



City of Lake Elmo

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NOTICE OF MEETING

The City of Lake Elmo will hold a Special Joint Meeting
Between the City Council Planning Commission on

Monday, May 9, 2011, at 6:30 p.m.

This meeting will consist of a presentation/training session developed by the American Planning Association related to Form Based Codes. Handouts accompanying the presentation will be available at the meeting.

Any Commissioners, City Council members or members of the public who wish to view this video are invited to attend at this time.

Please note the earlier start time.

ZONING PRACTICE

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FORM-BASED ZONING



Form-Based Development Codes

By David Rouse, AICP, and Nancy Zobl, AICP

New development codes are emerging that focus on regulating physical form as an alternative to conventional Euclidean zoning.

The conventional zoning model in use throughout the United States is based on the separation of residential, commercial, and industrial uses, density controls, and proscriptive standards for key development attributes (e.g., building setbacks and heights). The historical antecedents of this model include the 1926 Supreme Court decision in the case of *Village of Euclid vs. Ambler Realty Co.*, which legitimized the separation of uses to protect the public health, safety, and welfare, and the 1916 New York City zoning code, which established dimensional requirements to permit light and air and prevent overcrowding. Published in the 1920s, the Standard State Zoning Enabling Act was ultimately adopted by all 50 states. It is still the basic model used by jurisdictions to regulate development, although many features have been added to local codes over the years to address emerging issues (e.g., overlay districts and environmental performance standards).

In recent decades, dissatisfaction with the perceived effects of conventional zoning on urban and suburban landscapes has grown among citizens and practitioners. While a variety of factors have worked together to promote development trends, such as the loss of traditional urban form and proliferation of commercial strip development and “cookie cutter” subdivisions, zoning has been identified as a primary culprit. On the one hand, the separation of uses and limits on density have contributed to excessive consumption of land (suburban sprawl). On the other, zoning’s lack of a positive prescription for physical form has facilitated the intrusion of incompatible development types into traditional urban neighborhoods and districts.

In reaction to these trends, new, form-based approaches to development regulation are being proposed as alternatives to conventional zoning. These approaches can be characterized as **prescriptive** or **contextual** in nature. Prescriptive approaches seek to codify the physical parameters of development based upon a normative position on ideal urban form (typically derived from the pre-World War II model of traditional development). Contextual approaches, on the other hand, look to the characteristics of the surrounding environment for guidance in regulating the physical form of new development. Collectively, these approaches are referred to as **form-based development codes**. A basic premise of form-based development codes is that the regulation of physical form (not use) is the key to producing a better built environment.

The following text describes the basic features of three different types of form-based development codes: Form-Based Coding, Form District Zoning, and the SmartCode. For each type, a series of questions is posed regarding its application in regulations adopted by local jurisdictions, based upon a selected case study. These questions are:

- **How comprehensive is its application?**
Does it address the entire community or discrete areas within the community? Does it replace or supplement conventional zoning systems?
- **How does it deal with the regulation of use, the focus of conventional zoning?**
- **How is it working in practice?**
Form-based development codes are an emerging concept implemented by a small but increasing number of jurisdictions to date. Because those codes are relatively

new, practical experience in administering them is limited. As interest in alternatives to conventional zoning continues to grow, more communities will implement form-based regulatory approaches. This article describes the initial experiences of some of these communities, with the proviso that the advantages and disadvantages of different approaches will become clearer as they are further tested in practice.

FORM-BASED CODING

Form-based coding emerged out of the New Urbanist movement of the late 1980s and early 1990s. New Urbanism is based on the concept of walkable neighborhoods and small towns, with the compact, mixed-use development patterns of the pre-World War II era as models. Form-based coding is a regulatory approach designed to shape the physical form of development while setting only broad parameters for use. According to Peter Katz, former director of the Congress for the New Urbanism and a proponent of this approach, form-based codes focus on what is desirable rather than what is forbidden, the underlying principles having their foundation in a vision or plan developed through community workshops and charrettes. Regulatory standards prescribe physical elements, such as building height, setbacks, lot size, parking location, etc., to achieve quality design in context with surrounding areas. They also seek to integrate private development with the public realm, typically addressing the character of civic buildings, public streets, and civic spaces.

