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Sprawl Codes, New Urbanist Codes, and the Challenge of Community-Wide Coding

As the practice of new urbanist coding evolves, one of the great challenges we face is developing community-wide codes that address existing built communities, and are not solely focused on greenfield development or individual projects.

CODES DECODED

There are several “flavors” of codes. The most widely practiced version is the city-administered code, which contains development and land-use regulations for an entire community. Cities also focus their coding efforts on specific areas within communities. And there are also developer-administered codes for large-scale projects.

When we think about zoning codes as most of them exist throughout the United States, they are really quite simple in concept, and consist of only three elements:

1. Information on how private property may be used;
2. A series of standards for the planning and design of development;
3. Procedures for the review and approval of projects, and for the administration of codes.

There is also a map adopted as part of the code. The map is one of the most problematic aspects of conventional codes because of how it applies zones throughout a community. In most cases, conventional zones are “one size fits all” designations that excessively limit the range of possible land uses, and are typically applied without much regard for the character of existing communities.

THE TROUBLE WITH ZONING

What’s wrong with conventional zoning codes? Major problems include:

- a) Their emphasis on regulation by use with the excessive limitations noted above;
- b) A complete disconnect between land use, and urban form and design;
- c) Exceptions become the rule, because conventional codes are so ineffective in producing with development that responds to the character of a community that variances are constantly necessary; and

- d) Administration of codes rarely balances certainty and flexibility, both of which are needed if a code is to work.

A BRIEF HISTORY OF SPRAWL CODES

To understand where the problematic aspects of conventional codes came from, one must go back to the beginning of our country. Before the Revolutionary War and the constitution, municipalities had complete authority over the type of development that occurred. But the founding of the country and the constitution established no clear authority for city governments. Cities were creatures of the state; they were not given the clear authority to regulate much of anything, particularly land use, except as specific authorities were gradually delegated to them by state constitutions. So, cities’ initial efforts at coding focused on protecting basic public health and safety.

An early example of this was the New York City Tenement House Law. Adopted in 1867, the law addressed the railroad flat, a boxcar-shaped, apartment unit that had windows on each end and no access to light and air from within the building. The Tenement House Law said, essentially, you may not build anything worse than this.

Also in 1867, the City of San Francisco adopted an ordinance that dealt indirectly with land use by requiring that smoke-producing industry and slaughterhouses be placed downwind from residential areas.

From there, early zoning ordinances began to look at the issues of development and compatibility between land uses. Some focused on the hazards and nuisances inherent in certain industrial activities and the need to separate them from residential.

The year 1916 saw two interesting changes, in both New York City and Berkeley. New York City adopted a zoning code partly in response to concerns by trendy merchants on Fifth Avenue, who were exercised about the proliferation of garment manufacturing lofts in the neighborhood, worried about their business and property values. They lobbied the city to regulate those types of uses and keep them away from

Fifth Avenue, and also to impose regulations dealing with height and bulk, because of growing concern that the city streets were becoming canyons.

Berkeley adopted the first exclusive single-family residential zone. High demand for housing engendered the development of tenements houses, which were obviously a building type entirely different from the single-family home. This terrified homeowners and property owners because of the potential negative impacts on their property values, and cities began adopting ordinances to keep tenements in locations away from single-family homes. Even when apartments first emerged and were marketed as upscale, there was still widespread belief that the single-family home was the only proper type of housing.

Early zoning ordinances were challenged repeatedly in court by land owners who believed that their property values were being diminished and their rights were being taken from them. This debate concluded, for all practical purposes in the 1926 U.S. Supreme Court case, *Euclid v. Ambler*, the Village of Euclid versus the Ambler Realty Company. For the first time, the Court looked at comprehensive zoning as an overall concept and said it all was constitutional, a legitimate protection of public health, safety, and welfare.

Then came World War II and the post-war housing boom, the impetus for sprawl as we know it today, a convergence of prosperity and babies. Everyone came home from World War II to find a job and start a family. The baby boom ensued. Mass-production housing replaced housing production as a craft, and the snowball of sprawl began to grow.

Along with the housing and baby boom, retail and services began moving from town centers into the suburbs, to be closer to suburban residents, and all the components of sprawl as we know it were finally in place.

