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Recommended Citation

John R. Nolon, Land Use Development: Proper Planning Creates Smart Growth, Prevents Sprawl, N.Y. L.J., Oct. 20, 1999, at 5, <http://digitalcommons.pace.edu/lawfaculty/718/>.

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Land Use Development: Proper Planning Creates Smart Growth, Prevents Sprawl

Written for Publication in the New York Law Journal
October 20, 1999

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Abstract: The proliferation of sprawl development patterns across the United States causes several problems such as degradation of forests, farmland, and natural resources, plus the declining health of central cities. Sprawl is a well-documented phenomenon among environmentalists, politicians, taxpayers, and others. Many alternative "smart growth" solutions exist to mitigate the damages of sprawl. Government focus on more restrained development patterns such as traditional urban neighborhoods, and other solutions exist, and are waiting to be implemented. This article reviews municipal efforts in New York in the application of comprehensive smart growth methods.

Sprawl is defined by the Sierra Club as "low-density development beyond the edge of service and employment, which separates where people live from where they shop, work, recreate, and educate – thus requiring cars to move between zones." The most worrisome statistic in the blizzard of negative data regarding sprawl is that, in most metropolitan areas of the country, as the population grows, the amount of land that is developed to meet that demand increases by seven to ten times the rate of population growth. In other words, the surface area covered by development in metropolitan areas increases by about 70% to 100% to accommodate a 10% increase in population. The Sierra Club, in a report called "The Dark Side of the American Dream," states that "sprawl contributes to increasing costs for public services, the declining health of central cities, environmental degradation, loss of farmland, and degraded quality of life." In the New York metropolitan area, the specific complaints of city mayors, town supervisors, property taxpayers, and environmentalists parallel this general observation.

In defense of current land development patterns, the National Association of Home Builders (NAHB) counters that most Americans want to live in detached single-family houses on the urban fringe; that population growth will increase demand for housing on the fringe because new residential development in cities can only accommodate 10 percent of housing needs; and that there is plenty of land left for development, noting that only five percent of the land mass in the U.S. is urbanized. Of great moment is the NAHB comment that home builders are building houses and subdivisions in suburban and semi-rural communities that conform to the standards of local land use regulations. In most of the New York metropolitan area, this observation is correct.

"Smart Growth" has replaced "Growth Management" as the current prescription for the cure of suburban sprawl and its multiple evils. Both recommend various means

of identifying growth areas and concentrating new commercial and residential developments within such areas. In most states, land use decisions of this type are made primarily by local governments and the difficult political issue is how to encourage or require local governments to draw the boundaries of growth and conservation areas and then enact regulations that encourage greater density development within growth areas and other regulations that greatly limit new development in conservation areas.

This article begins an analysis of the mechanisms local governments in New York can use to combat sprawl and to foster development patterns that limit the land consumed by the housing and commercial development demanded by population growth and shifts. This analysis is based on an examination of the conventional mechanisms used that induce sprawl and one set of creative alternative mechanisms that has been employed to create more compact and conserving development patterns. This is done by evaluating the underlying zoning and subdivision laws of the Village of Pawling, New York, which are fairly typical of the techniques used on the urban fringe, and an optional set of regulations adopted by the same village to encourage a “smarter” pattern of land use.

Pawling is located in the southeastern corner of Dutchess County on the Connecticut border about two hours north of New York City by train. Its 2,000 residents live in a community that is located in a vast watershed area known as the Great Swamp. The community is intersected by the north-south Route 22 transportation corridor and the Appalachian Trail which runs east and west along its northern border. In 1990, the village began a planning process that led to the adoption of a new comprehensive plan and a zoning ordinance that contains conventional zoning provisions, as well as incentives and other provisions enacted to concentrate future development in carefully designed, more compact neighborhoods. The differences between these conventional and innovative mechanisms represents two competing paradigms of local land use regulation. Its conventional approach induces sprawl and illustrates the blueprint for development that the NAHB says home builders typically are required to follow. Its innovative devices demonstrate how local governments can regulate land use in line with “smart growth” principles.