In theory, form-based coding is a comprehensive, communitywide approach designed to achieve better physical devel-

ASK THE AUTHOR (IN US ONLINE)

During June 2004, we will be participating in our Ask the Author column and will have a feature of online Practice via House, and Nancy Zobl, AICP, will be available to answer questions about this article on the APA website at www.planning.org. Follow the link to the Ask the Author section from the site or submit your questions about this article using our e-mail link. The authors will reply to your questions as completely as possible on the website for the benefit of all subscribers. This feature will be available for selected issues of Zoning Practice at announced times. After each online discussion is posted, the answers will be saved in an online archive available through the APA Zoning Practice Web pages.

About the Authors

David Tucker, AICP, is a Senior Associate with Wallace Roberts & Todd, LLC (WRT). Nancy Zobl, AICP, is a consultant with WRT.

opment patterns throughout a city or region. In practice, current applications are limited to specified geographic areas due to the newness of the concept, the intensive effort needed to develop a form-based code, and political environments that are slow to accept change. California communities have been among the first to adopt the concept, primarily as an implementation mechanism for the specific plan, a provision in the state code authorizing legislatively adopted development plans for geographic subareas of a community. Two notable examples include the Pleasant Hill BART Station Form Based Code in Contra Costa County, California, and the Regulating Plan for the Central Hercules Plan in Hercules, California.

Elsewhere in the country, a number of communities are developing or adopting form-based codes (e.g., Iowa City, Iowa, Woodford County, Kentucky, and Chicago). One recent example is Arlington County, Virginia, which has implemented a form-based code to revitalize Columbia Pike, an older commercial corridor.

The Columbia Pike Initiative is a long-range economic development vision to create a vibrant commercial corridor and urban center along a 3.5-mile section of Columbia Pike. The Pike had experienced little development activity in the past 40 years, despite its location in the high-growth Capital Area. The Columbia Pike Master Plan was adopted in 2002 after numerous public charrettes. The subsequent Columbia Pike Special Revitalization District Form-Based Code was prepared by Geoffrey Ferrell Associates (as subconsultants to Dover, Kohl & Partners) and adopted in February 2003. This code was designed to implement the vision of the Columbia Pike Initiative, including creation of a pedestrian-oriented, mixed-use district with a variety of retail, residential, and office uses.

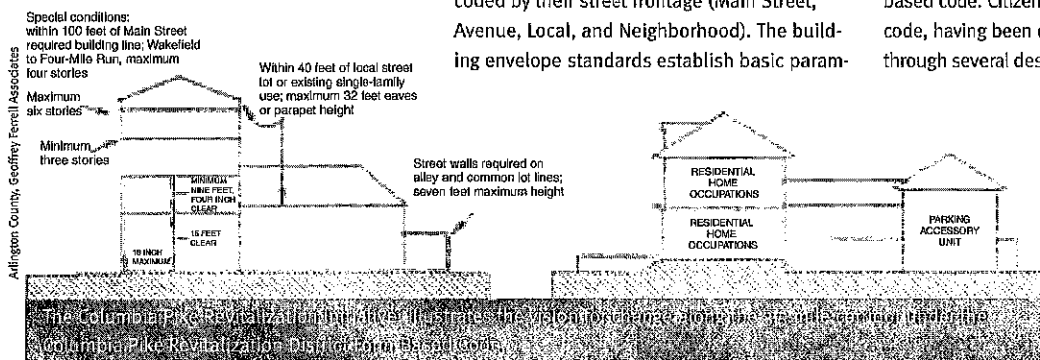
The new code contains three main components: the regulating plan, building envelope standards, and architectural and streetscape standards. Analogous to a zoning map but much more detailed in its prescription of physical form, the regulating plan identifies the building envelope standards to be applied to specific properties, which are coded by their street frontage (Main Street, Avenue, Local, and Neighborhood). The building envelope standards establish basic param-