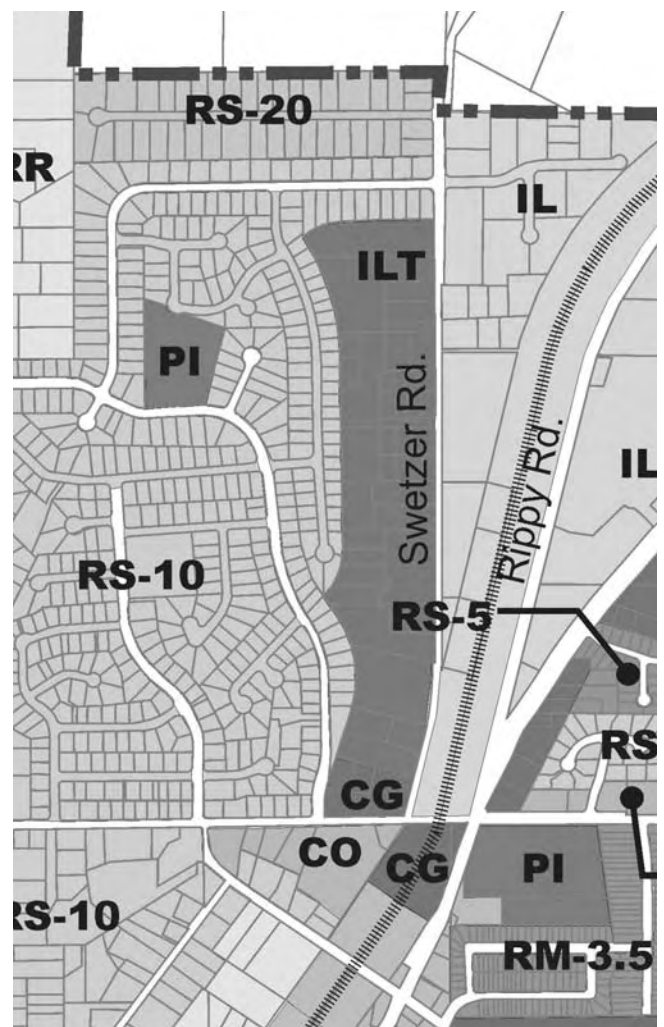
THE PRODUCTS OF ZONING

So we can see that, since its inception in the early 1900s, zoning in combination with a number of other factors has produced pervasive, predictable results:

- Urbanization characterized by dispersed land uses with few or no distinct centers;
- Spatial separation of nearly every key daily activity;
- Excessive land consumption;
- Streets designed for cars rather than people;

- No convenient, cost-effective transit;
- Limited choice in housing supply;
- Fear of density.

Fear of density has become part of our culture, partly as a result of earlier efforts to limit residential development to single-family housing as much as possible, and the continuing failure of the designers and developers of multi-family housing to produce anything that can fit into a neighborhood context.



Conventional zoning puts emphasis on regulation by use, within limited-use, one-size-fits-all zoning districts. There is a disconnect between land use and urban form and design. (Courtesy: P. Crawford)

NEW URBANIST ALTERNATIVES

New urbanist codes offer an approach that deals with community character much more directly and effectively, by de-emphasizing regulation by land use in favor of building form and typology. The applicability of development regulations is “mapped” by identifying transect zones and/or through neighborhoods, districts, and corridors. There is an emphasis on mixed-use and a mixture of housing types. Great attention is paid to the streetscape and the design of the public realm.

How can we inject these notions into codes in cities throughout the United States? One way is to simply tinker with the standards, as they exist in the current code, “quick fixes.”

Another approach is the special-purpose zone or overlay, which deals with a specific portion of a city and reflects the intention of a community to require good development in a particular location.

Still another method is to append TND ordinances to existing codes, allowing the developer to exercise the option of creating a TND and applying it to a particular area.

Finally, there is the more global option of comprehensively and simultaneously updating a city’s general plan and zoning code updates. The importance of giving careful thought to

the plan and policy foundation side of the equation cannot be emphasized enough.

Many new urbanists would probably like to simply toss an existing conventional code and replace it with a new urbanist code. But will that approach work in every community? And, if it doesn’t work, are we willing to try to improve a community to the greatest extent that we can, straying from the so-called “pure code”?

REALITY CHECKS

As we think about the different strategies for embedding new urbanist principles in local codes, it is important to understand the day-to-day realities of code administration in practice; because a failure to consider these realities can prevent a code update from being successful.

First, the community’s general plan can get in the way and seriously complicate the coding process. This is a particularly important issue in states like California, which mandate consistency between general plans and zoning.

As an example: Our office (Crawford Multari & Clark) teamed with Moule & Polyzoides on a code update for the City of Sonoma, California. Sonoma had just adopted a general plan with a new land use diagram based on conventional land use classifications. As we began



For a code to be effective, there must be a greater blending between the general plan and code content. (Courtesy: Moule & Polyzoides)

the coding process, it became clear that the California consistency law would prevent the code from being based on neighborhoods, districts, and corridors unless the brand new plan were significantly amended. So the only realistic option was a hybrid approach a “splice” where new urbanist principles were integrated into the existing plan framework. The standards of the conventional zones that were applied to property within each neighborhood, district, and corridor were adjusted to accomplish the urban design objectives that were important in those areas.

