Alternative Methods of Land Development Regulation

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Historic Opportunity

Newly-incorporated Fort Myers Beach now finds itself with an historic opportunity to rethink its physical future and the techniques by which the Town will govern development. I have learned that many of the advocates for incorporation were drawn by the desire to "bring home" control over development approval decisions. Similar motivations have inspired incorporations and annexations around the state, and whatever approach Fort Myers Beach adopts will probably become a model for other newly created communities.

Presumably, the goals of balanced planning and regulation-making are:

a. **Process:** to institute a public *procedure* for decision-making that is diligent and fair to all concerned over time; and

b. **Results:** to make choices that will cause the actual *place* to get better rather than worse as it grows or changes.

Re-active or Pro-Active?

Unfortunately, most of our Florida municipalities have adopted "plans" and bureaucratic systems that are long on the process part and short on the results part. (As a test, ask your friends: can the planning director in their municipality draw or show a picture of what their area is supposed to look like in 10 or 20 years?) All Florida municipalities are required to have comprehensive plans, but few vividly articulate in their plans what development should be like. As Poole observed, "most local planning departments should be called permitting departments, because they do not really plan" but rather react to piecemeal proposals from applicants.[1] Will planning in the new Fort Myers Beach be *pro-active,* or re-active?

When There is No Vision

Applicants for approval, it seems, are often forced through a gauntlet of red tape and uncertainty just to find out what the municipality will actually approve; frequently the bruising public debates leave both developers and wary citizen participants exhausted and suspicious. Does it have to be that way?

First Things First

In my opinion, the most important thing is for the Town to *decide what it wants to be, physically,* and then derive its approach to development regulation from that "vision."

In other words, the regulations should be designed to catalyze or attract certain desirable changes, rather than merely controlling permit-processing procedures. [Notably, your community wisely took the pro-active approach when creating the recent special plan for the Times Square area.]

The "vision" really should be *visual, not just verbal.* The community should work together with experts to craft drawings and images of the kind of development & preservation it considers ideal.

The Preferred Future

Later, when the LPA and Town Council are working on specific regulations, those pictures of a preferred future will provide the test: if we adopt this or that rule, will it be legal to build what's shown in those pictures? If we don't adopt this or that other rule, might something antithetical to those pictures get approved?

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A number of alternatives now exist for how local governments can shape their land development regulations. These alternatives range from conventional zoning (which has some important operational defects) to design-oriented, graphic codes (which will make re-education and a keen direction necessary for implementation). In the paragraphs that follow, several of these alternatives are discussed in broad terms. Please note that many variations on each theme are possible, and that what is true of many LDR's of a certain kind will not be true of all of them. Examples abound; the Town might consider looking through the library of ordinances from other municipalities that Lee County has collected for comparisons.

Conventional (Euclidean) Zoning Ordinances

1. Conventional (Euclidean) Zoning Ordinances

Conventional zoning divides the municipality into a series of mapped districts (zones), then assigns a permitted use(s) to each zone. There are typically single-family residential zones, multi-family residential zones, commercial zones, industrial zones, and so on. Lee County instituted this kind of regulation in 1962.

This "zoning" is the basis for many regulations in use today, but it is a fairly recent invention. It takes its name from the landmark Supreme Court case, *Village of Euclid, Ohio v. Ambler Realty Company,* which confirmed the constitutionality of zoning in 1926.[2] Although we take it for granted, zoning was basically absent from colonial times until the twentieth century. Zoning was not necessary in the formation of Charleston, Savannah, Key West, or many other memorable and livable towns. Conspicuously, those successful tourist destinations could not be built under most "modern" zoning ordinances.

Separating Uses

The theory behind the conventional zoning model is that by cleanly delineating permitted *land uses*-- and by keeping them separate-- *compatibility* between neighboring development might be insured.

(Does it work as intended? Probably not, and separating uses can easily backfire. We can all think of situations in which the "success" at keeping uses separate has yielded an ugly, overly car-dependent, disconnected and dysfunctional suburban pattern. In particular, the application of zoning-by-use in a strict way proves problematic in older towns which grew up during or before the advent of zoning-- as seen with the controversy in Fort Myers Beach regarding accessory apartments.)