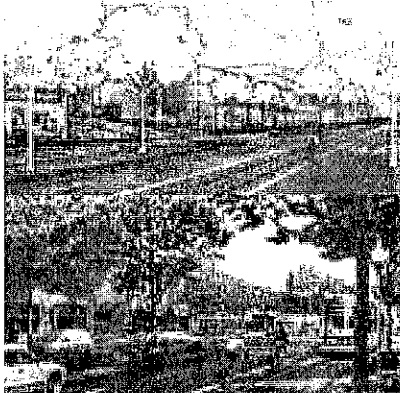
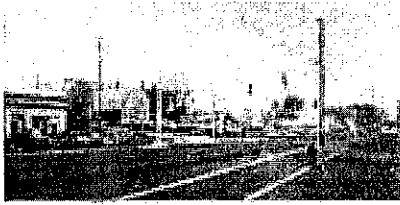
eters for building form, including height, setbacks, and fenestration. They also set broad parameters for mixed uses allowed on the first and upper floors, except that the neighborhood frontage sites are primarily restricted to residential uses with some allowances for home offices.

The form-based code is applied as an overlay option to the existing zoning districts. Developers are provided a variety of incentives to select this option, including an expedited permitting process for developments of 40,000 square feet or less (larger developments are subject to special exception review), financial incentives such as modified tax increment financing and rehabilitation tax credits, and relaxed parking requirements.

According to Richard Tucker, county planner for the Columbia Pike Initiative, the development community has expressed considerable interest in the form-based code since its adoption. Developers, architects, and members of the Home Builders Association have praised the clarity of the code and the streamlined review process. Several pending mixed-use development proposals are the direct result of the form-based code. Citizens also support the new code, having been directly involved in shaping it through several design charrettes.

Despite the apparent initial successes, Tucker notes some challenges related to the newness of the code. Issues tend to arise as proposals are submitted by developers who have problems with the standards of the code,





Arlington County, Geoffrey Penell Associates

The Columbia Pike Corridor is an illustrative vision for revitalizing a segment of Columbia Pike, a major corridor that has seen little development in over the past 20 years.

including build-to lines, parking standards, and standard prototypes that vary from the prescribed physical form. The county intends to reevaluate the code to address some of these issues before applying the form-based approach to other areas.

FORM DISTRICT ZONING

Form districts emerged as a concept in the Cornerstone 2020 Comprehensive Plan for Louisville and Jefferson County, Kentucky (developed in the mid-1990s and adopted in 2000). The Cornerstone 2020 planning process revealed a general dissatisfaction with conventional regulations and practices that result in the separation of uses, sprawling development patterns, and the imposition of suburban forms in traditional neighborhoods. A Community Form Committee was charged with seeking new ways of addressing future development patterns, recognizing the need for increased diversity, certainty, and flexibility in the regulatory process. The resulting form district concept established 11 districts that prescribe desired development patterns in context with the surrounding environment, from the downtown urban core to traditional neighborhood and suburban marketplace (commercial) districts.

To implement this concept in a politically acceptable manner, a new Land Development Code was developed as a "two-tiered" approach. This approach combines the use regulations of the preexisting 39 zoning districts with form districts that regulate density and intensity and prescribe contextual design standards, such as build-to lines based upon the established development pattern. All dimensional regulations and standards were moved from the zoning districts to the form districts. Wallace Roberts & Todd, LLC and Clarion Associates were consultants to Louisville and Jefferson County in the development of the form districts.

