

ZONING FOR INNOVATIVE DESIGN OR MIXED USE DEVELOPMENTS

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I. Introduction

Zoning regulations have undergone significant modifications over the last few years to adapt to changes in market conditions and to adjust for specific development themes. Often, these innovative zoning proposals will focus on items such as mixed uses, urban form, higher densities, flexibility in development regulations, transit-orientation, preservation of environmental and cultural amenities, coordinated street infrastructure and compact development. This article will provide an overview of these creative zoning approaches and common features with each approach.

II. Basis

“Zoning” is the fundamental regulation of a governmental entity used to control land uses pursuant to a comprehensive plan. “Zoning regulation is a recognized tool of community planning, allowing a municipality, in the exercise of its legislative discretion, to restrict the use of private property.”¹ Typically, zoning will consist of (i) an ordinance that sets forth items such as definitions, permitted land uses and development standards, and (ii) a map designating the districts within the jurisdiction.

The United States Supreme Court ruled in 1926 that zoning is a valid exercise of the municipality’s police power. In *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926), the Village of Euclid enacted an ordinance that established six classes of use districts, three classes of height districts, and four classes of area districts in an effort to control industrial expansion from the City of Cleveland into the Village. Ambler Realty argued that the classification of its property deprived it “of liberty and property without due process of law” and denied “it the equal protection of the law.”² Ambler Realty also specifically argued that the zoning ordinance attempted “to restrict and control the lawful uses of appellee’s land so as to confiscate and destroy a great part of its value.”³ The Court ruled that there may be valid reasons to separate intensive uses from less intensive uses for the general welfare holding, “it is enough

¹ *City of Brookside Village. v. Comeau*, 633 S.W.2d 790, 792 (Tex. 1982), cert. denied, 459 U.S. 1087 (1982).

² *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365, 384 (1926)

³ *Id.*

for us to determine, as we do, that the ordinance, in its general scope and dominant features, so far as its provisions are here involved, is a valid exercise of authority.”⁴

The validity of zoning in Texas was approved by the Texas Supreme Court in *Lombardo v. City of Dallas*. In that case, the Court acknowledged that “it appears that full authority was delegated cities and incorporated villages to restrict the use of buildings, structures and land for trade, industry, residence, or other purposes. Zoning, in general, is the division of a city or area into districts, and the prescription and application of different regulations in each district; generally, such division is into two classes of districts, such as was attempted by the ordinance under consideration. Effective zoning regulation, as that term is now well understood, comprehends, necessarily, prohibitions and restrictions; prohibitions against certain uses in named districts, and restrictions as to the area of lots to be built upon, the size and height of structures, yard spaces to be left unoccupied, etc.”⁵ The Court held, “that the legislative act and the ordinance of the city of Dallas, called in question, and the provisions of same as applied to plaintiff and his property, are not subject to the objections urged by plaintiff, but that they are valid and enforceable.”⁶

Texas zoning authority is codified in Chapter 211 of the Texas Local Government Code, which provides that the zoning regulatory power is “for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.”⁷

Under Section 211.003, the municipality may regulate:

- (1) the height, number of stories, and size of buildings and other structures;
- (2) the percentage of a lot that may be occupied;
- (3) the size of yards, courts, and other open spaces;
- (4) population density;
- (5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and
- (6) the pumping, extraction, and use of groundwater by persons other than retail public utilities, as defined by Section 13.002, Water Code, for the purpose of preventing the use or contact with groundwater that presents an actual or potential threat to human health.⁸

⁴ Id. at 397

⁵ *Lombardo v. City of Dallas*, 47 S.W.2d 495, 499 (Tex. Civ. App.—Dallas 1932), aff'd, 124 Tex. 1, 73 S.W.2d 475 (1934)

⁶ Id.

