

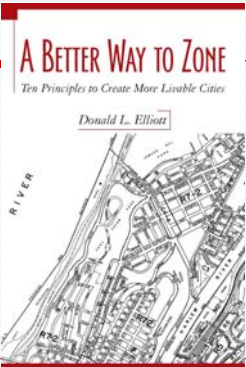
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**Lakewood  
Colorado**

**Zoning  
Discussion**

July 21, 2009

[www.abetterwaytozone.com](http://www.abetterwaytozone.com)



## A Better Way to Zone

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There are lots of ways to zone a city  
-- and almost every city chooses a different way

Key factors to think about:

- Predictability?
- Flexibility?
- Form?
- Use?
- Quality?
- Administrative Efficiency and Enforcement?

## A Better Way to Zone

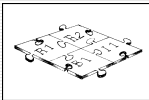
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What is zoning?

A list of "zones" with rules addressing:

- Uses: What can you do on your property?
- Size: How big can it be?
- Quality: How good does it have to be?

And a map showing which "zone" applies where



## A Better Way to Zone

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Examples from elsewhere:

- Germany
  - Very top down – tools come from Berlin
  - Fixed set of possible zone districts
  - Local planning must follow national norms
  - Zone districts are chosen to fit the plan
  - Some flexibility – but not a lot
  - Big changes often require higher levels of government to approve plan changes
  - Significant design review on many types of buildings
    - More crowded = more design review

## A Better Way to Zone

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Examples from elsewhere:

- India
  - Master plans at citywide level
  - Require neighborhood plans to set land use
    - (Though they are often not completed)
  - Regulations an annex to approved plan
    - Use specific – "Mid-rise housing is done like this" -- "Hospitals are done thus"
  - Lots of ways to get lost between the citywide plan and use-specific details

## A Better Way to Zone

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Examples from elsewhere:

- Canada
  - Much like the U.S., but more top-down
  - Many norms established in Ottawa
    - E.g. Telecommunications standards
  - Cities design and choose their own zones
  - Generally less detailed controls
    - Broader land uses, less design review
  - More "technical", less political than U.S.

## A Better Way to Zone

Even in the U.S. practice differs widely

We'll look at five cities as examples

But first, let's look at some:

- Historic trends
- Typical problems
- Efforts to find a better way

## A Better Way to Zone

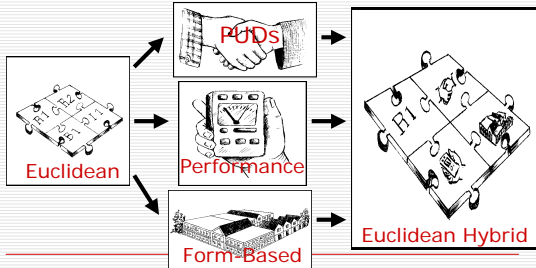
Trend – More Complex over Time

- The list of zones multiplies
- The list of uses multiplies
  - From “retail” to “music and video store”
  - Industries listed by SIC or NAIC code
- Size and form controls multiply
- Ideas about quality multiply
  - Parking – signs – landscaping – historic – environment – carbon?



## A Better Way to Zone

Trend – A Continuing Search for Flexibility



## A Better Way to Zone

Trend – Over-regulating uses

- Most codes draw distinctions between uses that have almost identical land use impacts
- An unnecessary burden on property owners and city staff

Trend – Under-regulating form and scale

- Most codes treat as identical uses that have very different impacts because of their size and scale
- Neighborhood Ace Hardware vs Regional Home Depot

## A Better Way to Zone

Trend – Ignoring Sustainability

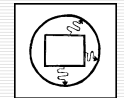
- Separating uses unnecessarily
  - Requires more driving
- Prohibiting solar, wind, geothermal devices
- Prohibiting or over-regulating urban agriculture
- Fighting density around transit facilities



## A Better Way to Zone

Trend – Ignoring Governance

- Losing the focus on long-term workability
- Adding new regulations but never removing old ones
- Forgetting the importance of “Understandability” to citizens
- Failing to address “predictable flexibility”



## A Better Way to Zone

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Everyone is looking for a better way

### A tale of five cities

- Miami, FL
  - Denver, CO
  - San Diego, CA
  - Portland, OR
  - Philadelphia, PA
  - Fort Collins, CO
- 

## A Better Way to Zone

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### Miami 21

- The most ambitious U.S. effort to adopt form-based zoning
    - Reorienting regulations to address the form and scale of development rather than use
  - Efforts to find the “form” of all areas of the city become very complex
  - Very controversial
  - Over \$2 million spent to date
- 