D.U. / acre

The conventional model typically elaborates further in the case of residential uses, regulating permitted *density* (as expressed in dwelling units per acre). The theory in that case is that by controlling density-- typically, by keeping it as low as possible-- the municipality might hope to "guarantee the results" with regard to limiting local and regional *impacts* like traffic congestion or demand for municipal services.

(Keeping density low, as a political objective, has been sold so effectively over the past few decades that it is usually a popular stance. In my opinion, however, this too can be misleading. Single-family detached houses, for example, generate the *most* car trips per household of any type, and low-density sprawl has proven to be the *most* expensive pattern for delivery of municipal services and the *least* supportive of transit, the elderly, and children.)

Dimensional Requirements

The greatest flaw in pure zoning-by-use is that it ignores how much difference *design* can make in insuring the compatibility of neighboring developments. For this reason, most conventional zoning ordinances couple the land use restrictions with *dimensional requirements.*

The resulting hybrid has become the most common form of land development regulation in use today in the United States. (Not surprisingly therefore, it is also blamed for fostering much of the chaos in our built environment, and is the target of reform efforts in every corner of the nation.[3])

Dimensional requirements regulate, with widely varying degrees of specificity, things like the massing and bulk of buildings, and the allowable places for buildings on their lots. Example dimensional requirements include: *Minimum* front, side, and rear *setbacks; Maximum height* restrictions; *Minimum* lot *width* or lot *size* (square footage); and so forth. Often, *subdivision standards* also include street dimensions, traffic details, and landscaping requirements.

Ever-thicker Ordinances

It sounds simple, but it rarely is; over time, the typical zoning ordinance undergoes constant revision to change the rules, change the maps, to permit overlapping uses, to close loopholes in the rules. With each revision, the typical zoning ordinance grows more complicated.

Here's one reason why:

Note that each of the example dimensional requirements listed above outlines *prohibitions:* "you may *not* build closer than *x,* or higher than *y.*" The zoning describes, usually in legalese, what you may *not* do

(as opposed to explaining that which is pre-approved). When you're trying to list everything that is prohibited, the list grows and grows-- the clever are always finding a weakness in the ordinance, followed by a reactionary attempt to tighten it.

One "Advantage" However

Despite the flaws in the conventional approach, it should be noted that it seems to have one significant appeal for Fort Myers Beach in the very short term: conventional zoning would be the easiest to implement now, because it is the basis for the county ordinance to which many have become accustomed. Other approaches will require more deliberation, education, and greater political will.

Special Situations

2. Overlay Districts, PUD's, & Specific Plans ("Special Area Plans")

The rigid Euclidean formula has often been criticized for its failure to adapt to special situations.

For example, historic districts often feature the very design characteristics that conventional zoning usually outlaws: a rich mix of land uses, building types, and housing prices; higher densities and mixed densities; narrow streets with trees close to the road; shallow setbacks; and low parking ratios (to name a few).

For another example, a municipality may wish to enact special provisions in certain areas for neighborhood conservation, exploitation of unique natural features, or allowance for more flexibility. (How does a waterfront farmers' market, for instance, get "zoned" using conventional categories?)

In another situation, the local government might wish to provide incentives to redevelopment in a certain area, such as tax abatement, relief from discretionary public review, or relief from some features of the conventional zoning (often, parking requirements or setbacks).

Overlay Districts

One popular tool for accommodating special situations like those is the *overlay district*. This is a special zone, created by ordinance, which has its own unique, additional standards (or a schedule of items that automatically replace the requirements in the conventional zoning ordinance.) One reason the overlay district is popular is that a municipality can essentially carve out one part of the town for a different set of rules without a full-blown rezoning of the whole town or undue controversy; it leaves zoning unchanged for the remaining parts of town.