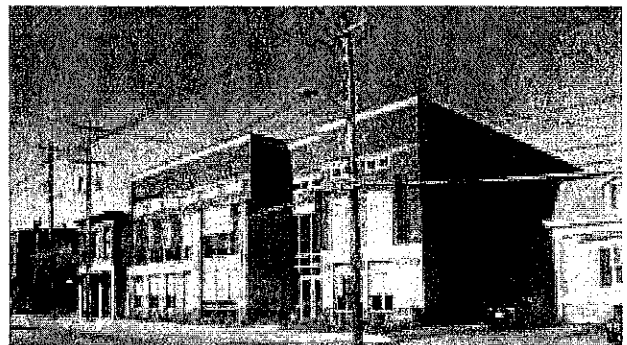
Adopted by Louisville Metro and the cities of Hurstbourne and Lyndon, the new Land Development Code took effect in March 2003. Several other jurisdictions in Jefferson County are in the process of adopting the new code. The application of the form districts on a regional basis is a departure from the normal application of form-based coding to specific geographic areas within a community.

However, existing use and density regulations were maintained to minimize the political issues inherent in rezoning the entire region.

According to Louisville Metro planning and design staff, the initial reaction of developers to the adopted form district regulations has varied. One developer of a small shopping center in the neighborhood form district, who was initially skeptical of the new code, has since incorporated the recommendations of the urban design staff, including buildings arrayed around a pedestrian-scale central parking area that functions as a "town square." Other devel-

opers have embraced the form district concept as a progressive option that allows flexibility for innovative design. Overall, the development community and residents seem to prefer the form district concept because it establishes a sense of predictability in design that is not overly restrictive, but promotes compatibility with adjacent development.

While asserting that form district zoning is a change in a positive direction, the Louisville Metro staff acknowledges the learning curve required for its implementation. As a new process for all involved, the impacts are not yet fully measurable and a number of issues have been raised regarding the application of the form district design standards to site-specific conditions. To address these issues, revisions to the regulations will be made over the next year. At this time, Louisville Metro is about two years away from considering a transition from the two-tiered approach to a more complete integration of conventional zoning with the form districts. Nevertheless, according to the planning and



Louisville Metro's form-based code experience: new office development in the traditional (Marketplace Corridor) Form District.



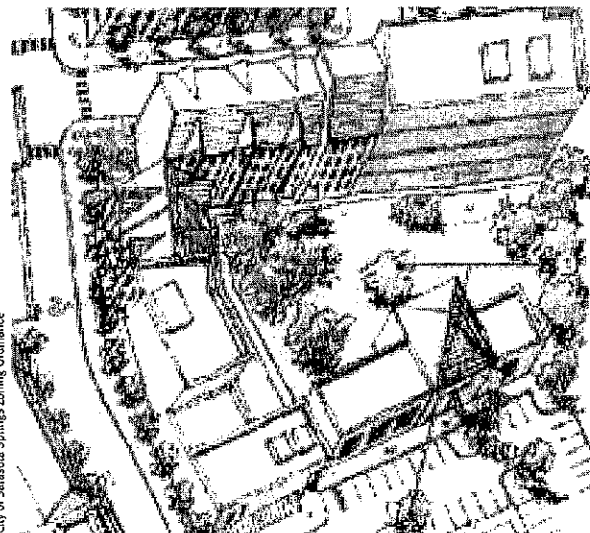
Barry - Prindle Architects in collaboration with Arney-Hornigatale Design Groups

design director, Charles Cash, Louisville Metro is looking towards larger future development goals that conventional zoning may not support.

THE SMARTCODE

The SmartCode has its foundation in the concept of transect planning, an approach to the implementation of New Urbanist and Smart Growth principles advocated by Andres Duany and Emily Talen. Drawing on ecological analogies, transect planning establishes a series of environments – called “ecozones” – on a continuum from rural to urban. These ecozones are distinguished by varying density and character of the built environment. The transect incorporates the New Urbanist principles of mixed land uses, the importance of public space, and pedestrian accessibility throughout the continuum. These principles are expressed at different scales and in different forms depending upon location on the transect (e.g., hamlet, village, and downtown).

As opposed to the normal process of writing a comprehensive plan and then modifying zoning and development regulations to fit it, transect planning views the plan and the code as inseparable. The transect zone system has been coded by Duany Plater-Zyberk and Company and copyrighted as the “SmartCode.”



