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## **PUBLIC HEALTH: CONNECTIONS TO LOCAL GOVERNMENT PLANNING AND LAND DEVELOPMENT REGULATION**

### **I. Introduction**

- Both research and intuition suggest that built environment related to physical activity, safety, nutrition, and other public health factors
- Planning shapes physical environmental and community structures that affect public health
- Early connections between city planning and sanitation and housing , but fields have grown apart
- Interest in healthier and safer lifestyles, but emerging configuration of metropolitan areas not necessary conducive to physical activity and healthy lifestyles out
- North Carolina less urban, more suburban, more dependent on automobile transportation than many other states
- Research concerning connection between urban form and physical activity still developing, but walking and biking more likely if residential density is above two dwelling units per acre and residential, commercial, workplaces, and entertainment locations are mixed but integrated with good design

### **II. Organizational Arrangements for Planning and Land Development Regulation**

#### **A. Geographic jurisdiction for planning and land development regulation in North Carolina**

- Cities operate within city limits and within extraterritorial planning jurisdiction
- Counties operate within areas outside city jurisdiction

## B. Local boards and their authority

- Local governing boards (city councils and boards of county commissioners) adopt comprehensive development plans, adopt zoning and land subdivision ordinances, fund capital improvements, and make appointments to other local boards
- Planning boards are authorized to recommend plans, can be delegated the job of approving subdivision plats, and zoning special-use or conditional-use permit applications, and must make recommendations on amendments to the zoning ordinance.

## III. Development of County or City Comprehensive Development Plans and Policies

### A. Comprehensive development planning

- "Physical planning" or "spatial planning" or "growth management" involves visioning, problem identification and goal setting, analysis, design of alternatives, and development of policy choices
- Broad-based community involvement in plan-making process, including staff and board members from various governmental boards, may include health officials
- Comprehensive plans devote attention to land use, transportation, community facilities, and parks and recreation, and open space and environmental hazards, even health services. Plans may be functional plans or small-area plans. Health officials have expertise and knowledge to contribute to committees and work groups
- Adoption of a "land-use plan" is optional for North Carolina counties and cities, except for local governments in 20-county coastal area. In those jurisdictions plans must be consistent with state and federal policies and certain development permits must be consistent with adopted plans. In other 80 counties adoption of a land-use plans or some form of a comprehensive plan is moderately common.

## B. Transportation planning conducted by cities, counties, regional, and state officials

- Federal legislation calls for metropolitan (transportation) planning organizations (MPOs) to coordinate planning for metropolitan areas. Governing bodies represent locally elected officials in the region.
- MPOs focus on generating transportation improvement programs (TIPS) that address 3- to 5-year time frames and provide bridge from current construction projects to long-range transportation plans.
- Public health officials can help identify projects for the TIP, including projects involving nonmotorized transportation modes and for safety improvements. They can also suggest design criteria and impact analysis to see whether health and safety issues addressed, such as with respect to air pollution
- Chicken and egg problem: proposed (highway) transportation projects based on past trends and modal splits make it difficult to secure funding for more funding for modes of travel other than the automobile

## IV. Capital Spending for Public Facilities

- Multi-year local government capital improvement program used by most counties and cities to plan capital spending.
- Geographic dimensions of facilities may be linked to capital facilities elements of land use plan, tying financial planning with land-use planning.
- Decisions to locate recreational facilities, parks, and community centers can be linked to needs of underserved populations.
- Funding of public utility systems can make more compact development patterns possible.

## V. County and City Land Development Regulation

Most prominent implementation tools for local plans are zoning and land subdivision ordinances.

### A. Zoning ordinances generally

- Ordinance includes both a zoning map and text. Standards vary widely. Development standards are for various uses, often affect development intensity and residential density, open space on site, parking, landscaping and the like. Environmental issues such as surface and ground-water pollution are often left to others.
- Zoning map amendments (called rezonings), typically initiated by property owners, change the set of regulations that apply to the site because the site changed to a different zoning district. Rezonings may involve approval of specific land development projects, just like applications for permits under existing zoning (e.g., special-use or conditional-use permits).
- Upzoning (to a district that allows more intensive use or greater density) may increase the tax base, generate more compact development patterns, and maybe increase housing affordability. Downzoning (to less intensive use or lower density) may diffuse the environmental impacts of development and preserve community assets but may also contribute to sprawl.
- In considering zoning amendments governing board must adopt statement concerning whether proposal is consistent with any locally adopted plans (e.g., land-use plans, transportation plans, open space plans).
- Approval of proposed zoning map amendments and applications for special-use and conditional-use permits tend to be discretionary and may allow the addition of special conditions and stipulations to be imposed to address the public health and safety. These could involve

arrangements for sidewalks, bikeways, recreation areas, open space, and the like.

