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A NEW CONCEPT IN RESIDENTIAL ZONING

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It is common today to hear attacks upon traditional hierarchical land use control systems, which have created exclusive zones for each housing type and stifled creative urban design. Site planners and architects are not alone in their criticisms. Many lawyers involved in housing and poverty law question the legality of some of the basic tenets of traditional zoning—the single-family R-1 district, large lot zoning, followed by less prestigious and separate duplex and multiple-family districts.¹ In addition, the building industry itself has begun to question the economic viability of the older land use control system in the face of factors like rising land costs, the need for “in-fill” development, and housing trends such as the townhouse ownership unit.² The emergence of planned unit development or planned

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1. A series of cases dealing with federally assisted housing evidences this trend. *See, e.g.*, *Ranjel v. City of Lansing*, 293 F. Supp. 301 (W.D. Mich. 1969), *rev'd* 417 F.2d 321 (6th Cir. 1969), *cert. denied*, 397 U.S. 980 (1970), *rehearing denied*, 397 U.S. 1059 (1970); *Southern Alameda Spanish Speaking Organization v. City of Union City*, 424 F.2d 291 (9th Cir. 1970); *Dailey v. City of Lawton*, 296 F. Supp. 266 (W.D. Okla. 1969). These cases and the legal theories associated with them are discussed in Brooks, *Exclusionary Zoning* (American Society of Planning Officials Rpt. No. 254, 1970).

2. NATIONAL COMMISSION ON URBAN PROBLEMS, *BUILDING THE AMERICAN CITY*, H.R. Doc. No. 91-34, 91st CONG., 2d SESS. (1968); PRESIDENT'S COM-

environmental unit districts exemplifies the need for greater site planning flexibility.

When recently faced with the task of drafting a new zoning code for University City, Missouri, an inner ring suburb of the St. Louis metropolitan area, traditional zoning practice was ignored, and an attempt was made to develop a more rational system of land use controls.³ Since residential uses are dominant in University City, special attention was devoted to this aspect of the new zoning code.⁴ This comment discusses the residential land use control system which was developed.

I. ZONING CONCEPTS

Most zoning codes confuse housing density controls, regulations governing various housing types, and regulations governing the bulk and placement of buildings. A means of rationalizing and distinguishing these various concerns was sought from the outset.

Beyond the general distinction between land uses—residential, commercial, or industrial—zoning provides a means of controlling and distributing the intensity or density at which such uses occur. In this respect it is a means of implementing general citywide planning objectives. There is no real reason, however, for discrete zoning districts to be created for individual and separate housing types like a town-house district, a two-family residence district or a low-rise, walk-up apartment district. The critical factor concerning these separate housing types logically should be the relationship of individual building types or groups of these buildings to each other, to the building site, and to property lines. These site planning concerns are largely independent of the control of housing density and therefore should be applied wherever a housing type may be located, regardless of the allowable density.

The system of residential zoning devised for University City provides a set of districts distinguished primarily by a maximum density at which these uses may occur. Within this general pattern of density zones, various combinations of compatible residential building types are permitted, each type in accordance with specific site development standards. In effect, there are two sets of regulations interacting to

MITTEE ON URBAN HOUSING, *A DECENT HOME* (1968). See especially volume II (Technical Studies) of the latter report, dealing with housing costs, production efficiency, finance, manpower, and land.