Optional Approach

The overlay district tool is applied two ways. In what is probably the more classic approach, the overlay

district standards are *optional,* offered to the applicant as alternatives to the conventional standards. Incentives might be offered to induce the developer to choose the alternative standards (such as shallower setbacks which increase buildable area). This optional approach is sometimes applied when there is no stomach for "downzoning" (in which the municipality revises regulations to limit what can be placed on a given piece of land). Fort Myers Beach went with the optional approach to overlay districts for the Times Square area.

For example, a community might wish to persuade developers to opt for human-scaled buildings where highrises have been previously permitted. Under the optional overlay standards, height might be limited to, say, four stories, and building position on the lot tightly controlled-- but parking requirements or lot coverage loosened, permitting streamlined, and so forth. In this example, new restrictions are offset by new possibilities.

In another example, the community might adopt architectural standards not previously required, but offer incentives in the form of increased building bulk or height. (That is the case with the "Mediterranean" style code adopted with mixed results in Coral Gables, FL.) The optional overlay allows the policymakers to reassure property owners that all "rights" under the previous / underlying zoning will remain in place, but that now there are new possibilities.

The Importance of Coaching

The disadvantage to the optional approach, of course, is that if the underlying zoning allowed something really lucrative but inappropriate for the neighborhood, it is likely that some enterprising applicant might still wish to build it. This approach requires a determined effort on the part of municipal leaders to make the incentives genuinely *worth it* on the bottom line, and then an equally determined effort to *promote* the alternative standards. Coaching developers on the benefits of the alternative standards, how to exploit them, and how to comply is the community's job-- and is almost always challenging, particularly with absentee property owners and developers from the scarcely-regulated next-town-over. Historically, local government staffs have not been very good at this salesmanship; some seek the help of the local chamber of commerce or enlist a retired developer to "translate." Still, the optional overlay (if it works) provides proof of the marketability of whatever urban pattern the town is promoting (if in fact it has market appeal). It legalizes the opportunity for one "pioneer" developer to carry out a project that demonstrates the new paradigm, in the hope that others may follow.

However, the optional approach does not provide all the certainty and *predictability* that same pioneering developer or neighbors might want. Suppose one agrees to develop a pedestrian-oriented "Main Street" building instead of a strip shopping center. What assurance is there that the property next door won't become a huge strip-center parking lot, disrupting a crucial pedestrian connection from the Main Street to some apartments beyond (among other problems)?

Mandatory Approach

In another common approach to the overlay district technique, the special standards are made *mandatory.* Usually the overlay ordinance addresses only the items which are different from the underlying zoning. This resolves the "control" disadvantage suffered by the optional approach, but the mandatory approach requires even more consensus building.

Test It

Whether standards are made optional or mandatory, it is crucial to really "test" their implications, at least on paper. This is true of all land development regulations. Enlist the aid of consultants and local architects, site engineers and landscape architects. *Draw* layouts of sites and buildings according to the ordinance. Find examples where buildings of that kind have worked well. Ask the questions: What's legal? What are the best-case and worst-case scenarios? What would the town look like if a great deal of it were transformed under the regulation?

"Mother May I"

Several times we have reviewed zoning ordinances and found that once we applied all the setbacks and parking ratios on a typical site, almost no buildable area was left; in one town, a Fotomat would be too big to get approval without a variance. Asking around, we learned that virtually everything built under the ordinance was permitted only after an armload of variances! No testing had taken place. It would appear that some towns have so little remaining faith in their own rules that they rely instead on discretionary, politicized review; some charge that towns go further, making the rules even more absurd as a face-saving way to force each applicant to play "Mother May I" with the local government.

If "testing" is used to make sure everyone understands the rules and to refine the rules with confidence, no "Mother May I" game would be necessary.

Planned Unit Developments

For the last couple of decades, another approach has emerged in an attempt to overcome conventional zoning's rigidity on a case-by-case basis. The *Planned Unit Development* process is typically used on large, suburban sites (although it can also be applied on urban sites). Here's the idea: the larger, unified parcel will have a customized master plan and rules of its own for its internal development-- the many smaller projects contained within will be "planned as a unit." Therefore, the details of lot configuration and net density should be judged in light of the overall effect, not lot by lot, and as long as the overall effect is acceptable to the governing municipality, the particular rules in the underlying zoning may be waived. Lee County allows this process, which has resulted in many recent approvals of zoning on Fort Myers Beach.