- County health officials may participate as members of a county technical review committee that makes recommendations to the decision-making body. May be more difficult to participate in municipal development project review.
- Requirement of a health impact analysis may be incorporated into requirements for both rezonings and special-use or conditional-use permits

#### B. Specific zoning standards

- Establishments Selling Alcohol. Problem of bars, taverns, corner markets selling beer and wine. State ABC (Alcoholic Beverage Control) regulations preempt local zoning, but local government recommendations to ABC boards may be taken into account.
- Fast-Food Restaurants. Problem of proliferation of fast-food restaurants in lower-income urban neighborhoods. Emerging use of zoning quotas for particular uses. Also possibility of establishing floor-area thresholds for grocery stores and the like
- Recreation centers, Swimming pools, Fitness centers, Soccer fields. Need to be allowed in all zoning districts as principal or accessory uses
- On-Site Transportation Facilities. Movement to establish maximum number of off-street parking places for establishments rather than minimum number. Possibility of requiring establishments to furnish bike racks.

#### C. Land subdivision ordinances

- Subdivision regulations generally address the division of land into single-family residential lots. Such ordinances are particularly important in suburbanizing areas and in counties.
- Land subdivision ordinances provide opportunity for requiring property owners to provide space for recreation, sidewalks, and bike ways.

- Ordinance may require that such land be turned over to (dedicated to) public agency as a condition of plat approval (e.g., a developer exaction) or to a private homeowners' association. However, in order to be constitutional the local government must demonstrate that the land or improvements address a need generated by the residents or occupants of the development project and that the scope of the exaction is not disproportionate to the need for the public facilities made necessary by the development project ("rational nexus" test).
- Common standard for recreation areas and mini-parks is 1/35<sup>th</sup> of an acre of land dedicated to the public for each residential lot. Local governments may also accept "fees-in-lieu" of dedicated land.
- Greenway facilities great way to feature nonmotorized transportation, promote physical activity, and feature natural areas (e.g., stream corridors). Much of the land for most greenways is purchased, but some is collected through developer exactions and donations.

#### VI. Steps Public Health Officials May Take

- Advocate public health and safety as important and practical goals
- Provide evidence of just how the built environment affects public health outcomes
- Promote use of public health impact assessments
- Elevate the level of debate by treating planning and development as means to the end of better public health
- Provide advice on exposure to industrial hazards, noise, air pollution, and other environmental threats

#### VII. Resources

- The "Healthy Places" webpage of the Centers for Disease Control and Prevention (U.S. Dept. of Health and Human Services) has a compendium of short pieces, guidelines, manuscripts, and fact sheets <http://www.cdc.gov/healthyplaces/default.htm>. See particularly

the "Healthy Community Design" and "Health Impact Assessment" links under "Health Issues as Related to Community Design" and "Key Resources" tab. See also the link "Active Community Environments (ACES)", an initiative to promote walking, bicycling, and the development of accessible recreational facilities.

[http://www.cdc.gov/nccdphp/dnpa/physical/health\\_professionals/active\\_environments/aces.htm](http://www.cdc.gov/nccdphp/dnpa/physical/health_professionals/active_environments/aces.htm). An ACES working paper that provides a comprehensive look at the relationship between physical activity and community design see <http://www.cdc.gov/nccdphp/dnpa/pdf/aces-workingpaper1.pdf>.

- See also the "Land Use Planning and Design" link on the webpage of the National Environmental Health Association at <http://www.neha.org/research/landuseplanning.html>.
- Another useful source of materials about activities and studies affecting local governments see the "Toolbox" link on the webpage of the National Association of County and City Health Officials, particularly those included in the "Healthy Community Design Toolkit" <http://www.naccho.org/toolbox/veritysearch/search.cfm?keywords=&p=Healthy+Community+Design+Toolkit%7C14&st=ALL&x=60&y=8>.
- See also the webpage of the Active Living by Design , a national program of the Robert wood Johnson Foundation that is a part of the School of Public Health of the University of North Carolina at Chapel Hill, particularly the features on "land use and zoning," <http://www.activelivingbydesign.org/category/topic/land-use-and-zoning>. The program aims to increase physical activity in daily life through community design, public policies, and communications strategies. Active Living by Design funded 25 community partnerships across the country to demonstrate how changing community design will impact physical activity.