3. The code was adopted by the city on October 21, 1970.

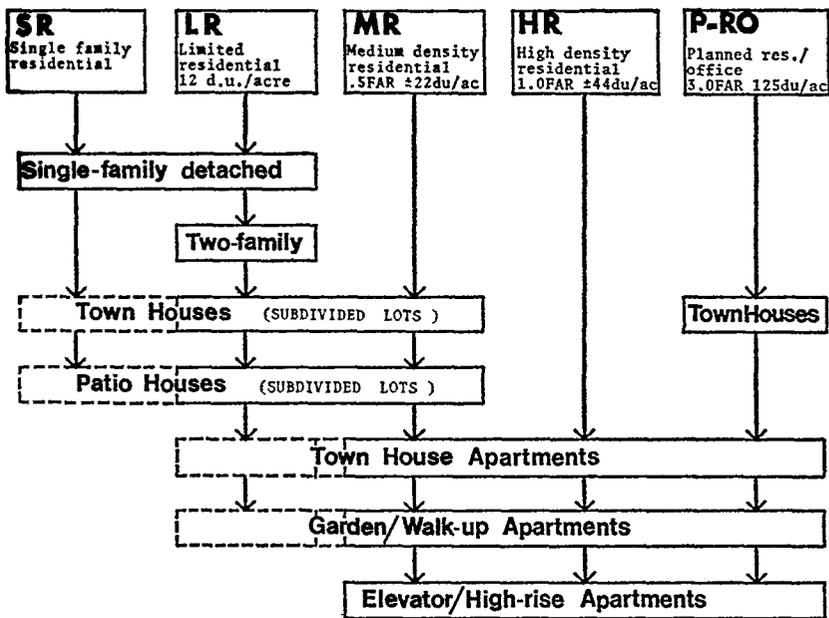
4. About 80 per cent of the city's land area is devoted to residential uses.

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control residential land use: first, density standards, which are incorporated into the Use Regulations for each of several residential districts and, second, housing Development Standards which, in application, "float" between the several density districts. The Development Standards deal with lot area and width, project size and groupings of attached buildings, the setback of buildings from public rights-of-way and property lines, and the distance between buildings. The Use Regulations deal primarily with residential density.

The accompanying diagram describes the relationship between these two systems. Across the top the five residential districts are listed. Each of these districts provides density controls corresponding roughly to a dominant type of residential development, except the SR district, which limits density by minimum lot size. For example, in the LR district a maximum density of twelve dwelling units (d.u.)

ZONING FOR RESIDENTIAL USE (USE REGULATIONS PROVIDED PRIMARILY TO GOVERN DENSITY)



HOUSING TYPES PERMITTED IN ACCORDANCE WITH
DEVELOPMENT STANDARDS PROVIDED

----- Permitted by site plan approval

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per acre is permitted. Maximum density is controlled in the remaining three districts by means of the more flexible concept of floor area ratios. The horizontal bars below the district categories represent Development Standards for each of seven basic types of residential construction or housing—single-family detached residences, two-family houses, sale townhouses, sale patio houses, rental townhouses, garden apartments, and elevator apartment buildings. The spread of the horizontal bars indicates the districts in which each of the housing types are permitted, thus graphically showing that the Development Standards for housing types “float” between the residential districts.

Additional flexibility is introduced into the regulating system in two instances. First, the basic housing types are permitted by site plan review in certain instances where they otherwise are excluded. For instance, both town (row) and patio houses sited on subdivided lots or sold as condominiums would be permitted as a condition of site plan approval in the same district as detached single-family residences. The reason is that these housing types, when predominantly owner-occupied, are as much single-family homes as the ranch style “sprawler” of the outer suburbs. Second, to allow the Development Standards to act as a guide for, rather than a limitation on, innovative site planning, especially at higher densities, these controls can be varied by means of site plan review procedures, so long as the density and parking standards established as Use Regulations for the district are not exceeded.

Before discussing in detail the contents of the regulations and standards devised for residential uses in University City, it is important to have a better understanding of the context for zoning as summarized by the following community housing objectives.

II. COMMUNITY HOUSING OBJECTIVES

In addition to other reasons, the parallel regulation concept evolved in response to specific city objectives for housing. Five major objectives were distilled from discussions with the city council, planning commission, and the city staff.⁵ An initial objective was to maintain the prevailing pattern of residential land use and building types in University City. A fundamental concern of any zoning regulations for University City was the maintenance and preservation of the prevailing diverse pattern of residential land use. Although instances

5. We received assistance from the city's director of planning, Mr. Al Goldman, and the zoning administrator, Victor Napolilli.