⁷ Texas Local Government Code Section 211.001 (2013)

⁸ Id. at Section 211.003 (a)

Further, the Statute provides that a city may regulate “the construction, reconstruction, alteration, or razing of buildings and other structures” with regard to designated places and areas of historical, cultural, or architectural importance and significance.⁹ The governing body of a home-rule municipality may also regulate the bulk of buildings.¹⁰

III. Zoning Innovations

Under the historical foundation of zoning, referred to as “Euclidean Zoning”, land uses were separated to avoid nuisance uses from locating near residential uses. The basic premise made sense in an era in which conflicting uses needed to be separated to assure healthy and sanitary communities. Such a foundation is still warranted, but many nonresidential uses may be compatible, if not integral, to certain residential uses. Further, sound planning mandates that certain uses be integrated to reduce inefficient land usage and accommodate transportation choices in addition to the automobile. Standard municipal regulations tend to prescribe rigid development standards that mandate uniform and uninteresting development. Typically, those standard municipal regulations focus on use; how parking must be provided specifically for that use; buffers such as walls to allow conflicting uses to locate near each other; and aesthetic considerations such as brick requirements under the assumption that certain materials ensure quality places. As a result, though effective in terms of separating incompatible uses, Euclidean Zoning fostered undesirable outcomes because each use is treated in isolation under the assumption that buffers such as walls, deep landscaped areas or parking lots will ensure some sense or order.

With the desire of cities to require larger lots for homes and other inflexible one-size fits all standards, as well as the resulting difficulty of mixing uses and incorporating employment centers near or within neighborhoods, development spread to rural areas, consuming farmland and placing extensive stress on community services. Development was forced to continue to expand out of the urban areas and brought about low density sprawl with large pods of uses being separated and requiring driving for every household trip.

At the site level, the mandate of common, rigid requirements also resulted in unimaginative design and thereby neighborhoods that often lacked variety—the key to holding value over time. The inefficient use of land caused increased transportation costs and stress on the environment.

Zoning regulations have evolved from the “Euclidean” format of separating land uses and prescribing specific development parameters to manage that separation to focusing on creating neighborhoods and walkable places that incorporate an eclectic range of uses, housing types and a variety of integrated commercial and retail uses. This focus on place rather than use can result in more imaginable design, more efficient use of land, and more meaningful and integrated uses

⁹ Id. at Section 211.003 (b)

¹⁰ Id. at 211.003 (c)

of the natural environment. Some of these newer, more unique zoning approaches are described below.

1. **Conservation Zoning**: Conservation zoning regulations provide development standards aimed at protecting environmental, historic or cultural amenities of a community. Often these types of regulations provide modifications to standard zoning development standards, including but not limited to setbacks and lot sizes, and may provide density bonuses in order to provide flexibility and incentives for protecting the targeted amenities. Many times these types of developments result in the clustering of home sites to protect the targeted features to be preserved. In that context, the practical effect is that instead of the “large-lot” backyards, larger preserved common areas are incorporated into the neighborhoods. This results in a more rural feel, which is often the stated goal of suburban communities—a goal that is often lost because large-lot subdivisions often still chew up the actual natural context that predated the subdivision.

Conservation development, as described by Randall Arendt, the author of many conservation development publications, involves the following:

- a. Identify natural, cultural and historic features
 - i. Soils
 - ii. Wetlands
 - iii. Floodplains
 - iv. Slopes
 - v. Wildlife habitats
 - vi. Woodlands
 - vii. Farmland
 - viii. Historic, archaeological, and cultural features
 - ix. View corridors
 - x. Aquifers and recharge areas
- b. Prioritize objectives
- c. Identify all potential conservation areas
- d. Locate house sites
- e. Design street alignments and trails
- f. Locate lot lines

Conservation Design for Subdivisions, A Practical Guide to Creating Open Space Networks, Randall Arendt, (Island Press, 1996).

Neighborhoods designed in this manner often have odd-shaped and smaller lots and streets that do not conform to city street standards, but the benefits to the community are the preservation of special environmental, historical or built places.

There are several tools for achieving conservation development:

- Conservation Zoning regulations which may include incentive-based regulations, overlay districts, and specific environmental restrictions to preserve core characteristics.
- Conservation subdivision regulations that provide for special development standards such as modified street construction, drainage requirements, and lot configurations in order to allow for more low impact design and to better relate the built context to the natural topography.
- Local jurisdiction acquisition of development rights to preserve specified areas.
- Restrictive covenants in which a property owner protects special property features.

2. **Sustainable Development:** Sustainable Development has been defined as, “[d]evelopment that meets the needs of the present without compromising the ability of future generations to meet their own needs.” Bruntland Report, “Our Common Future”, United Nations World Commission on Environment and Development (1987).