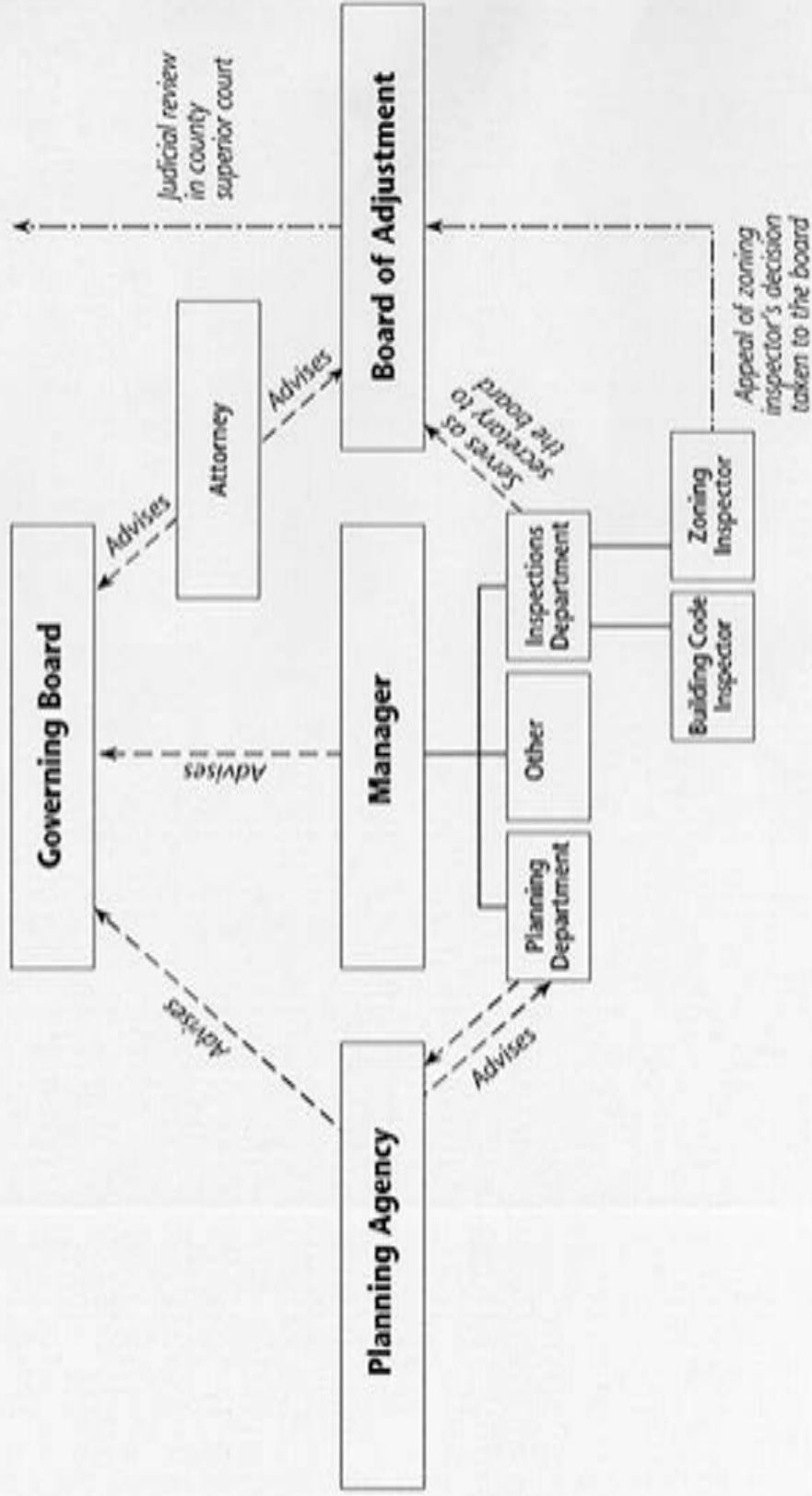
**Appendix**  
**WHO DOES WHAT: BOARDS, COMMISSIONS,**  
**AND STAFF INVOLVED IN COUNTY AND CITY PLANNING**