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will inevitably arise in which this concern conflicts directly with other development goals, a responsible zoning policy will seek, wherever possible, to respect this important community asset.

A second objective was to establish the means whereby the few remaining scattered vacant lots and tracts in the city could be developed without damaging or conflicting with existing surrounding development.⁶

The third goal was to facilitate the rational redevelopment to a higher intensity of residential use of those areas which are particularly suitable and which the city designates for such re-use.⁷

Fourth, it was also necessary to recognize and accommodate desirable emerging trends in residential building activity, both locally and nationally, such as the mixed residential-office project and townhouses for lease and sale.

The last objective was to encourage architectural innovations in the local housing market. The primary effort in this direction is in providing development standards for patio houses, which are largely untried in this part of the country, but which are particularly suited to certain life-styles and age groups that are prevalent in the community (for example, the aged and young married couples desiring minimum maintenance and maximum privacy).⁸

III. THE RESIDENTIAL ZONING DISTRICTS

To attain the community housing objectives, a set of five residential use districts was developed, each corresponding roughly to the density range produced by basic types of residential construction:

1. Single-family residences (SR—single-family detached dwellings);
2. Two-family houses, townhouses and patio houses (LR—limited residential);
3. Garden (or walk-up) apartments and townhouse apartments (MR—medium density residential);
4. High-rise, elevator apartments (HR—high density residential);
5. A fifth classification (PR-O—planned residential-office) was provided to allow mixed residential and office development at the

6. There are less than 50 such lots in the community.

7. The city has almost completed two urban renewal projects which include higher intensity development sectors and has other sites under consideration by developers for such uses.

8. Alfred H. Mayer Co., one of the area's largest builders, recently entered the housing market with patio houses and has met with considerable success.

highest densities and intensities allowed in the city, but only with staff review and legislative approval of the development plan.

A. Site Plan Review

The quality of site planning of a particular project can determine its compatibility in a given situation, but previously established regulations are, by definition, an inflexible and often unrealistic means of controlling site planning. Therefore, in the concept for University City, procedures for site plan review and approval have been incorporated throughout the residential districts. In some instances the site plan review process is the mechanism for granting development incentive bonuses within a given district. In return for the bonuses, the final development must comply with the approved site development plan and possibly with additional conditions which the city might impose. In other instances, the site plan is required simply to facilitate the staff's determination that the project complies with prior regulations. With this site plan review procedure in mind, each of the five residential districts can be discussed in detail.

B. SR District

The "intent and purpose" of the SR, single-family residential district, is to protect and maintain the existing single-family areas which are the community's major asset. These areas offer a desirable life style and environment for families with children from all economic and social strata in University City.

Use Regulations for this district first establish absolute minimum development standards for lot size and setback for single-family houses. However, because of the many fine-grained differences which occur on a block-by-block basis, a system allowing the averaging of adjacent property standards was drafted to provide for compatible "in-fill" development in built-up areas. Thus, a system is provided whereby the existing pattern of development surrounding a given lot sets the lot size, setback, and yard requirements, as long as they are in excess of stipulated minimum standards (40-ft. width, 5,000 sq. ft., etc.). Substantial deviations from the prevailing height, bulk, and architectural style of adjacent homes would not be inhibited. However, such development requires site plan review and legislative approval.

The relevancy of distinguishing "detached" from "attached" single-family residences merits discussion at this point. A basic zoning assumption is that certain uses and certain buildings, forms, or relation-

ships tend to cast externalities on other uses or building types. Yet, the real nature, sources, or extent of these externalities has rarely been substantiated. For instance, no one yet has proved conclusively that—all other factors being equal—the simple factor of building height exerts any negative influence on adjacent properties of a lower height. However, citizens, when faced with the prospect of a high-rise building nearby, will object primarily to the height differential and not to the impact of increased (or decreased) density on the neighborhood.