The American Institute of Architects set forth 10 principles for sustainable communities:

- a) **Design on a Human Scale:** Compact, pedestrian-friendly communities allow residents to walk to shops, services, cultural resources, and jobs and can reduce traffic congestion and benefit people's health.
- b) **Provide Choices:** People want variety in housing, shopping, recreation, transportation, and employment. Variety creates lively neighborhoods and accommodates residents in different stages of their lives.
- c) **Encourage Mixed-Use Development:** Integrating different land uses and varied building types creates vibrant, pedestrian-friendly and diverse communities.
- d) **Preserve Urban Centers:** Restoring, revitalizing, and infilling urban centers takes advantage of existing streets, services and buildings and avoids the need for new infrastructure. This helps to curb sprawl and promote stability for city neighborhoods.
- e) **Vary Transportation Options:** Giving people the option of walking, biking and using public transit, in addition to driving, reduces traffic congestion, protects the environment and encourages physical activity.
- f) **Build Vibrant Public Spaces:** Citizens need welcoming, well-defined public places to stimulate face-to-face interaction, collectively celebrate and mourn, encourage civic participation, admire public art, and gather for public events.
- g) **Create a Neighborhood Identity:** A "sense of place" gives neighborhoods a unique character, enhances the walking environment, and creates pride in the community.

- h) Protect Environmental Resources: A well-designed balance of nature and development preserves natural systems, protects waterways from pollution, reduces air pollution, and protects property values.
- i) Conserve Landscapes: Open space, farms, and wildlife habitat are essential for environmental, recreational, and cultural reasons.
- j) Design Matters: Design excellence is the foundation of successful and healthy communities. “*Sustainable Community Practices Draft Literature Search of Prominent Sustainability Practices Related to the Built Environment*”, American Institute of Architects (2007).

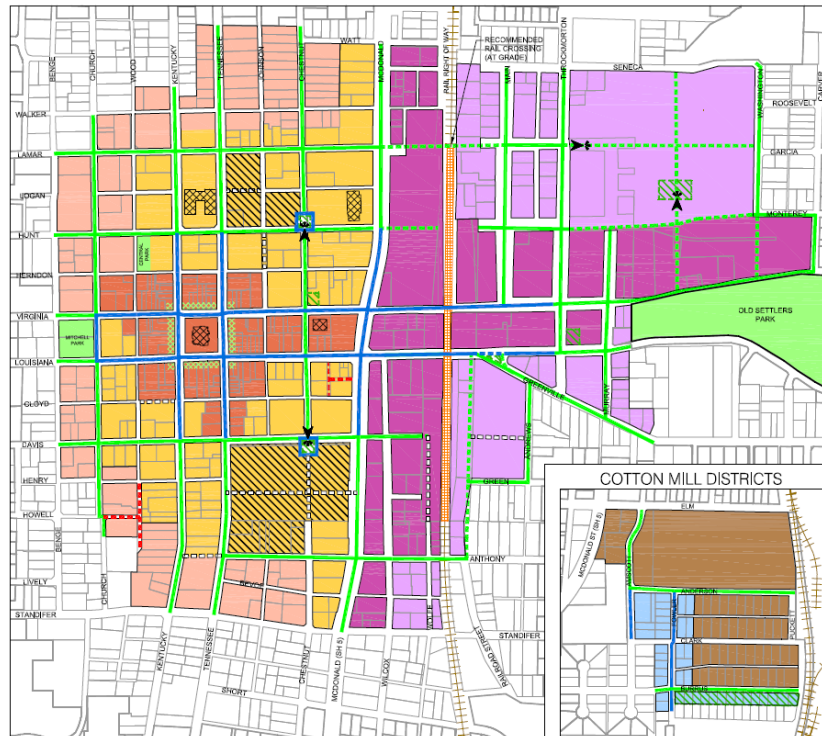
In general, Sustainable Development, much like conservation development, can provide numerous benefits to the community and developer:

- Open space can be expanded and enhanced;
 - Air and water quality may be improved;
 - Creative street treatments with traffic-calming devices could lead to slower, safer neighborhood streets that are more responsive to the natural characteristics of the environment;
 - True walkable neighborhoods surrounded by natural amenities may be provided;
 - Unique environmental features and critical habitats can be protected;
 - Water quality of creeks, lakes and other waterways can be improved;
 - Land may be used more efficiently;
 - The aesthetics of the neighborhood are generally enhanced with more green space and vegetation;
3. **Form-Based Codes**: Form-based codes provide a zoning alternative that focuses more on creating a special place using building form, urban design, distinctive street treatment, setbacks, gathering places, and pedestrian-oriented design principles in lieu of strict land use separation. These codes “address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks.”¹¹ The emphasis in form-based codes is on street design as places for both cars and people; and on the potential for human interaction and places to hang out in the spaces created by the orderly placement and design of buildings.

As stated by the Form Based Code Institute, a form based code will typically contain the following:

¹¹ *Definition of a Form-Based Code*, Form-Based Code Institute; 2011 [Form-Based Code Institute website]

• **Regulating Plan.** A plan or map of the regulated area designating the locations where different building form standards apply, based on clear community intentions regarding the physical character of the area being coded. Specific design and development standards to achieve different respective neighborhood characters are delineated in each color-designated character zone in the regulating plan below developed and adopted for Downtown McKinney, Texas.



• **Public Space Standards.** Specifications for the elements within the public realm (e.g., sidewalks, travel lanes, on-street parking, street trees, street furniture, etc.). Depending on the location—downtown, corridor, suburban, exurban—a typology of spaces is usually developed with design guides for each type within the typology. See the example below for greens in McKinney’s form-based code.

9.4.3 Green Standards



A green serves as an open space available for civic purposes, commercial activity, unstructured recreation, and other passive uses. A green shall primarily be naturally landscaped with many shaded places to sit. Appropriate paths, civic elements, fountains or open shelters should be included and should be formally placed within a green. Mixed use or urban residential buildings shall front onto and activate a green.

Typical Characteristics

General Character

Open space

Spatially defined by landscaping and building frontages

Lawns, trees and shrubs naturally disposed

Open shelters and paths formally disposed

Location and Size

Greens are appropriate in the Downtown Core, Downtown Edge, Transit Village Core, Transit Village Edge, Cotton Mill Core, and Cotton Mill Edge character districts

Size shall range from 0.5 ac. to 5 ac.

Typical Uses

Unstructured and passive recreation

Casual seating

Commercial and civic uses

Residential address

- **Building Form Standards.** Regulations controlling the configuration, features, and functions of buildings that define and shape the public realm. Those standards are pegged to the pertinent character zone from the regulating plan. The example below is from the “Downtown Core” character zone from the regulating plan above (light orange area) indicating standards for building placement, height and pedestrian zones.

Downtown Core Character District

7.2.3 Building Placement

Legend

- Property Line
- Setback Line
- ▨ Build-to Zone
- Building Area

(i) Build-to Zone (BTZ)
(Distance from property line to edge of the zone)

Pedestrian Priority "A" Street / Civic Space	0' (min.) - 10' (max.) (see #1)	A
Pedestrian Priority "B" Street	0' (min.) - 10' (max.)	B
Service Street	NA (see below for min. setback)	

(ii) Setbacks

Service Street	0' min.	C
Side	0' min.; (see #2)	D
Rear	0' min. (see #2)	D*

(iii) Building Frontage

Building Frontage required along Pedestrian Priority "A" Street/Civic Space BTZ	90% (min.) (see #3 and #6)	E
Building Frontage required along Pedestrian Priority "B" BTZ	50% (min.) (see #3 and #6)	F
Building Frontage required along Service Street	None Required	

See note # 11 for frontage standards on lots with 2 or more frontages along the same street type.

7.2.3 Building Height

(i) Principal Building Standards:

Building maximum	5 stories (see #5, #7, and #12)	K
First floor to floor height	12' (min.) for all commercial/mixed use buildings or any building fronting Ped. Priority "A" Street 10' (min.) for buildings fronting Ped. Priority "B" or Service Streets (see #4)	M
Ground floor finish level	12 inches max. above sidewalk (for ground floors of commercial/mixed use buildings or buildings fronting on Ped. Priority "A" Streets) 18" (min.) above sidewalk for buildings fronting Ped. Priority "B" or Service Streets (see #13)	L
Upper floor(s) to floor height	10' min.	N

(ii) Accessory Building Standards:

Accessory buildings shall meet the standards for Principal Building standards in the Downtown Core Character District.