For comparison, examine two systems under which the same parcel of land could be developed. Under the "by-right" conventional zoning, the parcel might be permitted for uniform subdivision into a certain number of similar, large-lot single-family houses. Under the PUD, the same parcel might be approved instead with a specific plan for a more compact combination of small lots, a few large lots, and townhouses, adding up to the same number of units overall. The shared open space made possible by the more compact PUD scheme might be judged an overall civic and environmental benefit. The mixture of dwelling types, likely to diversify the economic stature and age of the households within, might also be socially beneficial (but sometimes isn't popular with neighboring subdivisions).

In theory, the overall master planning might lead to other benefits and efficiencies, such as an integrated

circulation pattern, trail network, or shared recreational facilities. The governing municipality typically reviews the master plan, negotiates with the developer to optimize the project where possible, and grants or denies approval. In typical cases, the approval allows exceptions to the setbacks, lot sizes, lot widths, and street standards that would have been required under the by-right zoning.

If a developer is meeting the municipality's large-scale goals in an overall way within a big project, why should the smaller details be confined to the limited palette in the conventional zoning? The PUD is thought to be a way of allowing greater flexibility for creative solutions. Often the local PUD ordinance even makes it possible to mix uses and increase density, albeit with a case-by-case approval. Sometimes the PUD ordinance specifies items, however, that cannot be varied (typically the gross density permitted by the underlying zoning plus some bonus).

Some towns allow very small PUD's. (Lee County has no minimum size for PUD's.) This is seen as a more palatable approach than *variances,* for which *hardship* must be proved, and more fair than *spot-zoning,* a caprice for which the courts have little patience. The PUD can be judged on its *merits* as well as its fit with the context. My favorite example is in the Cotton District in Starkville, Mississippi; a marvelous traditional neighborhood infill development-- just one block big-- was approved after the town revised its PUD ordinance to eliminate minimum size requirements. The result "fits" that place much better than a homogenous application of the underlying zoning would have permitted.

Double-Edged Sword

Like the overlay district, the PUD offers the town a way to make it legal to do things which make common sense but which wouldn't be legal under Euclidean zoning. The approach is far from failsafe, however.

Municipalities large and small are wowed by slick presentations and then badly misjudge the quality of plans. The proposals are poorly visualized. The impacts of proposals are poorly foreseen. Remember, the same discretionary process that lets a developer propose an "improved" approach lets the local government approve an inferior one. Elected officials come and go, and are often inexperienced. Staffers that carry out the negotiation and advise the elected officials might, well, miss out on continuing education; planning staffs and zoning boards may be found rigidly clinging to bad habits and arguing for urban patterns long since discredited.

Patina of Legitimacy

The PUD process, which usually requires an upfront investment in planning and legal experts, written and graphic exhibits, and considerable time, actually favors the mightiest developers who have the money and influence it takes to get approved. The process does involve risk, but the rewards are attractive and the process adds a patina of legitimacy. Local governments eager to build up the tax base can usually be talked into *something* eventually with the right sales pitch. Confusing the permitting body with persuasive words has evolved into an art form; whole seminars are devoted to the subject. Many local governments appear willing to accept a vague *bubble diagram* instead of a real plan for PUD approval, anyway (including Lee County in recent years). Prominent attorney and planner Joel Russell has written, "The term 'Planned Unit Development' is itself ironic. It is no more planned than sprawl, in fact it is completely ad hoc... The need for PUD arose out of the dim realization that sprawl stinks, but

most PUDs have just evolved as more profitable forms of sprawl rather than good planning. By calling it "planned" the implication is that it will be better than the garbage produced by the plan implicit in the zoning code, which is, in turn, an admission that the base zoning is inadequate."[4]

Enclaves That Turn Their Backs on the Town

The PUD process appears especially popular with developers proposing elitist, walled subdivisions that play to fears of the very townsfolk who elected the approving body. (The idea was to encourage an integrated, comprehensive approach to planning and thus maximize the "fit" and benefits to the community; it is ironic that PUD's have become the approval mechanism of choice for disconnected, private enclaves with their own quasi-governments). Nothing about the PUD technique itself, in its pure form, should favor these fortified enclaves. However, some jurisdictions couple their PUD approvals to edge-treatment ("buffer") requirements and other rules, which in turn reinforce vestiges of the Euclidean approach-- especially when combined with oversized, pedestrian-hostile roads.