City of Saratoga Springs, New York, SmartCode. The SmartCode is a comprehensive plan and zoning code that provides a mix of use, building form, and density, and a pedestrian environment.

The SmartCode is made available to communities to purchase as a license, establishing a regulatory template to build upon and tailor to their individual circumstances. The template includes general parameters for transect zones, ranging from T-1 (the “Natural Zone”) to T-6 (the “Urban Core Zone”). Sample design standards, including building height, frontage, intensity of uses, and street design, are provided for each transect zone.

The theory behind the SmartCode is to encompass the spectrum of landscapes within an entire community or region. In practice, however, similar to the form-based codes that have been adopted, the initial application of the SmartCode has been to distinct areas within a community. Nashville and Davidson County, Tennessee, has incorporated the transect planning concept on a regional basis into its comprehensive plan and is beginning to translate the concept to the zoning regulations on a neighborhood or subarea basis.

The city of Saratoga Springs, New York, was one of the first communities to adopt the SmartCode to implement comprehensive plan principles, including enhanced urban infill in the downtown core as an alternative to the sprawling development patterns facilitated by conventional zoning. The transect model was applied as a new approach to concentrate development

in the Downtown District, which was one of the seven special development areas identified in the comprehensive plan. The Downtown District was divided into three urban transect categories that replaced the existing zoning districts: the Urban Neighborhood (T-4), Neighborhood Center (T-5), and Urban Core (T-6).

Design standards were established for setbacks, height, parking location, street design, façade treatments, and creation of a public realm. The transect zones regulate use in a limited capacity to encourage mixed-use development.

Any use is allowed in the T-6 zone and each new use proposed in the T-4 and T-5 zones requires a special use permit with a flexible review process.

According to city planner Geoffrey Bornemann, several new mixed-use developments have been proposed in the city since adoption of the code. Whether this development interest can be attributed to the code is not certain since there is already a strong real estate market in Saratoga Springs. However, the flexibility of the new code is attracting developers who are responsive to more innovative design practices. More traditional developers, who were at first skeptical, are also starting to embrace the new code.

Saratoga Springs is already seeing positive results from the SmartCode but is still about two to three years away from replacing all existing zoning districts with the transect zones. The city is planning to extend the concept to residential neighborhoods next to incorporate more mixed use.

CONCLUSION

The general intent of form-based development codes is to replace the conventional Euclidean zoning model with regulations that shape the form of development across the different landscapes within a community or region. At this time, communities that have adopted form-based coding and the SmartCode have taken an incremental regulatory approach by addressing specific geographic areas, typically beginning with the urban core. Further experience is required to determine the potential for expansion to other parts of the community, although the SmartCode provides a more complete system that addresses suburban and rural as well as urban contexts. Louisville Metro appears to be the first jurisdiction to adopt the concept on a regional scale through the form districts. Based on the experience to date, the issues inherent in applying generalized design standards to site-specific conditions and expectations is one key challenge for the regional application of form-based development codes.

The status of conventional zoning as the accepted paradigm for regulating development presents another challenge for form-based development codes. Saratoga Springs is the

only one of the three communities discussed above that has effectively replaced existing zoning (at least within a specified area) through the SmartCode. Arlington County applies the form-based code as an overlay option to the existing code while Louisville Metro has retained the existing zoning districts to regulate use and density, shifting design standards to the form districts. In general, form-based codes regulate use but are less proscriptive than conventional zoning, typically encouraging mixed uses and housing types. Again, the experience to date suggests that replacement of conventional zoning with form-based systems will be an incremental process as the concepts are further tested in practice and political acceptance grows. "Hybrid" codes that integrate aspects of form-based and conventional approaches are likely to be common responses.

Overall, representatives of each of the case study communities describe positive outcomes from their limited experience with the form-based development codes, including increased urban infill development and some higher-quality site and building design proposals. However, as with any new concept, they also acknowledge some issues, primarily the need for adjustments to address unforeseen, site-specific circumstances.