Agency /Entity	Primary Role	Other Possibilities
<b>GOVERNING BOARD: (county board of commissioners)</b>	<b>Legislative:</b> adopts ordinances, plans, policy statements, and budget; approves acquisition of land; makes appointments to other bodies	<b>Administrative/Quasi-Judicial:</b> may grant conditional-use permits, grant variances, hear appeals from zoning administrator, and approve subdivision plats
<b>PLANNING BOARD: (or planning commission)</b>	<b>Advisory:</b> advises governing board, coordinates plan preparation and public participation; recommends initial zoning ordinance and amendments; may advise on conditional-use permit and subdivision plat decisions made by governing board	<b>Quasi-Judicial:</b> may grant conditional-use permits & variances; may hear appeals of decisions of zoning administrator; <b>Administrative/Quasi-Judicial:</b> may approve subdivision plats
<b>ZONING BOARD OF ADJUSTMENT</b>	<b>Quasi-Judicial:</b> may grant conditional-use permits; may grant zoning variances; may hear appeals of decisions of zoning administrator	<b>Quasi-Judicial/Appellate</b> may hear (i) appeals of decisions of historic preservation commission; and (ii) appeals of decisions of housing code inspector
<b>HISTORIC PRESERVATION COMMISSION</b>	<b>Quasi-Judicial :</b> grants certificates of appropriateness <b>Advisory;</b> recommends designation of historic districts and landmarks	<b>Administrative:</b> may acquire, preserve, and operate historic properties
<b>APPEARANCE COMMISSION</b>	<b>Advisory:</b> advises governing board on matters of appearance	<b>Advisory;</b> advises other boards w/r/to development applications
<b>HOUSING APPEALS BOARD</b>	<b>Quasi-Judicial:</b> hears appeals of decisions of housing code inspector	<b>Advisory:</b> advises governing board concerning minimum housing code



<p><b>ECONOMIC DEVELOPMENT COMMISSION</b></p>	<p><b>Administrative/Advisory:</b> coordinates economic development planning, assists business development</p>	<p><b>Administrative:</b> may use federal grant funds to make loans for economic development</p>
<p><b>STAFF (planner, zoning administrator, manager, technical review committee)</b></p>	<p><b>Administrative:</b> prepares plans, administers zoning and other regulatory ordinances, prepares capital improvement program</p>	<p><b>Administrative:</b> approves subdivision plats</p>

# Organizing Planning and Land-Use Regulation in Local Government



## PLANNING, ZONING, AND LAND USE TERMINOLOGY

- A. Downzoning:** Amending the zoning ordinance in such a way that property may be developed less intensively or at a lower density than before.
- B. Vested right:** A right of a property owner or developer to complete a development project under the terms of whatever regulations were effective when the project was begun.
- C. Amortization:** A zoning technique that requires the owner of property that is nonconforming in some respect under the zoning ordinance to comply with the current terms of the ordinance by the end of a certain grace period.
- D. Regulatory taking:** The unconstitutional application of a regulation to property in such a way that it has the effect of confiscating all practical use of the property.
- E. Development exactions:** A requirement of development permission that the developer provides or pays for land or infrastructural improvements to be taken over and managed by a governmental entity.
- F. Impact fees:** A system of regulatory fees that is designed to allow a government to recover a prorated portion of the cost of the new community capital improvements and infrastructure made necessary by new development.
- G. Adequate public facilities criterion:** A regulation in a development ordinance that makes project approval contingent upon a demonstration that public facilities necessary to serve the project are or will be available when the project is completed.
- H. Transfer of development rights:** A land-use regulatory system in which the right to develop property can be separated or severed from land in a particular zoning district, sold or transferred to other property owners, and exercised in connection with the development of land in some other area of the jurisdiction (in a "receiving district").

**I. Special use district (SUD) or conditional use district (CUD):**

Establishment of zoning districts in which a use is permitted only upon the issuance of a special use permit or conditional use permit and in which property may be placed only in response to a petition by the owners of all of the property to be included.

**J. Planned unit development:** A comprehensively planned project with a master land development plan that exhibits a mix of housing types or land uses, that provides areas of commonly-held open space, and that preserves significant natural features.

**K. Cumulative zoning:** Zoning structured so that uses allowed in higher or more restrictive districts are also allowed in lower or less restrictive districts.

**L. Performance zoning:** Zoning based on standards that establish minimum requirements or maximum limits on the effects or characteristics of a use, defining what the community wants as an end result but allowing the developer choice in the means used to achieve that result.

**M. Floating zone:** A zoning district that is provided for in the ordinance text, but which may not appear on the zoning map when it is first adopted. The floating zone is typically "mapped" when a petitioner can show that the land meets guidelines and standards in the text for applying the district.

**N. Cluster zoning:** Zoning designed to allow the grouping of dwellings to increase dwelling unit densities on some portions of the development tract in order to leave other portions free from development.

**O. Overlay district:** A zoning district intended to be applied to land already subject to at least one other zoning designation.