## A Better Way to Zone

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### Denver's form-based code

- 2<sup>nd</sup> most ambitious form-based zoning effort
  - Organized around six “contexts”
    - Suburban, urban edge, urban general, urban center, DT
  - Each context has 10-15 different possible zones
    - Zone district menu expands from 50+ to 75+
  - Each zone allows certain building types
    - Building type menus are graphic but detailed
  - Use menu is simplified – more mixed use
- 

## A Better Way to Zone

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### San Diego, CA

- “Modular” zoning allows you to mix-and-match a “module” of permitted uses with a “module” addressing size and scale
  - Intended to allow a more fine-grained matching of zone districts to the city fabric
    - Over 80 zone districts required to get the job done
  - Intended to add flexibility but it doesn't
  - Chicago uses a similar system that is more flexible
- 

## A Better Way to Zone

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### Portland, OR

- “The best planned city in America”
    - But the zoning code is a mess
  - Quality (and growth management) achieved through overlapping layers of use, form, design, and environmental regulation that are very difficult to navigate
  - So complex that they sponsored a “Portland rethink”
    - Did not succeed in simplifying the system
- 

## A Better Way to Zone

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### Philadelphia, PA

- A traditional code politicized to gridlock
    - 82 districts – many addressing only a few parcels
  - Almost everything goes to Zoning Board of Adjustment for review
    - Both citizens and developers fear the politics
  - Now moving to
    - Consolidate zone districts
    - Consolidate uses
    - Delegate power from ZBA to staff to speed things up
-

## A Better Way to Zone

### Fort Collins, CO

- Award winning Land Development Guidance System allowed almost any use anywhere – subject to buffering and quality controls
- Dismantled after 10 years because it turned out that citizens value predictability in what happens next door as much as developers value flexibility to follow the market.

## A Better Way to Zone

### A word about form-based zoning

- The most misunderstood zoning topic today
- Not an On/Off Switch
  - Most codes have some form controls in some districts
- Much easier to raise regulation of forms than to reduce regulation of uses
  - If you're not careful you wind up with a net increase in regulation despite the rhetoric

## A Better Way to Zone

### A word about form-based zoning

- The most misunderstood zoning topic today
- Over-definition of form can:
  - Lead to rigidity just like over-regulation of uses
  - Inhibit change and densification that are appropriate to some locations and natural for maturing cities
  - Impose artificial forms on places that don't need it or benefit from it.

## A Better Way to Zone

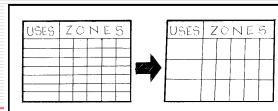
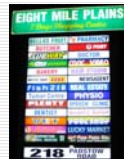
### Let's Shift to Don's "Better Way to Zone"

- Instead of getting caught up in the form-based zoning debate – or jumping on the sustainability bandwagon
  - Think through what you are trying to achieve and what tools you can use to get there as efficiently as possible
- Focus on Ten Key Principles

## A Better Way to Zone

### 1. More Flexible Uses

- Fewer, broader categories
- Less micro line drawing
- Major simplifications of
  - Industrial
  - Retail
  - Personal Services
  - Professional Services



## A Better Way to Zone

### 1. More Flexible Uses - Examples

- Winnipeg reduced from 460 uses to 141
- SmartCode suggests 81 uses for entire region
  - original version suggested 65
- DC aiming for 15

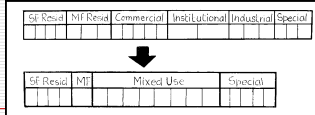
## A Better Way to Zone

### 2. The Mixed Use Middle

- Distinctions between higher density MF, Commercial, Institutional, and Light Industrial increasingly blurred



- New menu will be shorter and simpler
  - Residential
  - Mixed Use
  - Special



## A Better Way to Zone

### 2. The Mixed Use Middle – Examples

- Winnipeg reduced districts from 27 to 22 (dropped 7; added 2)
- SmartCode based on 6 transects
  - Though usually more in practice
- Denver's 7 MU districts are the most used



## A Better Way to Zone

### 2. The Mixed Use Middle

- Remember redevelopment
  - As cities mature, an increasing amount of building activity is redevelopment – not greenfield development
  - Usually somewhat denser
  - Sometimes inserting a new use into an existing neighborhood
  - All of which pushes toward mixed use