Disenchantment

PUD ordinances were adopted enthusiastically by local governments in hopes of finding a win-win method for satisfying both developers and planning activists. Two and one-half decades have passed since experience with PUD's began on a national basis. It is now possible to look back over the many developments approved and see that this technique did not solve everything and that, for the most part, these developments made things worse rather than better.

It is not surprising that neighborhood groups, once routinely duped by clever public relations teams, now routinely oppose most development. Disenchantment with results from both conventional zoning and PUD's has further weakened the shaky public faith in planning, and may have helped transform some "good growth" movements into "no growth" outrage.

Learn to See Good Design

The PUD tool in its pure form is a *neutral* legal technique. It does not guarantee the results. Good results require a good design, which means local government officials might do well to learn to know good design when they see it (and to say no when they do not).

Florida law, like that of other states, enables municipalities to create *Specific Plans* to flesh out the details missing from their (general) Comprehensive Plans. Specific planning often precedes creation of overlay ordinances. As with a PUD, the benefit is that an entire area (best, a *neighborhood*) is envisioned as whole. Local government usually takes the lead in specific planning; in Fort Myers Beach, the CRA was the lead agency.

Emphasizing Design

3. Design-Oriented Codes

Certain conventions for lot layout, building design and urban form have evolved in traditional towns over centuries of human experience. Such conventions are the subject of much enthusiasm today, in reaction to a long, bleak experiment with "new" planning forms. In particular, modern architectural dogma advocated a clean break with the cities of the past; mid-twentieth century transportation theory concentrated on the free flow of traffic foremost, "moving cars" instead of "moving people;" and specialized planning bureaucracy segments the world into functional categories for ease of handling.

Yet our most adaptive, memorable and livable communities date from prior to that experiment. One can study these older towns and find that *land use* is a very secondary issue, because the mix of uses is (or was) more market-oriented and buildings change their uses a number of times during their usable lifetimes.

Design is the thread that connects these places. For example: streets are agreeable because they are *well-defined, well-proportioned* public spaces, are integrated within the block network; neighborhoods work for pedestrians when blocks are small; architecture is agreeable when it fits regional climate, customs and local context. Lots (and therefore buildings) make sense when they have clear fronts and backs. Civic buildings have significance because they are sited in locations of great geometric importance, such as terminating a street vista or anchoring a public square.

***Pro*scriptive vs. *Pre*scriptive**

Yet typical dimensional requirements do not insure these things. For example, consider the front *setback:* this is an imaginary line, drawn parallel to the front property line, which limits how closely the building can be situated toward the street. As long as the building is further back than the setback line, it can be *anywhere* else on the lot. So this rule does not make certain the creation of any coherent street space.

Many municipalities now regulate using *build-to lines* instead of setbacks. The front build-to line is an imaginary line, drawn parallel to the front property line, along which some portion of the building front *must* be built. The setback line is proscriptive, specifying prohibitions. The build-to line is prescriptive, *prescribing* what is expected.