The application of form-based development codes is new, and the few communities that have adopted various forms of these codes have done so in the last year or two. Therefore, it is not yet possible to provide a definitive account of the comparative benefits and detriments of different approaches, or overall success of these approaches as an alternative to conventional zoning. A follow-up evaluation of the experience of these and other communities in several years is needed to provide a more conclusive assessment of the success of form-based development codes in practice.

The authors would like to thank the following individuals for sharing their experiences with form-based development codes: R. Wayne Bennett, Context Town Planning (formerly Director of the Louisville/Jefferson County Division of Planning and Development Services); Geoffrey Bornemann, City Planner, City of Saratoga Springs; Deborah Bilitski, Esquire, Jefferson County Attorney's Office; Charles Cash, Director, Louisville Metro Planning and Design Services; David Hulefeld, Assistant Director, Louisville Metro Planning and Design Services;

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Geoffrey Ferrell, Geoffrey Ferrell Associates LLC; Ann Hammond, Assistant Executive Director, Nashville/Davidson County Planning Commission; and Richard Tucker, Planner, Arlington County Planning Commission. ■



NEWS BRIEFS

ILLINOIS COMMUNITIES LIMIT BANK BRANCHES AND NONRETAIL USES IN RETAIL DISTRICTS

By Rebecca Retziuff, AICP

Responding to concerns over the potential loss of sales taxes and pedestrian activity in commercial districts, several suburban Chicago communities recently issued temporary moratoriums on development of nonretail uses and financial institutions in central business districts.

The cities of Highland Park, Long Grove, Batavia, Libertyville, Lake Forest, Hinsdale, and Buffalo Grove, Illinois, have each passed or are considering passing moratoriums that restrict development of nonretail uses in their downtown districts, in order to gain time to figure out how to deal with their negative impacts.

Highland Park passed a 130-day moratorium on new permits for street-level business and personal services, office, professional, communications, recreational, educational, and financial uses in its central business district, in order to consider limiting nonretail uses in the district. The moratorium was passed because of concerns that development of nonretail uses in the central business district would jeopardize

funding for public works, infrastructure, parking, and streetscape improvements to the area. All these improvements have been substantially funded by sales tax revenue generated by retail uses. Pedestrian activity and the quality of the downtown business mix are also concerns.

Highland Park analyzed land use in the business district and found that uses not generating sales taxes account for 30 percent of the total first-floor uses in the business district, and financial institutions represent 12 percent of those uses. However, when looking at the actual square footage of the first-floor space occupied by those uses, nonretail uses occupied 34 percent of the district's square footage, and financial institutions used 67 percent of that portion. The analysis also found that the median linear building frontage for uses generating sales tax in the district is 40 feet, whereas it is 37 feet for those not generating sales tax, and 200 feet for financial institutions, which often locate in prime corner storefronts.

Highland Park is now considering the creation of an overlay district on the major pedestrian-oriented streets in the business district. According to planning technician Ben Carlisle, the purpose of the overlay zone is "to limit the impact of non-sales-tax-generating uses on our core pedestrian streets." Carlisle says that the main issues that concerned the city were the impact of nonretail uses on sales taxes, pedestrian traffic, and the city's goals for maintaining its retail core.

Long Grove adopted a 90-day moratorium in February 2004 for new nonretail uses in its business districts, following the comple-

tion of a business district plan. The village is drafting a new list of permitted and special uses for the business district. According to village planner Edmond Cage, the village is "not looking to overly restrict these particular uses; they just want the ability to review them."

Because the village does not have any sales taxes, and has a limited amount of available commercial property, the proliferation of new bank branches in the business district has raised concerns for township officials. Cage says, "Banks predominantly have raised the concern, but whether it is a bank or an office building does not matter. The result is a loss of sales taxes." According to Cage, the purpose of the moratorium and the proposed ordinance is to assure that "whatever commercial development comes into Long Grove is the best that Long Grove can get."