7.2.4 Commercial Frontage Requirements

(i) Ground floors of all buildings fronting on Pedestrian Priority "A" Streets shall be constructed to Commercial Ready standards including but not limited to first floor-to-second floor height, ingress and egress, and accessibility. This standard shall not apply to civic buildings.

- **Administration.** A clearly defined application and project review process, often including administrative approvals for site plans if the site plan is consistent with the originally adopted form-based code.

- **Definitions.** A glossary to ensure the precise use of technical terms.

Such a code may also include:

- **Architectural Standards.** Regulations controlling external architectural materials and quality. These are typically used for functional elements such as roof types and porosity of windows on façades; but generally not for style types. In historic zones, however, style and historic character may be regulated. The standards below are for the historic area of the downtown form-based code for Owensboro, Kentucky.

21.92 Specific to Historic Core (new construction and additions only), Downtown Core, Riverfront Core, Riverfront Paseo, and Frederica Boulevard Overlay Character Districts:

a. Roof Form

Buildings shall be simple, rectilinear forms with flat or low pitched roofs with parapets. Mansard roofs shall be prohibited.



b. Façade Composition

Buildings shall maintain the traditionally prevalent façade rhythm of 20' - 30'.

This rhythm may be expressed by changing materials, or color, or by using design elements such as fenestration, columns and pilasters, or by varying the setback of portions of the building façade.



Image showing appropriate building rhythm.

Building façades shall be designed with a distinct base, middle, and top. For retail storefront buildings, a transom, display window area, and bulkhead at the base shall be utilized.



Required design of Storefront building.

Infill buildings shall generally maintain the alignment of horizontal elements along the block.



Figure showing how horizontal elements should match in the design of infill buildings.

Corner emphasizing architectural features, pedimented gabled parapets, cornices, awnings, blade signs, arcades, colonnades and balconies should be used along commercial storefronts to add pedestrian interest.



Buildings with architectural features and storefront elements that add interest along the street.

c. Windows and Doors

Windows and doors on street (except alleys) fronting façades shall be vertically proportioned that are similar in size and shape to those used historically. Essentially sized (e.g., 3'X5') and proportioned windows shall not be permitted.



Images showing appropriate window designs and proportions for new construction.

All ground floor front façades for commercial and mixed use buildings along all streets shall have transparent storefront windows covering no less than 65% of the façade area. Each upper floor of the same building façades facing a street or plaza shall contain transparent windows covering at least 35% of the façade area. All other street facing side façades (except alleys), shall have transparent windows covering at least 30% of the façade area for all floors.



Images showing appropriate storefront display windows with transparency.

- **Landscaping Standards.** Regulations controlling landscape design and plant materials on private property as they impact public spaces (e.g. regulations about parking lot screening and shading, maintaining sight lines, ensuring unobstructed pedestrian movement, etc.).
- **Signage Standards.** Regulations controlling allowable signage sizes, materials, illumination, and placement often times are calibrated to different scales and characteristics depending on the particular character zone within the regulating plan.
- **Environmental Resource Standards.** Regulations controlling issues such as storm water drainage and infiltration, development on slopes, tree protection, solar access, etc.
- **Annotation.** Text and illustrations explaining the intentions of specific code provisions. *Source: Form-Based Codes Institute*

These types of codes generally include standards for the following:

- “Build-to” zones rather than setbacks,
- Orientation of buildings on the block,
- Design of a façade’s vertical plane,
- Orientation of entrances to streets to support a continuity of character down the street,
- Transparency requirements for front façades to create a more human-scale feel,
- Mixed uses to allow for the evolution of business and market forces over time,
- Higher density due to a more walkable context,
- Streetscape to create a continuity of the private frontages of buildings and the public frontages along streets,
- Convenient and oftentimes shared parking on- and off-street,
- Building envelopes to allow for more creative designs,
- Pedestrian connectivity through the focus on neighborhood structure and not just site design,
- Active ground floors where the market can be activated,
- Generous sidewalk widths in locations that are appropriate for pedestrian activity and gathering spaces such as cafes, and
- Flexibility in terms of permitting and administrative approval in order to create a more market-sensitive economic context to encourage an evolution of the place in terms of value regeneration