Not a New Idea

Prescriptive codes are an American tradition, dating from the time of Spanish colonization, when King Philip of Spain issued the *Law of the Indies*. That concise document neatly details the appropriate location for settlements, the proportions and location for the central plaza, how streets are to be laid out, and essential building features. [5]

The "genetic code" from which Alexandria, Virginia was grown is said to have been formulated by surveyor George Washington, and had three key points. The first was a (build-to) requirement that the buildings must be positioned up to the front property line to form the street spaces. Most were rowhouses. The second and third points were architectural: private buildings were to have horizontal eaves facing the street, while "honorific" buildings like the Town Hall were allowed to have the gable-end of their roofs face the street. (In Amsterdam that rule is applied in reverse. Tellingly, the founders of Alexandria wrote the rules out of reaction to one of the earliest houses built after the town's founding; it

had a deep front yard and its grandiose front was detached from its neighbors-- too *suburban!*) In the late 19th Century, when Boston's Back Bay and Commonwealth Avenue were built, the developers were required to follow precise rules for building placement and window design.

Modern-day overlay district ordinances are often design-oriented. Here in Florida, similar ordinances have been adopted in Bonita Springs, South Miami, Stuart, Davie, Orlando, and now for Times Square in Fort Myers Beach.

T.N.D.

Devised by Duany & Plater-Zyberk, the Traditional Neighborhood Development District (TND) Ordinance and its variations are a useful update to the PUD approach. Like a PUD, the TND is a "floating zone" that may be applied in a number of places, and it requires a detailed master plan for the whole project. However, the TND requires adherence to certain urban design conventions and is set up so that the basic increment of planning is one neighborhood. TND applicants also have "by-right" access to smaller street widths, narrow lots, mixed uses, parking reductions-- both as incentives and as part of a package of design maneuvers intended to generate new neighborhoods that are as sustainable and desirable as historic ones.[6] This tool was conceived for raw-land situations, but its design emphasis offers a lesson for redevelopment as well. Palm Beach County and Dade County each have adopted versions of the TND Ordinance.

Pictures, Not Just Words

4. Graphic Codes

Design-oriented, prescriptive codes lend themselves to *illustrations.* The many words in conventional zoning codes are often incomprehensible to all but the legal experts; drawings can communicate much more clearly what is permitted under or sought by the code. Today, many municipalities include drawings, photos or diagrams along with the text in their land development regulations. This technique became popular to make hotly debated signage rules more understandable, for example.

Matrix

Illustrations *within* the code are a powerful way of making the LDR's "graphic." Another is to apply graphical organizational techniques in the *format of the document itself.* Matrix or chart formats are very effective.

Here's why:

Reference

Architects, landscape architects, attorneys, engineers, contractors and developers use the regulations

daily in their work. Elected officials and staff refer to the regulations constantly. Invariably, one's copy of the conventional rulebook has paper clips, Post-it notes, and page markers all over it because the rules that apply to a given issue are not all that easy to find. Using the rules requires one to remember the ideas from several different pages or *chapters,* and to find them later. Hardly anyone sits down to read the document cover to cover (although I have met gluttons for punishment who have done that)-- we all use them as *reference* works, and whether they are simple or tough to use depends on how we find what we want to know. The index, table of contents and cross-references help, but they are not intuitive and require flipping back and forth.

"Graphical User Interface"

In a matrix format, however, the content of the ordinance is organized into *rows and columns* according to subjects and situations. (See the three miniaturized "posters" attached as an appendix.) The one-page poster format was pioneered by the Urban Code for Seaside, Florida, devised by Duany & Plater-Zyberk in the early 1980's; copies were handed out as inexpensive blueprints.

Users find it easier to locate the rules they're after in the matrix format. Perhaps more importantly, they more easily *remember* where they found it, for future reference. The matrix format takes advantage of the intuitive, *visual* ways we remember things, in the same way that so-called "graphical user interfaces"-- windows, icons and so forth-- on newer personal computers have made them easier to use.

With a matrix format, the designer can post the whole code (or the meaty parts of it) right above the desk, for nearly-instant reference. Planning departments typically post copies on the wall beside the permitting counter, and use them to explain the rules to applicants.

A New Way

We have observed that the poster or matrix versions tend to be immediately popular with private applicants, elected officials and designers-- but planning staffers and municipal attorneys often react with hesitation, and insist on an 8.5x11 format instead. This is usually because of understandable concern that the format will not match the other municipal ordinances, or because notebook formats are easier to file and carry in briefcases. If an objection is raised, we suggest creating two versions: the same information displayed in each format. (Note that care must be taken to keep the content consistent and both formats up-to-date.) Several times we have also observed that staff, who initially balked at the poster idea, changed their minds after a few months after all and became enthusiastic promoters of the concept.