On examination, it is difficult to detect what negative effect the simple physical fact of attachment might have on detached housing. It appears that the relative construction economies of attachment vs. detachment and the accompanying higher densities do result in certain socio-economic life style differences that zoning has traditionally respected. While eliminating zonal distinctions between different detached single-family residences on different-sized lots, we chose to accept somewhat uneasily this general distinction of attachment as providing a reasonable basis for distinguishing between residential zones. In doing so, we attempted to deal collectively with the several types of attached single-family residences that lend themselves physically to individual home ownership and owner occupancy—the two-family dwelling, the townhouse or row house, and the patio house. The justification for this distinction really lies in the life style differences of the market for “attached housing:” older couples whose children have left home are not necessarily attracted to apartment living but want to get away from suburban yard work; younger families find townhouse living within their means while combining some of the advantages of suburban living—access to private open space and privacy with a greater feeling of urbanity.

C. LR District

The LR, limited residential, district recognizes the existing duplex (horizontally separated housing type often owner-occupied, and therefore not really multiple-family housing), as falling within the genus of the attached single-family home. In addition, this district anticipates the continued popularity of the sale townhouse. The Use Regulations were specifically tailored to encourage the construction of sale townhouses, which utilize the economies of clustering and attachment while providing commonly accessible and usable open space. Smaller rental townhouses are governed by separate development standards,

although they, too, are a permitted use in this district by site plan review. Due to the socio-demographic nature of University City (a substantial elderly population as well as university-oriented, young families) the single-story patio house development makes sense. As defined by the code, the patio house utilizes intensely all of the residential lot, since yard areas are consolidated into a single garden space either completely or partially walled. Living space is more private than the backyard of a detached house although the housing type allows greater densities.

D. MR and HR Districts

Two zoning classifications were devised primarily for multiple-family housing with each classification based on a different residential density: MR, at 22 d.u./acre; and HR, at 45 d.u./acre. Development Standards related to the principal building types are also provided. Thus, townhouse, garden, and elevator apartment Development Standards for such things as lot area, project size, right-of-way setback, and distance between clusters are detailed. These standards then float between the two intensity districts.

E. PR-O District

The final district is the PR-O, planned residential-office zone, a hybrid for mixed uses. Planning and design criteria for this new classification are stated quite explicitly in the interest of the city as provider of public services and access. This PR-O classification provides for and encourages development with the following characteristics:

1. Intensive, high quality, high-rise office and apartment development to provide a maximum variety of building form and massing;
2. Coordinated and functionally integrated projects to provide a variety of daytime and nighttime activity;
3. Accessory retail commercial uses to serve primarily the residents and office patrons at the level of pedestrian movement and activity;
4. Townhouses, as well as other low-rise apartment and office buildings, to act as transitional or buffer activities and building forms.

The degree of control and influence that the city exercises over development is devised to increase with the intensity of development.

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The tool of site plan review offers the greatest opportunity for such additional incremental control. The PR-O classification allows certain uses and intensities of use to occur as a matter of right under the normal zoning procedure and without additional review. To have development exceeding this "threshold," a development site plan must be submitted for administrative review and legislative approval. The rationale behind this review and approval mechanism is that the development allowed is of such intensity and complexity that (1) its impact on the site, its surroundings, and on city services should be assessed individually in depth by the city, and (2) fulfillment of certain qualitative development criteria that cannot be quantified because design standards must be assessed with respect to the proposed site plan. Development exceeding the established "threshold" and requiring site plan approval would, of course, be required to be below a certain intensity ceiling established by design criteria for such development.

CONCLUSION

As described above, a dual regulation system was devised first to control residential density on a districtwide basis, as well as to specify a range of different housing types which can be mixed within each district. The second component of the system consists of site planning standards for each basic housing type. These standards apply in any district where a housing type is permitted. The new University City Zoning Code, therefore, is an attempt to adapt the traditional zoning mechanism to a contemporary understanding of land development practices. It seeks to distinguish clearly between residential density, housing type, and site planning standards. This approach was predicated on the belief that the normal zoning code, after 35 years of evolution from its original enabling legislation, has hopelessly confused these different concerns.

NOTES