## A Better Way to Zone

### 3. Attainable Housing

- A structural problem of the U.S. economy
  - Before: Renters spend 19%
  - Now: Average is 29%
  - Old rule: 30% on housing
  - Now: 49% of renters do that



## A Better Way to Zone

### 3. Attainable Housing

- Don't be fooled by the current downturn
  - Key is not price, but the gap between price and wages
- Real need is in attached and multi-family units



## A Better Way to Zone

### 3. Attainable Housing – Examples

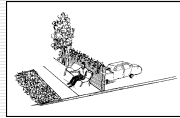
- Aurora, CO Small Lot Standards
  - Down to 3,700 square feet
- Mesa County, CO
  - Loop Lanes and Auto Courts
- Sacramento, CA
  - Cottage Courts
- Denver Highlands Gardens
  - Co-Housing
- Santa Cruz, CA
  - 8 pre-approved ADU templates



## A Better Way to Zone

### 4. Mature Area Standards

- Undo the bias towards suburban standards
- Mature cities require 2 parts management and 1 part design
- Accommodate small lots by trading buffering intensity for distance and better design
- Remember embodied energy and materials



## A Better Way to Zone

### 4. Mature Area Standards – Examples



## A Better Way to Zone

### 5. Living With Non-Conformities

- The theory was wrong – they don't go away
- Move away from limits on expansion and replacement
- Remove legal consequences to encourage investment
- Some non-conformities are now accepted “place-makers”



## A Better Way to Zone

### 5. Living With Non-Conformities – Examples

- Denver – over height buildings near downtown are “not-nonconforming”
- Detroit – “No new residential development will be permitted. However, the existing residential will not be considered non-conforming.”



## A Better Way to Zone

### 5. Living With Non-Conformities

- Move away from a system that says pre-existing buildings are on zoning parole – i.e. technically “legal” but not favored
- Towards one that says pre-existing buildings have the same rights as new buildings unless they involve a public health or safety risk.



## A Better Way to Zone

### Another Short Break

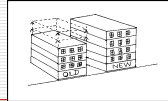
Any questions about the first 5 principles



## A Better Way to Zone

### 6. Dynamic Development Standards

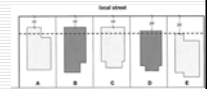
- Who said rules have to be static over time?
- Let some of them adjust automatically as conditions change
  - Fees
  - Heights & setbacks
- Not recommended for SFD areas



## A Better Way to Zone

### 6. Dynamic Development Standards—Examples

- Kalamazoo – Maximum height is “tallest building within 200 feet plus 2 stories” – which will change over time.
- Nashville – Parking depends on distance from transit lines and public parking lots – which will change over time.



## A Better Way to Zone

### 6. Dynamic Development Standards

- Future Applications
  - Required off-street parking tied to neighborhood availability?
  - Density tied to traffic LOS or school capacity?
  - Density tied to VMT or carbon emissions?



## A Better Way to Zone

### 7. Negotiate Large Developments (but not small ones)

- Very hard to write rules for complex multi-phase projects
- Large projects offer chances to change existing image
- But Limit PUDs to large & complex developments to simplify administration



## A Better Way to Zone

### 7. Negotiate Large & Complex Developments – Examples

- Highlands Ranch, CO
  - 37,000 acres
  - 30% set aside as open space
- Union Station, Denver, CO
  - 20 acres
  - Multi-modal transit center



## A Better Way to Zone

### 7. Negotiate Large & Complex Developments

- Avoid “shrink wrap” zoning
  - the Lickety Split mistake
- Avoid “one-off” zoning
  - The pawn shop case
- Build in those kinds of flexibility



## A Better Way to Zone

### 8. De-Politicizing Final Approvals

- Big role for public in planning and setting rules
  - But not in a final “beauty contest” for each project
- Allow “call-ups” if necessary
- Don’t change the rules after the game has started



## A Better Way to Zone

### 8. De-Politicizing Final Approvals – Examples

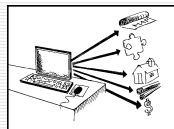
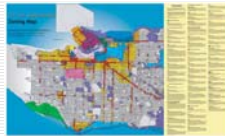
- Delegate final subdivision approval to staff
- Avoid public hearings on most site plans
- Use hearing officers for non-discretionary decisions
- Limiting public hearing debate to listed issues



## A Better Way to Zone

### 9. Better Webbing

- Linking planning, zoning, subdivision, and utility info
- Explaining links between plan and zone designations
- Address driven queries about zoning standards and procedures