4. **Mixed Use Districts:** Many cities are adopting mixed use regulations to accommodate interest in developments that call for dense, multi-use communities. These regulations often contain standards that address the following:
- Permitted uses;
 - Integration of uses;
 - Phasing to assure that one use does not dominate the development;
 - Mixed residential types;
 - Pedestrian connectivity;
 - Block perimeters and street connectivity;
 - Minimum/maximum heights;
 - Varied densities;
 - “Flex-space”;
 - Building materials;
 - Street and sidewalk treatment;
 - Useable open space;
 - Relaxed parking standards and shared parking;
 - Modified development standards for special uses.

These districts often call for a general concept or development plan and the relationship of the large phases of that concept plan to be laid out in relationship of the desired character of the overall project.

5. **Planned Development District or Planned Unit Development:** Typically, a planned development district is a zoning classification that provides flexible development regulations to allow the construction of a unified development concept which may not conform to the standard zoning regulations. Often these types of developments include mixed uses, protection of environmentally significant features, preservation of and provision for open space, interconnection of uses, modified development standards, and special design guidelines and landscaping requirements. Because the authority and limitations for planned development districts are set forth in a city’s zoning code, it is necessary to review those portions of the city’s code to determine to what extent a planned development district may be used. Sometimes the Planned Unit Development is used as the zoning vehicle for Mixed Use Districts.
6. **Smart Growth:** According to the American Planning Association, “Smart Growth is not a single tool, but a set of cohesive urban and regional planning principles that can be blended together and melded with unique local and regional conditions to achieve a better development pattern. Using the above zoning tools and others, Smart Growth is an approach to achieving communities that are socially, economically, and environmentally sustainable. Smart Growth provides choices — in housing, in transportation, in jobs, and in amenities (including cultural, social services, recreational, educational, among others) — using comprehensive planning to guide,

design, develop, manage, revitalize, and build inclusive communities and regions to:

- have a unique sense of community and place;
- preserve and enhance valuable natural and cultural resources;
- equitably distribute the costs and benefits of land development, considering both participants and the short- and long-term time scale;
- create and/or enhance economic value;
- expand the range of transportation, employment, and housing choices in a fiscally responsible manner;
- balance long-range, regional considerations of sustainability with short-term incremental geographically isolated actions;
- promote public health and healthy communities;
- apply up-to-date local and regional performance measures of successful urban and regional growth;
- encourage compact, transit-accessible (where available), pedestrian-oriented, mixed-use development patterns and land reuse; and,
- increase collaboration and partnerships to advance place-based and regional goals and objectives, while respecting local land-use preferences and priorities.

8. **Transit-Oriented Development:** Transit-oriented developments typically tend to be higher density, mixed use developments surrounding a transit station (usually within a ¼- to ½-mile radius, but sometimes in other walkshed configurations) and designed to benefit from transportation opportunities made possible by the transit station and visa versa. These types of developments often are considered sustainable because they offer convenient accessibility to employment, entertainment and residential uses while at the same time reducing reliance on automobile use by encouraging public transportation. Additionally, they can become significant economic development generators by capturing density while at the same time offering attractive amenities. These types of districts can contain many of the same attributes as the mixed use and form-based districts in terms of urban form, block size, mixed use and pedestrian connectivity. Many provide further parking reductions, design standards for parking structures, significant increases in residential density and height, and creation of larger, destination public spaces.