Discipline

The matrix approach, which requires clear-cut organization and simplicity, will obviously work best when the rules are few and straightforward. Therefore the technique is suited to *pre*scriptive codes; the matrix with its limited sheet size inspires discipline. The best approach in my opinion is to choose relatively few basic things to regulate carefully; express those things clearly; leave out the superfluous things; and resist the temptation to add more and more rules.

Organizing Principles

5. Variations on Graphic Coding

Graphic codes may be organized in several ways. The key is to select a feature by which the user determines which subsets of rules apply to their situation. The feature might be the "street type", "development character" categories, "zones", or "building types." A key map or regulating plan shows the user which street type the property fronts, or what zone the property is in, which category applies, and so on. Then the user reads across the matrix to find the rules for their situation, along with any general provisions that apply to all situations.

Coding by Street Type

One basic idea of urban design is that streets should thought of as unified public spaces, with compatible developments facing one another across streets. *Coding by street types* reinforces this notion. A hierarchy of street types that would be used to organize a matrix code might include:

"Boulevard"

"Main Street & Squares"

"Secondary Downtown Streets"

"Residential Streets"

"Lanes"

"Alleys"

Suited to Redevelopment

Coding by street type is especially helpful in redevelopment situations, where lots widths often vary. The strength of this approach is that the regulations control the essential *relationship between the building and the street;* street-type codes are often silent on "backyard" matters or say little about them. (The locations on a given lot where parking is allowed or prohibited, however, is a critical exception.) Street type codes are used in the Hometown District Overlay Ordinance in South Miami, and the redevelopment code for Riviera Beach.[7]

Coding by Location

Graphic codes may also be organized according to *"Character Categories"* or *Zones.* The setup might include:

"Town Center"

"Neighborhood Center"

"Neighborhood General"

"Neighborhood Edge"

Essentially this approach establishes a cascading intensity or density, and provides for each category to have its own range of acceptable building forms or lot layouts. Sometimes these are allowed to overlap: a rowhouse might be permitted in all but the edge, for example, while Main Street buildings may only occur, say, in the neighborhood center and town center.

Hierarchy

Most codes are organized in a hierarchical fashion. Some allow a given property to be developed either with rules from the designated category *or* with the rules from any category less intense (lower in the hierarchy). For example, under that sort of arrangement a lot designated as "Main Street" could be allowed to have a mixed-use shopfront building with apartments or offices above, but it could also be developed with a freestanding house or apartments only. The advantage of that approach is that the free market might determine how long or continuous the Main Street is. One disadvantage is that every user of the code must get to know several subsets of rules in order to make decisions about which kind of product to build. In any event, the applicant should be required to stick with one subset of rules in their entirety, rather than "mix-n-match."

Coding by Building Type

Graphic codes organized by either street type or location may be coupled with specific instructions on how to build any one of several *building types.* Each building type can be described in a row on a matrix, or on a given page in a booklet. Exactly which building types to include should arise from study of the best historic examples in the town or region, the climate, culture and economy of the place, and its real estate practicalities. In particular, Fort Myers Beach must address the questions that revolve around flood elevations, insurance, and dry floodproofing of first floors in order to confirm the future of commercial areas.

A generic range of building types for traditional American towns might cover:

Main Street Shopfront / Mixed-Use Buildings

Loft Buildings

Apartment Houses, Boarding Houses, Hotels, and Motels

Rowhouses

Sideyard Houses

Cottages, Bungalows and Front-Porch Houses (`Conch' in Florida)

Large Houses and Duplexes

Outbuildings and Accessory Apartments

Warehouses and Workshop Buildings

Note that the instructions need not relate to architectural *style,* but more importantly to urban issues like building position, height, massing, and so forth. The community might elect to establish architectural principles as well; architectural principles can also be organized graphically and include illustrations. Some towns adopt a manual as a guideline only, others adopt architectural requirements as official standards, while most have none. In my opinion, if architectural principles are adopted at all, the focus should be on the quality and durability of *materials* and on the proper *configuration* of a few exterior elements, such as porches, arcades, and roofs.