## A Better Way to Zone

### 9. Better Webbing - Examples

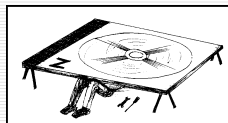
- Indianapolis
  - Graphic grid map zooms to parcel
  - Selecting to parcel links to subdivision, zoning, utility info
- Henderson
  - Graphic interface for 9 maps (including zoning & land use)
  - Toggle back to interface between maps
- Portland
  - Address-driven query leads to zoning, utilities, permitting, and environmental information
  - No links to planning designations or procedures



## A Better Way to Zone

### 10. Scheduled Maintenance

- Zoning is a management system – it needs regular updating as conditions change
- Annual or semi-annual updates
  - Discourage amendments “on-demand”
  - Thoughtful consideration of new tools and trends
- Does not apply to maps



## A Better Way to Zone

### 10. Scheduled Maintenance – Examples

- Beaver Creek, Ohio – six months
- Loudon County, VA – annual review
- State law schedules in several states -- but schedule should even apply to non-required amendments



## A Better Way to Zone

### Yet another short break

Any questions about:  
the last 5 principles



## A Better Way to Zone

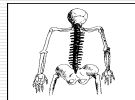
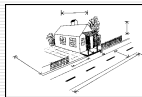
**Table 7.1: Ten Key Changes to Euclidean Hybrid Zoning**

	More Flexible Uses	Mixed Use Middle	Attainable Housing	Mature Area Standards	Living With Non-Conformities	Self-Adjusting Standards	Negotiated Large Developments	Deposit Final Approval	Reduce Webbing	Schedule Maintenance
<b>Failed Assumptions</b>										
A Few General Rules	✓	✓	✓	✓	✓	✓	✓			✓
Separate the Uses	✓	✓	✓	✓	✓	✓	✓			
Greenfield Standards	✓	✓	✓	✓	✓	✓	✓			
Variations Will be Rare	✓	✓	✓	✓	✓	✓	✓			
Non-Conformities Go Away	✓	✓	✓	✓	✓	✓	✓			✓
Static Rules						✓				
<b>Zoning is Technical</b>							✓	✓		
<b>New Drivers</b>										
The Market	✓	✓	✓	✓	✓	✓	✓			✓
Tax Cuts	✓	✓	✓	✓	✓	✓	✓			✓
Transportation Systems	✓	✓	✓	✓	✓	✓	✓			✓
NIMBYism	✓	✓	✓	✓	✓	✓	✓			✓
<b>Governing Well</b>										
Effectiveness		✓	✓	✓	✓	✓	✓			✓
Responsiveness		✓	✓	✓	✓	✓	✓			✓
Equity		✓	✓	✓	✓	✓	✓			✓
Efficiency	✓	✓	✓	✓	✓	✓	✓			✓
Understandability	✓	✓	✓	✓	✓	✓	✓			✓
Predictable Flexibility	✓	✓	✓	✓	✓	✓	✓			✓

## A Better Way to Zone

### 5 Steps to Get Started

- Audit for Specifics
- Prioritize for Political Will
- Draft for Integration
- Illustrate How
- Adopt the Possible



## A Better Way to Zone

### What Difference Would it Make?

- Simpler rules
- More understandable procedures
- Clearer development standards
- Broader citizen involvement
- Less NIMBYism



## A Better Way to Zone

### What Difference Would it Make?

- More diverse cities
  - Less use separation
  - Less auto-dependence
  - Greater mix of old and new buildings



## A Better Way to Zone

### What Difference Would it Make?

- Easier re-investment
  - Less focus on use changes
  - Less need for variances
  - Contextual size controls
  - Fewer disputes about non-conformities



## A Better Way to Zone

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### What Difference Would it Make?

- Slower sprawl
  - Increasing urban densities gradually over time
  - Easier re-use and re-positioning of existing buildings
  - Easier TOD development



## A Better Way to Zone

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### What Difference Would it Make?

- Fewer contentious hearings
  - More involvement earlier
  - More opportunity to comment before designs finalized and commitments made



## A Better Way to Zone

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### What Difference Would it Make?

“Making Room” for issues that matter locally – and matter more

- Sustainability
- Design
- Renewable energy
- Food security
- Universal design

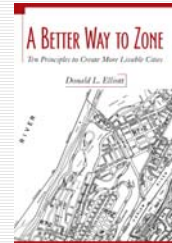


## Discussion

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How do you think these principles might apply to your community?

What other zoning issues would you like to discuss?



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