IV. How to get there.

- A. Vision and Leadership: All of these innovative zoning approaches start with a vision for the proposed development. Most of the time the vision begins with the developer, property owner or community leader who is motivated to build or support civically a development that is unique or special to the property. When the city comes forward with the vision and works with the property owner or developer to pursue the special development, it is important that the developers and city representatives clearly define the leadership roles during the process so that the broader community gets the benefit of the resulting public-private partnership. Regardless, a vision for the unique development and the leadership to advance it begins the process.
- B. Site assessment: As part of the design process, a site analysis will be undertaken to determine the valuable site characteristics that make certain development attractive and determine the physical, cultural, environmental or cultural traits for the property. The site assessment could also reveal development constraints on a tract of land. Understanding current and needed access and transportation capacity begins at this step to support the more innovative designs discussed in this paper.
- C. Market: A development concept will remain on the drawing board unless a market exists to make the development economically viable. Various professionals will participate in the market study to determine if the market exists and what the appropriate target population will be. This sets up the development concepts.
- D. Development Concepts: After the vision is tested against the market, various development concepts are prepared by design professionals to take the vision to the drawing board.
- E. Comprehensive plan An important step in the process is to determine if the vision and development concepts are supported by the city's comprehensive plan. The comprehensive plan is a long-range planning document created to guide the future development over a period of 15-25 years. Components of a comprehensive plan generally include existing and proposed land use maps, demographics, legal frameworks for implementation, park and recreation facilities, utilities, and other infrastructure. Some cities have policy plans rather than land use maps that set forth a series of policies for directing the growth of the city.

Zoning is one of the primary implementation tools of a municipality's comprehensive plan. According to Section 211.004 of the Texas Local

Government Code, zoning regulations must be adopted in accordance with a comprehensive plan and must be designed to:

- (1) lessen congestion in the streets;
- (2) secure safety from fire, panic, and other dangers;
- (3) promote health and the general welfare;
- (4) provide adequate light and air;
- (5) prevent the overcrowding of land;
- (6) avoid undue concentration of population; or
- (7) facilitate the adequate provision of transportation, water, sewers, schools, parks, and other public requirements.¹²

Therefore, conformance with the city's comprehensive plan is necessary to determine that a proposed development is consistent with a city's future growth plans as well as satisfying the statutory mandate. Because markets and cities evolve, it may be required to amend the comprehensive plan in connection with the zoning process if the comprehensive plan does not provide for the vision of the proposed project and, thereby, the zoning.

- F. Community leadership: Prior to commencing a development process, it is advisable to engage the city leadership to determine if there is political support for the development that requires significant modifications to the city standards.
- G. Stakeholders: Similarly, it is advisable to reach out to the community for local support for a creative development. It may make sense to do this prior to the filing of the zoning application in order to say to the city the applicant was responsive to valid community input from the very beginning.
- H. Benefits to community: The analysis of the city could go beyond evaluation of whether a proposed use is reasonable and call for an analysis of the costs to the city as the result of a development and what benefits may be realized by the city.
- I. Appropriate tools: A review of the city's land development regulations must also be undertaken to determine whether the city has the appropriate tools to implement the desired concept. If not, then rezoning may be necessary.
- J. Rezoning Process: In addition to statutory procedure, it is necessary to review local procedures that may add steps to the development review and approval processes.

¹² Id. at 211.004

V. Conflicts:

The innovative zoning techniques conflict with traditional zoning regulations in many ways. The primary areas of conflict typically include:

- Increased densities—many standard zoning regulations do not allow the density required under the special zoning schemes
- Build-to's rather than setbacks
- Alternate design standards
- Modified street standards addressing:
 - Reduced street width
 - Modified turning radii at street corners
 - On-street parking to satisfy required parking
 - Street trees within the right-of-way
 - Connectivity to adjacent development
 - Traffic calming devices
 - Traffic circles/roundabouts
 - Reduced design speeds
 - Alternative curb and gutter design
 - Varied alley widths and materials
- Different classifications for open space based on use and ownership
- Orientation of lots to green spaces and access rather than to public streets
- Use of indigenous plants rather than a standard plant list
- Smaller lots
- Irregular lot shapes
- Varying block lengths
- Modified parking standards
- Coordination of multimodal transportation systems
- Pedestrian connections
- Special building materials
- Sidewalks on one side only of a neighborhood street
- Alternative driveway and sidewalk materials to decrease impervious coverage.

VI. CONCLUSION

Development regulations are experiencing significant transformations with substantial benefits to cities and neighborhoods. Knowing the framework for these unique developments will assist and facilitate approvals at local jurisdictions in a predictable way. Knowing that these unique developments require major deviations from standard regulatory schemes will assist in reconciling the differences and in pursuing the appropriate development regulations, oftentimes requiring the creation of a special set of zoning tools for that purpose. Recent developments that have been completed under such innovative standards have proven that departures from the

traditional standards can result in increased and sustained value as well as wins for the city, community and developer in terms of a legacy project.