Batavia established a moratorium on the issuance of new permits for banks in its retail-oriented business district. This ordinance was enacted in response to the proliferation of new bank branches in the city's prime retail corridor. It was passed based on the idea that, because banks do not rely on drive-by traffic, they are inherently destination uses, which unnecessarily compete with strictly retail uses, which do rely on drive-by traffic and parking facilities. According to the ordinance, if the bank proliferation trend continues, the city will see a detrimental impact on the economic health and vitality of the business district.

Batavia planner and zoning officer Rick Smeaton says the city is using the moratorium to "look at the effects of banks on traffic, pedestrian, and parking patterns to see if they are compatible with the surrounding retail uses."

Libertyville adopted a more general ordinance in March 2004 that allows village commissions to establish temporary moratoriums on any land use in the village. Although a moratorium on nonretail uses has not yet been established, the ordinance was passed in response to the proliferation of banks and non-sales tax generators in the downtown district.

The Libertyville zoning ordinance already limits to 10 percent the total first-floor street frontage that may be occupied by office uses in the downtown commercial district. After that limit has been exceeded, new office uses in the district require a special permit. However, according to John Spoden, director of community development, "The district already exceeds that percentage, and the

requirement has been difficult to enforce." Spoden says the current requirement is based on the linear street frontage, and there have been questions about which buildings are covered under the ordinance.

In response to these concerns, the Libertyville planning commission created a subcommittee consisting of representatives from the economic development commission, the Main Street program, and city staff, which recommended revising the ordinance. "What we are looking at," Spoden says, "is putting aside this percentage requirement and saying that, in the front 35 feet of all buildings, offices and financial institutions are not allowed on the first floor." However, the rest of the footprint on the first floor may still be used for office and financial uses. Spoden notes that the 36-foot dimension is based on studies of the footprints and dimensions of buildings in the downtown area. The village has scheduled public hearings to discuss the proposal. Spoden says, "We are trying to increase the retail opportunity in the downtown while recognizing that we do have a pedestrian-oriented downtown."

Buffalo Grove passed a moratorium in March 2004 on the development of new banks and financial institutions in the village's business districts, citing a recent drastic increase in the number of development proposals for these uses. According to Assistant Village Manager Ghida Neukirch, the village's concerns included the increased security attention and service from the local police department that banks require, the long-term needs of financial institutions, and sales taxes. The village is considering possible changes to its zoning ordinance to address the issue.

Two other suburban Chicago communities have also passed moratoriums. Lake Forest passed a moratorium on development of nonretail uses in nonresidential districts in order to review use regulations in business districts in the city. The issue is being analyzed in order to preserve the vitality and commercial character of the central business district. Hinsdale passed a moratorium in March 2004 for new first-floor uses that do not generate retail sales taxes in business districts. The ordinance includes a list of 76 non-retail sales tax-generating uses that are covered by the moratorium, including banks, beauty shops, real estate offices, tax preparation services, and travel agencies.

Although each of these communities has approached this issue differently, one common factor is that the proliferation of bank branches in retail districts was the impetus for reviewing the impacts of nonretail uses in retail districts. The moratoriums were enacted because of concerns about the impact of non-retail uses on pedestrian traffic, parking, economic development, sales taxes, and the quality of the business mix, and to give city officials time to devise possible solutions. As Cage says, "The concern was that there was going to be a bank on every corner."

Rebecca Retzlaff, AICP, is a researcher with the American Planning Association and a Ph.D. student in urban planning and policy at the University of Illinois at Chicago.

A complimentary packet of information on controlling the proliferation of bank branches and other nonretail uses is available to Zoning Practice subscribers by contacting Michael Davidson, Co-Editor, Zoning Practice, American Planning Association, 122 South Michigan Avenue, Suite 1600, Chicago, IL 60603, or send an e-mail to mdavidson@planning.org.