Pawling’s village board of trustees enacted a zoning ordinance and map that separates the community into seven zoning districts, four residential, two business, and one industrial. Over 70% of the community is zoned R1 which allows single-family residences to be built on lots at least one acre in size. The central business district is zoned B1 which allows mixed use commercial and residential development including multifamily housing. This district is surrounded by relatively small areas that are zoned for single family residences on lots ranging from one-quarter acre in size to three-quarters of an acre. In B2 zones along the Route 22 corridor, warehouse, manufacturing, and other high intensity uses are allowed along with more traditional commercial, office, and retail activities. There is one industrial zone, I1, located in the northern part of the village along the railroad tracks.

This conventional zoning pattern is supplemented by a conventional approach to regulating the subdivision of land for residential development. The village board has adopted a standard set of subdivision regulations that regulates subdivisions of more than three lots. Authority to review and approve residential subdivisions is delegated to the village planning board as it is in most suburban and semi-rural towns and villages. The primary purposes of such subdivision regulations is to insure adequate provisions for vehicular circulation, adequate provision of utilities and other services, and to prevent damage or peril to surrounding properties.

The zoning provisions in the 70% of the village zoned R1 require minimum lot sizes of 40,000 square feet, minimum front lot widths of 150 feet, front yard depths of at least 50 feet, rear yards of 60 feet or more, and side yards totaling at least 70 feet in the aggregate. The subdivision regulations add further “design” standards for residential developments in the village. Collector roads must have 60 foot wide rights of way and 32 feet of pavement and minor roads must have 50 foot rights of way and 20 feet of pavement. These regulations add that the side lines of each lot must be at right angles to the street lines.

These physical requirements give the planning board, the village board, and land developers very little leeway in subdivision design, lot layouts, or the placement of buildings on the lot. They create a pattern of land development remarkable in its sameness, leading many to call such developments “cookie cutter” subdivisions. Such regulations separate retail and commercial uses from homes so that distances are not walkable, provide wide thoroughfares for the rapid movement of cars which discourages pedestrian and bicycle movement, create relatively high cost homes on expensive tracts of land, and spread the development allowed over the entire terrain contained in a proposed subdivision.

In these conventional zoning and subdivision regulations can be seen the blueprint for sprawl. Smart growth advocates say that sprawl can be curtailed by concentrating needed new development into designated development districts. Obviously, the type of land development created by conventional zoning and subdivision regulations will not satisfy much of the new demand for housing and places to work and shop if it is simply to be confined to discrete land masses. A denser blueprint is needed, one that is more cost-effective and environmentally conserving, and that creates a favorable quality of life.

The new urbanists, sometimes called neo-traditionalists, call for zoning and land use regulations that allow traditional urban neighborhoods to be created. They point out that, under conventional zoning and subdivision laws, most of the traditional neighborhoods found in urban areas can no longer be replicated. The corner drug store or deli in a residential neighborhood is not allowed, apartments cannot exist above stores, and houses cannot be built close to the sidewalk with cars parked in garages in the rear that front on alleys which kids use as playgrounds. If cookie cutter subdivisions are the result of standards contained in zoning and subdivision ordinances, why can't such regulations be modified to create different, more flexible neighborhoods?

Neo-traditionalists and many smart growth advocates argue that a new type of land development pattern is needed, one that is more concentrated and that creates a quality of neighborhood that consumers feel comfortable living in. One such approach is to create mixed use neighborhoods where housing types are varied, retail and commercial services available within walking distance of where most residents live, public green space is provided, visual and recreational amenities exist nearby, and where pedestrian and bicycle travel is actively encouraged. Houses in such a neighborhood district can be allowed on smaller lots, retail and commercial uses can be mixed with residential, a variety of housing types can be allowed, and accessible open space created and dedicated to the use of all the neighbors.

