

Unscrambling the City

Archaic zoning laws lock cities into growth patterns that hardly anybody wants.

Changing the rules can help set them free.

BY: Christopher Swope, June 2003

Take a walk through Chicago's historic Lakeview neighborhood, and the new houses will jump right out at you. That's because they're jarringly incompatible with the old ones. On one quiet tree-lined street, you'll find a row of old two-story colonials with pitched roofs. Then you walk a little farther and it seems as though a giant rectangular box has fallen out of the sky. The new condominium building is twice as high as its older neighbors and literally casts shadows over their neat flower gardens and tiny front yards. Angry Lakeview residents have seen so many new buildings like this lately that they have come up with a sneering name for them. They call them "three-flats on steroids."



Listening to the complaints in Lakeview, you might wonder whether home builders are breaking the law and getting away with it, or at least bending the rules quite a bit. But that's not the case. If you take some time and study Chicago's zoning law, you'll find that these giant condos are technically by the book. It's not the new buildings that are the problem. The problem is Chicago's zoning ordinance. The code is nearly half a century old, and it is an outdated mishmash of vague and conflicting rules. Over the years, it has been amended repeatedly, to the point of nonsense. Above all, it's totally unpredictable. In Lakeview, zoning can yield anything from tasteful two-flats to garish McMansions, with no consideration at all for how they fit into the neighborhood.

Chicago's zoning problem lay dormant for decades while the city's economy sagged and population declined. Back in the 1970s and '80s, not much building was going on. But then the 1990s brought an economic boom and 112,000 new residents. While almost everyone is happy that the construction machine has been turned back on, so many Chicagoans are appalled by the way the new construction looks that Mayor Richard M. Daley decided it was time to rewrite the city's entire zoning code. Everything about Chicago land use is on the table: not just residential development but commercial and industrial as well. It is the largest overhaul of its kind in any U.S. city in 40 years.

But while few communities are going as far as Chicago, many are coming to a similar conclusion: The zoning laws on their books--most of them written in the 1950s and '60s--are all scrambled up. They are at once too vague and too complicated to produce the urban character most residents say they want.

The zoning problem afflicts both cities and suburbs and manifests itself in countless ways. It takes the form of oversized homes and farmland covered in cookie-cutter housing developments. It shows up as a sterile new strip mall opening up down the street from one that is dying. It becomes an obstacle when cities discover how hard it is to revive pedestrian life in their downtowns and neighborhood shopping districts. And it becomes a headache for city councils that spend half their time interpreting clumsy rules, issuing variances and haggling with developers.

What urban planners disagree about is whether the current system can be salvaged, or whether it should be scrapped altogether. Most cities are not ready to take the ultimate step. Chicago isn't going that far. Neither did Boston, Milwaukee, San Diego and San Jose. All of them retained the basic zoning conventions, even as they slogged through the process of streamlining the codes and rewriting them for the 21st century. According to researcher Stuart Meck, of the American Planning Association, there's a cyclical nature to all this. He points out that it's common for cities to update their laws after the sort of building boom many have enjoyed recently. "Cities are in growth mode again," Meck says, "but they're getting development based on standards that are 20, 30 or 40 years old."

MYRIAD CATEGORIES

For much of the past century, if you wanted to find out the latest thinking about zoning, Chicago was a good place to go. In 1923, it became one of the first cities, after New York, to adopt a zoning law. The motivation then was mostly health and safety. Smoke-spewing factories were encroaching on residential neighborhoods, and the city's first ordinance sought to keep them out. By the 1950s, when more people drove cars, Chicago was a pioneer in rewriting the code to separate the places people live in from where they work and where they shop.

The 1957 zoning law was largely the creation of real estate developer Harry Chaddick, who proclaimed that the city was "being slowly strangled" by mixed uses of property. It classified every available parcel of land into myriad categories based on density. Residential neighborhoods, for example, were laid out in a range from "R1" (single family homes) to "R8" (high-rises). Land use rules were so strict as to dictate where ice cream shops, coin stores and haberdasheries could go. Chaddick's code was hailed in its time as a national model.

But over the years, one patch after another in the 1957 law made it almost impossible to use. Some parts contradicted other parts. Two attorneys could read it and come away with completely opposite views of what the code allowed. Finally, in 2000, the mayor tapped Ed Kus, a longtime city zoning attorney, to take charge of a full-scale rewrite. Kus thinks the law in the works will be equally as historic as Chaddick's--and more durable. "I hope the ordinance we come up with will be good for the next 50 years," Kus says.

