopt a city-wide form-based code. The code also incorporates best practices from performance-based and use-based zoning to achieve more than 180 objectives of the SomerVision 2030, the City's Comprehensive Plan. The new ordinance uses clear language to make zoning understandable,

includes a [glossary](#), illustrations, graphics, and photos to help users visualize standards. As part of the form-based code, there are permits with graduated density bonuses for larger lots, net zero buildings, and provisions for [100 percent affordable housing buildings](#).

- Residential Districts (Article 3)**
  - Neighborhood Residential (NR)
  - Urban Residential (UR)
- Mid-Rise Districts (Article 4)**
  - Mid-Rise 3 Story (MR3)
  - Mid-Rise 4 Story (MR4)
  - Mid-Rise 5 Story (MR5)
  - Mid-Rise 6 Story (MR6)
- High Rise Districts (Article 5)**
  - High Rise (HR)
- Commercial Districts (Article 6)**
  - Fabrication (FAB)
  - Commercial Core (CC)
  - Commercial Industry (CI)
  - Commercial Business (CB)
- Special Districts (Article 7)**
  - Civic (CIV)
  - Assembly Square (ASQ)
  - North Point (NP)
  - Powderhouse School Redevelopment (PSR)
  - Tufts University (TU)



Use Category Specific Use	NR	UR	MR3	MR4	MR5	MR6	HR	FAB	CC	CI	CB	CIV
<b>Commercial Services Categories</b>												
<b>Animal Services (as noted below)</b>	--	--	--	--	--	--	--	--	--	--	--	--
Commercial Kennel	N	N	SP	SP	SP	SP	SP	N	SP	P	P	N
Pet Grooming	N	N	P	P	P	P	P	N	P	P	P	N
Pet Day Care or Training	N	N	SP	SP	SP	SP	SP	N	SP	P	P	N
Veterinarian	N	N	SP	SP	SP	SP	SP	N	SP	P	P	N
<b>Assembly or Entertainment</b>	N	N	SP	SP	SP	SP	SP	N	SP	SP	SP	N
<b>Banking or Financial Services (except as follows)</b>	N	N	P	P	P	P	P	N	P	P	P	N
Personal Credit	N	N	SP	SP	SP	SP	SP	N	SP	SP	SP	N
Broadcast or Recording Studio	N	N	P	P	P	P	P	P	P	P	P	N
Building or Home Repair Services	N	N	SP	SP	SP	SP	SP	N	SP	P	P	N
Business Support Services	N	N	P	P	P	P	P	N	P	P	P	N
Caterer or Wholesale Food Production	N	N	SP	SP	SP	SP	SP	P	SP	P	P	N
<b>Day Care Services (as noted below)</b>	--	--	--	--	--	--	--	--	--	--	--	--
Adult Day Care Center	N	N	P	P	P	P	P	N	P	P	P	N
Child Day Care Center	P	P	P	P	P	P	P	P	P	P	P	N
<b>Educational Services</b>	N	N	P	P	P	P	P	P	P	P	P	N
<b>Maintenance or Repair Services</b>	N	N	P	P	P	P	P	N	P	P	P	N
<b>Personal Services (except as follows)</b>	N	N	P	P	P	P	P	N	P	P	P	N
Body Art Services	N	N	P	P	P	P	P	P	P	P	P	N
Fitness Services	N	N	P	P	P	P	P	P	P	P	P	N
Funeral Services	N	N	SP	SP	SP	SP	SP	N	SP	P	P	N
Health Care Services	N	N	SP	SP	SP	SP	SP	N	SP	SP	SP	N
<b>Recreation Services</b>	N	N	SP	SP	SP	SP	SP	SP	SP	P	P	P
<b>Vehicle Parking (as noted below)</b>	--	--	--	--	--	--	--	--	--	--	--	--
Bike Share Parking	N	P	P	P	P	P	P	P	P	P	P	P
Car Share Parking (3 or less)	N	P	P	P	P	P	P	P	P	P	P	N
Car Share Parking (4 or more)	N	SP	P	P	P	P	P	P	P	P	P	N
Commercial Parking	N	N	P	P	P	P	P	P	P	P	P	N
<b>Food and Beverage Services Categories</b>												
Bar, Restaurant, or Tavern	N	N	P	P	P	P	P	N	P	P	P	N
Bakery, Café, or Coffee Shop	N	N	P	P	P	P	P	N	P	P	P	N

P - Permitted SP - Special Permit Required N - Not Permitted

(Top) Image depicts an example of the new zoning map for Somerville, MA. The colored boxes represent the different land use categories as described throughout the ordinance. City of Somerville, Zoning Overhaul

(Left) Image depicts specific categories of land use designations, corresponding with the example map above. Source: City of Somerville, Zoning Overhaul

# Additional Resources:

- Annie E. Casey Foundation (2020). Equity vs. Equality and Other Racial Justice Definitions. [https://www.aecf.org/blog/racial-justice-definitions?gclid=Cj0KCQiA90iPBhCOARIsAI0y71CenFTSZ8XVldSSQ3jDGaEwJb1DgqI3mRTy7BirPL8xZjyt0GcWdDsaAkoZEALw\\_wcB](https://www.aecf.org/blog/racial-justice-definitions?gclid=Cj0KCQiA90iPBhCOARIsAI0y71CenFTSZ8XVldSSQ3jDGaEwJb1DgqI3mRTy7BirPL8xZjyt0GcWdDsaAkoZEALw_wcB)
- Form-Based Codes Defined. The Form-Based Codes Institute at Smart Growth America. <https://formbasedcodes.org/definition/>
- Freeman, L., (2021). Build race equity into rezoning decisions. The Brookings Institute. <https://www.brookings.edu/blog/how-we-rise/2021/07/13/build-race-equity-into-rezoning-decisions/>
- Introduction to the Zoning Atlas, (2020). Metropolitan Area Planning Council. <https://zoningatlas.mapc.org/reports/1/>
- Parolek, D., Missing Middle Housing (2020). <https://islandpress.org/books/missing-middle-housing>
- Quinn-Smith, T., (2019). Zoning for equity: raising all boats. Smart Growth America. <https://smartgrowthamerica.org/zoning-for-equity-raising-all-boats/>
- Smart Growth/Smart Energy Toolkit Modules- Form-Based Codes (FBCs), (2022). The Commonwealth of Massachusetts. <https://www.mass.gov/service-details/smart-growth-smart-energy-toolkit-modules-form-based-codes-fbcs>
- Zoned In: Economic Benefits & Shared Prosperity with Form-Based Codes, (2021). The Form-Based Codes Institute at Smart Growth America. <https://smartgrowthamerica.org/wp-content/uploads/2021/09/Economic-Benefits-of-FBCs-sRGB.pdf>

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