The general plan may or may not be a hindrance, depending on your location. Sooner or later, though, you’ll likely find yourself dealing with one of three stages of state involvement in the planning process:

1. The state says, “Cities and counties, you may plan. You have the authority to do that. Have at it. Have a good time. We wish you well.”
2. The State says, “You shall plan. Cities and counties, you are required to prepare and adopt plans for the future of your communities. Not only is it a good idea, it’s the law. So go do it.”
3. California and a few, mercifully few, other states now say: “You shall plan, and here’s how you’re going to do it.”

A second reality check issue is that a community’s zoning code is only part of a larger local development management system. This system consists of:

- Policies that generally describe the direction in which the city wants to go;
- Regulations, among which are the zoning code and the development code;
- Staff, who are used to conventional codes and must be educated, too, along with everyone else;
- Decision-makers appointed and elected;
- The public.

If new urbanism is to be effectively implemented in any community, it needs to be embedded and inculcated into each of these levels of the system. It’s not enough to write a code; it’s not enough to do a charrette, to work with the community or those who choose to participate in developing a code. There has to be a system-wide examination of what’s going on. The public is absolutely critical, given the culture of public scrutiny regarding development that has arisen throughout the country.

Then we have the land use issue. New urbanist conventional wisdom suggests that regulating land use is far less important than regulating building form, and some believe land use should barely be regulated at all. However, as we pursue the goal of formulating the most effective codes possible, this issue needs more discussion among new urbanist practitioners. While the classic, encyclopedic land use lists found in conventional codes are notoriously ineffective (sooner or later, someone will come up with a land use type that no one considered when the list was developed and paralyze the system), giving land use inadequate attention in a new code is asking for trouble.

Land use regulation has a necessary and legitimate role in new urbanist codes because, for example, communities often have specific economic development goals that need to consider the nature of uses in a ground-floor storefront. And since the generic land use type of “retail” could be interpreted to include book and shoe stores, but also adult bookstores, auto parts sales, and hot tub stores, the community may be better served by a little more specificity. There needs to be some consideration of land use allocation, because the character and vitality of a community can be diminished by bad judgment on the part of entrepreneurs and developers, which does not seem to be in short supply.



New urbanist codes must address issues of urban form and urban design, as well as land use. (Courtesy: Moule & Polyzoides)

PRINCIPLES FOR NEW URBANIST CODES

As we consider the best ways to code, it's useful to identify principles that can both distinguish new urbanist codes from the conventional, and ensure that new urbanist codes do their job. I believe that these principles must at least include the following.

1. Codes need to be place-based. The code should be informed by an understanding of the community's existing character, heritage, and the differences found between various areas within the community.
2. Codes and their mapping need to employ regulatory geography that reflects the ecology of the urban area. The neighborhood, district, and corridor, and the transect, certainly do that more effectively than mapping based on single-use or limited-use zoning districts.
3. New urbanist codes need to be purposeful and not reactive. From the earliest zoning codes to the present, conventional codes have been essentially reactive, knee-jerk responses to bad things that have happened, and have been written in an attempt to prevent more bad things from happening, rather than being used to facilitate, encourage, and be an instrument of positive change in the community.

For a code to be effective, there must be a greater blending between the general plan and code content. If these two documents are divorced, with the plan containing elegant and extensive expressions of a community's expectations for its future, and the code providing only quantitative information, albeit with great illustrations, there's a lack of understanding of why the rules are there and where the community intends to go. This notion does create the risk of bulking up the document and ending up with a fat, daunting book, but it can be very useful for a code to include descriptive information about where a community wants to go and what it wants to achieve.

4. New urbanist codes must address the overriding issues of urban form and urban design, as well as land use.
5. The code must foster compact, mixed-use, pedestrian-oriented development - and through the code foster the kind of places where people want to live.
6. The code should be highly graphic, easy to use and easy to understand. A layperson should be able to read a code and understand the city's expectations.

If new urbanist codes are going to work, they also need to be dynamic documents that change as their communities change. This has been a particular problem for planners updating general plans. These were documents that went through extensive public review, and then sat on a shelf and gathered dust. That's been the case with codes, too, but the consequences are worse, because the code is what determines what gets built every day. And while the code is only part of the development management system, there is no more powerful planning tool in shaping how development turns out on a daily basis, and how the community evolves. Because of this fact, the code must be reviewed constantly, formally, and updated on a regular basis.

We figured out how to create communities worth living in a long time ago. It clearly is time to think more about how some of the time-tested urban principles can be applied in coding.



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(Courtesy: Moule & Polyzoides)*