Besides its rigidity, the old code has been plagued by false assumptions about population growth. Back in the 1950s, Chicago was a city of 3.6 million people, and planners expected it to reach a population of 5 million. Of course, it didn't work out that way. Like every other major city, Chicago lost a huge proportion of its residents to the suburbs. By 1990, it was down to fewer than 2.8 million residents. But it was still zoned to accommodate 5 million.

That's essentially how Lakeview got its three-flats on steroids. Had the city's population grown as the code anticipated, it would have needed a supply of large new residential buildings to replace its traditional two-flats and bungalows. The law made it possible to

build these in lots of neighborhoods, regardless of the existing architecture or character.

For decades, this made relatively little difference, because the declining population limited demand for new housing in most of the city. Once the '90s boom hit, however, developers took advantage. They bought up old homes and tore them down, replacing them with massive condo projects. They built tall, and sometimes they built wide and deep, eating up front yards and side yards and often paving over the back for parking. "Developers are building to the max," Kus says. "We have all these new housing types and the zoning ordinance doesn't govern them very well."

There are other glaring problems. Although many people think of the 1950s as the decade when America went suburban, most retail business in Chicago was still conducted in storefronts along trolley lines, both in the city and the older close-in suburbs. The code reflects that mid-century reality. Some 700 miles of Chicago's arterial streets are zoned for commercial use, much more than the current local retail market can bear. Worse, the old code is full of anachronistic restrictions on what kinds of transactions can be conducted where. A store that sells computers needs a zoning variance to set up shop next door to one that fixes them. "If you're in a 'B1' district"--a neighborhood business corridor--"you can hardly do any business," Kus says.



All of these archaic provisions are quietly being reconsidered and revised on the ninth floor of city hall,

where Kus heads a small team that includes two planning department staffers and a consultant from the planning firm of Duncan Associates. Their work will go to the zoning reform commission, a panel whose 17 members were picked by the mayor to hold exhaustive public meetings and then vote on the plan. The commission includes aldermen, architects, planners, business representatives and a labor leader. Developers are conspicuously absent, which may come back to bite the whole project later. But for

now, the rewrite is moving remarkably fast. The city council is expected to pass the new code this fall. That will set the stage for an even more difficult task: drawing new maps to fit the changed rules.

In the past, Chicago's zoning reforms sought nothing less than to transform the face of the city. This time, however, there is more of a conservationist bent. What the reformers are trying to do is to lock in the qualities Chicagoans like about their oldest, most traditional neighborhoods. That's not to say they want to freeze the city in place. The building boom is quite popular. But it's also widely accepted that the character of Chicago's neighborhoods is the reason why the city is hot again, and that zoning should require new buildings to fit in. "Cities that will succeed in the future are the ones that maintain a unique character of place," says Alicia Mazur Berg, Chicago's planning commissioner. "People choose to live in many of our neighborhoods because they're attractive, they have front yards and buildings of the same scale."

MADE FOR WALKING

The new rules being drafted for residential areas are a good example of this thinking. Height limits will prevent new houses from towering over old ones. Neighborhoods such as Lakeview will likely be "downzoned" for less density. New homes will be required to have a green back yard, not a paved one, and builders will not be allowed to substitute a new creation known as a "patio pit" for a front yard. Garages will be expected to face an alley--not the street--and blank walls along the streetscape will be prohibited.

In the same spirit, the creators of the new zoning code are also proposing a new category, the Pedestrian Street, or "P-street." This is meant for a neighborhood shopping street that has survived in spite of the automobile and still thrives with pedestrian life. The new code aims to keep things that way. Zoning for P-streets will specifically outlaw strip malls, gas stations and drive-throughs, or any large curb cut that could interrupt the flow of pedestrians. It also will require new buildings to sit right on the sidewalk and have front doors and windows so that people walking by can see inside.

There are dozens of other ideas. The new code aims to liven up once-vibrant but now-dying neighborhood commercial streets by letting developers build housing there. For the first time

ever, downtown Chicago will be treated as a distinct place, with its own special set of zoning rules. The code will largely ignore meaningless distinctions between businesses, such as whether they sell umbrellas or hats.

The new code also will recognize that the nature of manufacturing has changed. Light manufacturing will be allowed to mix with offices or nightclubs. But heavy industry will get zones of its own, not so much for the health reasons that were important in 1923 and 1957, but because the big manufacturers want it that way and Chicago doesn't want to lose them.

