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## What options are available for regulating mixed-use development?

**Paul:** **Euclidean zoning** tend to rely heavily on segregating uses with limited attention to design standards. The major disadvantages of the Euclidean ordinance are its lack of flexibility to address the particulars of a site and its surroundings, and that it does not prescribe precisely what is to be done, allowing for considerable uncertainty as to what the development product will look like. The result is frequently dysfunctional and disconnected areas.

**John:** **Performance zoning** is an alternative to Euclidean ordinances that avoids the use classifications and focuses instead on regulating outcomes -- the impact of the use. For example, rather than specifying a list of uses, performance zoning may describe the amount of smoke, odor, noise, glare, traffic, and visual impact of uses permitted in the district. Cities develop an intricate point system to evaluate development based on predetermined criteria. Drafting effective standards can be difficult as some standards are highly subjective, creating concerns of arbitrary application. Administration of performance zoning also may require more staff time than use zoning.

**Brian:** **Incentive zoning** is another option that is making a comeback. First introduced in cities like New York, Chicago, and Minneapolis, the process allows for increased density in exchange for public spaces or streetscape improvements. Cities have now added fee waivers, expedited review, and reduced parking in exchange for mixed-use development.

**Tom:** **Overlay zoning** is another popular tool for accommodating area- or site-specific needs. This is a special zone wherein some of the standards within the base district may be varied -- the underlying base zoning remains unchanged.

**Paul:** **Planned Development (PD) zoning** involves a negotiated development plan between a developer and the city. While the PD district allows flexibility for innovative design and deviations from the standard requirements, because the process is discretionary, there is considerable uncertainty for the neighbors, applicant, and the city as to what might be allowed on a site. The widespread proliferation of PDs has increased the complexity of regulating land uses.

**Robin:** **Type-based codes** specify standards for a few important elements such as building types, streets, and open spaces -- this approach offers a more predictable outcome than a PD zoning. Because PDs are an amendment to the development code, the extensive number of PDs found in cities are symptomatic of a flawed code.

### Form-based (typological) codes

Form-based coding is founded on the idea that a community's physical "form" is its most intrinsic and enduring characteristic. Form-based codes typically employ some or all of these documents: Regulating Plan, Building Envelope Standards, Definitions and Architectural Standards (optional).

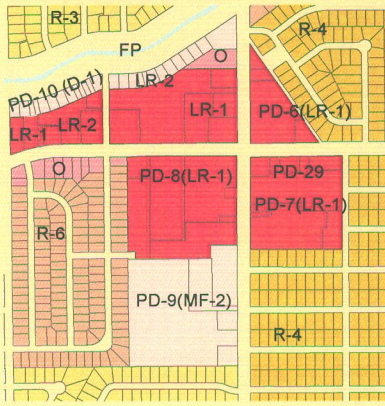
A regulating plan includes all proposed streets -- large and small -- and the blocks they define. True to its name, a regulating plan also includes other information used to regulate the build-out of the community. Such information includes include property lines that define each building lot, a "required building line," a "street tree alignment line" and other building envelope and setback lines that the underlying plan may require. Regulating plans also indicate the location of public parks, squares and greenbelts and the rough footprints of planned public buildings. The physical characteristics of each building type are summarized in a document known as the "Building Envelope Standards" that consists of a series of building cross-section

and plan diagrams with key dimensions and a short list of specifications. Certain information -- typically height, siting, elements, and uses -- is spelled out for each building type.

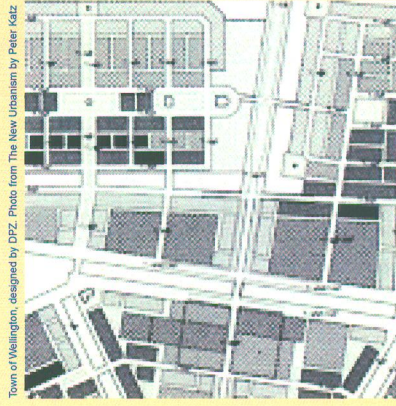
A third component of form-based codes is its glossary of definitions. By carefully referencing and then defining key physical elements of a plan and/or the buildings within that plan, the practitioners of New Urbanism hope to bring greater precision and clarity to the process of defining a community's built form.