The Village of Pawling has adopted a set of “urban regulations” and a number of other mechanisms that encourage some of these aspects of neo-traditional neighborhood design. The Village has used statutory authority delegated to it and all other local governments in New York in doing so. It began by amending its comprehensive plan to call for more concentrated land patterns with dedicated open space, a network of trails, a regional green space network, and residential developments that are fitted around a revitalized central business district. The plan also identifies four large tracts of property located in R1 zones and contains conceptual development plans for those tracts, an unusual device to be found in a comprehensive plan in New York. These site specific conceptual plans increase the number of residential units allowed on each tract, place this greater number of houses allowed on smaller lots, require the dedication of significant amounts of open space to the public, link this open space to trails and other open spaces and parks, and avoid development of the wetlands and steep slopes on the sites. The plans also call for through streets rather than the dead end cul de sacs typical of development in the area. The specific purpose of interconnected streets is to encourage pedestrian and bicycle traffic in the residential neighborhoods created. Only one of the four conceptual plans, with frontage on Route 22, contains any commercial land uses.

For these conceptual plans to be meaningful, the zoning law of the Village had to be amended. This was accomplished in 1995 with the adoption of a new zoning code. It contains a schedule of “urban regulations” which provide for six building types that are now allowed in designated zoning districts. (Pawling zoning law § 98-13 and Schedule B.) The urban regulations differ fundamentally from conventional zoning in that they use detailed illustrations to provide for alternative lot layouts, building designs, setbacks, and the location of parking; these give the planning board the type of control over the design of development that is missing in conventional zoning, subdivision, and site plan laws.

“Infill houses” are allowed under these urban regulations, for example, in all four residential districts. Occupancy is limited to residential use, parking is provided on the rear of the lots, space for alleys is provided, front and side yard set backs are reduced, and balconies, stoops, chimneys, porches and bay windows are allowed to encroach on the smaller front and side yards adjacent to the street. “Small houses” are allowed

under similar provisions in all four residential zones. "Townhouses" are allowed in all residential districts. They are permitted to be built to the lot lines on lots not adjacent to streets and to share party walls, with parking in the rear, alleyways and stoops are required and porches and breezeways are allowed.

These types of provisions now allow great flexibility on the part of land developers and the planning board in the village as new development is proposed and reviewed in residential districts. Force is given to the urban regulations by a provision in the zoning law that gives them precedence, when they apply, over the traditional standards of the bulk schedule. (Pawling zoning law § 98-13) They apply, according to the code, to all subdivisions of more than three lots. (Id.)

With regard to the four large tracts that are conceptually designed in the revised comprehensive plan, the zoning code also implements the objectives of the comprehensive plan. The new zoning provides a density bonus of 30% for any new subdivision proposed on the subject parcels that meets the design guidelines for the tract contained in the comprehensive plan, that conforms to the open space configuration and trail system in the comprehensive plan, that guarantees the affordability of 15% of the dwelling units, and that is connected to the village water and sewer system.

It is the obvious intent of the village board to induce developers of residential property on these four critical sites to follow the detailed design guidelines of the comprehensive plan by providing a significant amount of additional housing by the means of incentive zoning, now allowed under Village Law § 7-703, Town Law § 261-b, and General City Law § 81- d, adopted in 1992 by the state legislature.

Streamlining of development proposals that conform with the urban regulations and the conceptual drawings found in the comprehensive plan is offered as an additional incentive to land developers. Since generic environmental impact statements were completed on the adoption of the plan and the zoning law, it is only necessary for such an applicant to prepare and submit an supplemental Environmental Impact Statement. (Pawling zoning law § 98-84)

Development proposals that do not follow these regulations and plans will be subject to a more intensive and lengthy review process which developers are particularly keen to avoid.

In these novel provisions, the Village of Pawling has taken an important step toward smart growth and away from sprawl. The comprehensive plan was developed with significant input from all interest groups in the village. It is obvious from the results that greater control of the details of the design of development, more intelligent layouts of subdivisions, more affordability and diversity of housing, and greater coordination of the interconnections of developments in the village were endorsed by the citizenry and their elected leaders. These mechanisms stop short of the creation of growth and conservation boundaries, do not mix land uses to any significant degree, and, of course,

have nothing to do with what happens in the critically situated adjacent communities. As an incremental move forward, however, it bears further study and watching.