"Playbook"

My colleague Robert Gray eloquently compares land development regulation to good coaching. Every member of a sports team must know the rules of the game, Robert says, but teams rarely win games by memorizing the *rules.* The teams that win have the great *plays.* Certain plays are appropriate to certain situations, and there are many variations; the same is true with building types and lot layouts. One way to conceive of the graphic code is as a "playbook" that actually teaches the user how to go about the design of a given building type. There can be the "Main Street" play, the rowhouse play, and so on-- and the playbook can be expanded with experience and ingenuity. This is one way to conceptualize the shift from re-active to pro-active governance. Many building-type codes reflect this "playbook" philosophy. This approach is the basis for the new municipal code under consideration now in Port Royal, South Carolina. The approach is being used by Chattanooga Neighborhood Enterprise in its redevelopment projects. It is more common so far in cases of new development; its effect is evident in the Florida new towns of Windsor and Celebration.[8]

The Official Map

6. The Regulating Plan

As referenced above, most land development ordinances (graphic, conventional or otherwise) come with a map. One of the simplest ways to make ordinances graphic, simple, and yet responsive to particular situations is to indicate some of the rules *right on the map itself.* In the South Miami Hometown District Overlay Ordinance, for example, the *regulating plan* has all of the build-to lines, arcade lines and so forth drawn on each property. Reference to the fact that these items exist is found in the ordinance booklet, but because they are shown on the plan it was unnecessary to describe all of the various situations in the text or graphics of the matrix.

Cerda and Nolen

We adapt the name "regulating plan" from Cerda's *Plano Regulado* devised for the expansion of

Barcelona, Spain during the mid-nineteenth century. This idea has precedent here in Florida, too. In the many new towns he designed for Florida during the 1920's, the noted planner John Nolen often indicated the "building limit line" on the master plan drawings.[9] Today the technique is common among practitioners from the New Urbanism school of thought.

Idealized Buildout

I recommend that the more abstract regulating plan is more powerful when coupled with a "Hypothetical Buildout" or "Idealized Buildout" drawing. The Idealized Buildout drawing shows, in plan or three-dimensionally, at least one way each property can be built upon with real buildings and real parking spaces. This also helps with visualizing the aggregate effect of the many smaller decisions (see Test It, page 6). The Idealized Buildout is a message about the intent of the plan, handed down to future architects and applicants from the original planners; perhaps it should be mounted, mural-sized, on the wall of the Town Council chambers, as a reminder as well! Such a drawing may or may not be officially incorporated as part of the regulations.

Some towns prefer to hold onto discretionary review on a project by project method, and often the base information upon which the Idealized Buildout is drawn can be somewhat unreliable. The Idealized Buildout can be used as a point of departure for the case-by-case work of the Town's Supervising Architect or a planning review board.

"Mother May I,"

but a little better

For Port Royal, the official map proposed *is* the Idealized Buildout map, which is drawn *freehand;* the Supervising Architect will review the tree surveys and other information gathered at the time of application, then help the applicant devise a layout that reflects the spirit, if not the technicalities, of the Idealized Buildout drawing. In this case approval may be obtained administratively, but no particular layout is "by-right." However, if the applicant disagrees with the judgement of the Supervising Architect, the applicant may appeal to a review board. Fort Pierce, Florida, is using a similar system, in which their very capable Planning Director employs the drawings from their recent *charrettes* when he is coaching applicants. Obviously such a system is entirely dependent upon the skill level of staff that can be attracted and retained.

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Dan Cary has said, "No community should deliberately set out to create less than its ideal." There is a wide range of alternative land development regulation techniques available to Fort Myers Beach, and every reason to carefully choose the best for your situation.

Appendix: Example

1. The Graphic Code for Loughman, FL

References & Further Reading

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