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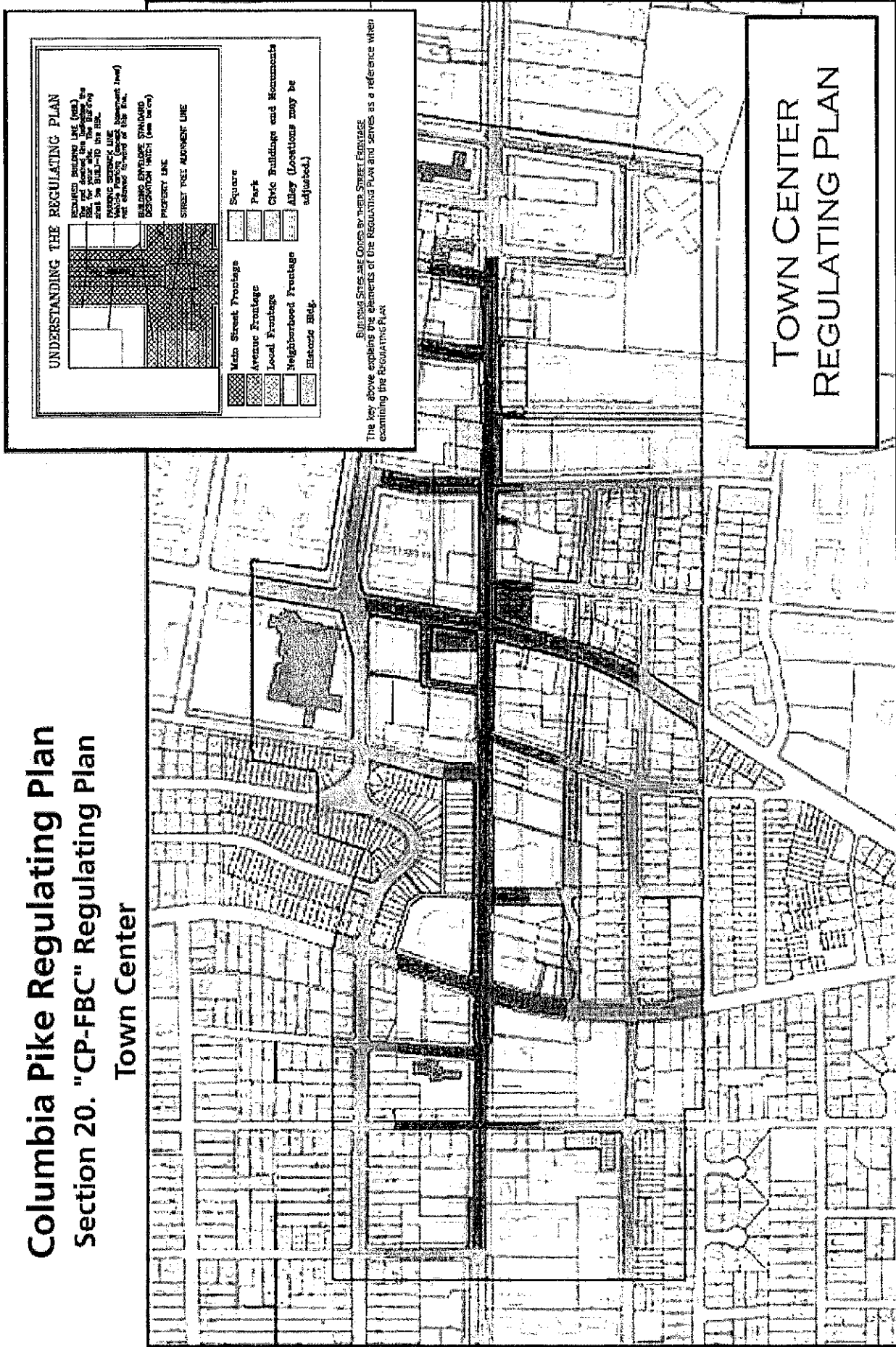
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Columbia Pike Regulating Plan

Section 20. "CP-FBC" Regulating Plan

Town Center



TOWN CENTER REGULATING PLAN

Source: Geoffrey Ferrell Associates