For all the changes, Chicago is still keeping most of the basic zoning conventions in place. It is also keeping much of the peculiar language of zoning--the designations such as "R2" and "C3" that sound more like droids from Star Wars than descriptions of places where people live, work and shop.

On the other hand, the new code will be different from the old code in one immediately identifiable way: It will be understandable. Pages of text are being slimmed down into charts and graphics, making the law easier to use for people without degrees in law or planning. An interactive version will go up on the city's Web site. "Predictability is important," says Ed Kus. "The average person should be able to pick up the zoning code and understand what can and can't be built in his neighborhood."

PICTURE-BOOK ZONING

While Chicago and a few other large cities struggle to update old zoning laws for the new century, some places are going in a new direction. They are experimenting with zoning concepts percolating out of the New Urbanist movement, writing codes that bear a closer resemblance to picture books than to laws. Conventional zoning, they have decided, is based on an abstract language that leaves too much to chance. They would rather start with a question--what does the community want to look like--and then work back from there. "It's not enough to change the zoning," says New Urbanist author Peter Katz. "Cities have to move to a new system. They should look at the streets they like and the public spaces they like and then write the rules to get more of what they like and less of what they don't. Conventional zoning doesn't do that. It just gives a use and a density and then you hope for the best."

One jurisdiction currently buying in to this new idea is Arlington, Virginia, a suburb of 190,000 people just across the river from Washington D.C. A few months ago, Arlington's county board adopted a "form-based" zoning code for a 3.5-mile corridor known as Columbia Pike, making it one of the largest experiments yet with this new idea.



Columbia Pike is a typical traffic-choked suburban drag, lined mostly with strip malls, drive-throughs and apartment complexes ringed by parking lots. Developers have ignored the area for years. County planners want to convert it into a place that more closely resembles a classic American Main Street. They want a walkable commercial thoroughfare, featuring ground-floor retail blended together with offices and apartments above. But the old zoning code made this nearly impossible.

Rather than starting with a clear vision of what Arlington wants Columbia Pike to look like, the old code starts with a letter and a number: "C-2." The "C" stands for commercial uses only, and the "2" means that development should be of a medium density. C-2 is so vague that it could yield any number of building types. But the code's ambiguities don't end there. Building size is regulated by "floor area ratio," a calculation that again says nothing about whether the building should be suitable for a Main Street or an interstate highway exit. Finally, the code doesn't say where on a lot the building should go--just that it shouldn't sit near the roadway. Mostly, developers have used this recipe to build strip malls. "The code is really absolute on things that don't matter to us at all," says Arlington board member Chris Zimmerman. "The tools are all wrong for the job we're trying to do."

The new code for Columbia Pike abandons these old tools. It begins with a picture: What does a Main Street look like? Rather than abstract language, the new code uses visuals to show the form that buildings should take. Buildings are three to six stories tall. And they sit on the sidewalk, with ground-floor windows and front doors, not 50 feet back from the street.

Compared with traditional zoning, a form-based code doesn't focus on specific uses. It specifies physical patterns. Whether the buildings are occupied by coffee shops, law offices or upstairs renters makes little difference. "Traditionally," says Peter Katz, "zoning stipulates a density and a use and it's anyone's guess whether you'll get what the planners' renderings look like. Form-based codes give a way to achieve what you see in the picture with precision."

One of the most prominent New Urbanists, Miami architect Andres Duany, advocates taking the form-based idea even further. In Duany's view, it's not only buildings along a road like Columbia Pike that should be coded according to physical form rather than use: entire metropolitan regions should be thought of this way. Duany is pushing an alternative he calls "Smart Code."

The Smart Code is based on the concept of the "transect." The idea is that there is a range of forms that the built environment can take. At one end is downtown, the urban core. At the other end is wilderness. In between are villages, suburbs and more dense urban neighborhoods. As Duany sees it, conventional zoning has failed to maintain the important distinctions between these types of places. Instead, it has made each of them resemble suburbia. When suburban building forms encroach on wilderness, the result is sprawl. When they encroach on urban areas, the result is lifeless downtowns.

Nashville-Davidson County, Tennessee, is one of the first places to begin incorporating these concepts into its planning process. The transect isn't a substitute for a zoning code, says planning director Rick Bernhardt. But it helps planners think about how one part of the city fits into the region, and how to zone accordingly. "It's really understanding what the purpose is of the part of the community you're designing," Bernhardt says, "and then making sure that the streetscape, the intensity and the mix of land use are all consistent with that."