Architectural Standards, a component of form-based codes do, in some cases, touch upon issues of style, but the adoption of such standards remains optional at the discretion of the community. The standards may include the regulation of roof materials and slopes, building materials and finishes, paint colors, window and door detailing and the placement of mechanical equipment.

-- Peter Katz, *An Introduction to Form-Based Development Regulations*.



Zoning map



Regulating Plan

### Conventional (Euclidean) Zoning

Segregates activities.

A zoning map establishes a range of alpha-numerical land-use designations that specify a list of allowed, restricted, and prohibited uses; and dimensional standards.

Controls land use with a high level of specificity.

Zoning designations are placeholders, seldom tied to a specific community vision. Each subsequent revision to the zoning standards makes the ordinance more abstract and complex, drifting it further from the community's vision called out in the master plan.

Proscriptive: prohibits development not consistent with code.

Typically text based and voluminous. The regulatory text and the tangible mathematical formulas are considered more legally defensible than diagrams or images.

Shows existing streets and blocks. Typically future roads and blocks are not addressed.

Typically includes open space requirement.

May be subject to discretionary review -- outcome difficult to predict.

### Form-based Codes

Unifies and connect activities.

Typically consists of documents such as regulating plan (a drawing that adds further details to what is loosely defined in the master plan); standards related to the form of the public realm; and in some cases architectural standards.

Establishes broad parameters for uses and allows market economics to function.

Regulations codify the physical form of a community based on a master plan.

Prescriptive: outlines what is expected of development, specifically the form of the buildings, streets, and public spaces, while permitting a greater flexibility in the use and activity.

Concise, and uses drawings, diagrams, and photographs that are readily understood by public, public officials, and professionals.

Includes all (existing and proposed) proposed streets (large and small) and blocks.

Indicates location of public parks, squares, and greenbelt, and rough footprints of planned public building.

The tight physical framework of the regulating plan is developed with public input. Because all expectations are stated up front in clear, concise, and easy to follow codes, the discretionary review is eliminated and the outcome becomes fairly predictable.

The comparison is inspired by writings of Peter Katz, Geoffrey Ferrell, and Mary Madden on development codes.

## What development regulations are important to the creation of an urban setting?

**Tom:** People are less concerned about the use and more concerned about the physical form. The Plano downtown code specifies a bounded maximum and minimum range for setback; requires a minimum  $\frac{2}{3}$  of the facade to fall within this setback; and specifies a minimum density of 40 units per acre to generate a critical mass necessary to promote retail and transit.

**Kevin:** In Irving, Dallas Area Rapid Transit's (DART) plan to connect to the DFW airport has generated interest and value along the corridor for high-rise multi-family housing. A transit overlay district was created that requires the ground floor to be designed to facilitate conversion from existing multi-family housing to uses that generate pedestrian traffic, such as retail, cafes, and personal service offices.

**Stephen:** Denton recently adopted a new code based on a platform of mixed-use neighborhoods and districts to replace a 30 year old Euclidian system. Setbacks and density standards, coupled with site design standards provide protection for existing neighborhoods while allowing flexibility of design to promote diverse housing and commercial uses within centers.

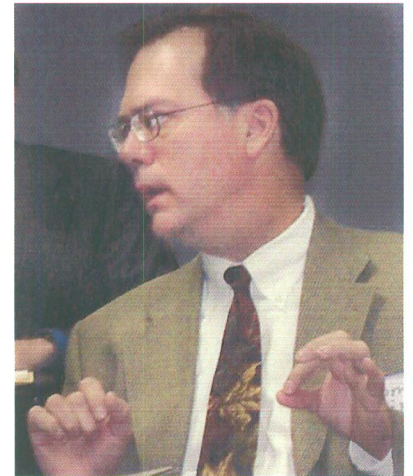
**Tom:** The downtown Plano area has a variety of street types that are safe, comfortable, and interesting to the pedestrian.

**Brian:** The code should require wider sidewalks in an urban setting where pedestrian activity will be greatest and where outdoor seating is encouraged. The width of the sidewalk should be determined based on location, context, and role with the area. In La Villieta, a master planned urban village in Irving, the developer specified a 15-foot wide sidewalk to accommodate utilities, amenities, and streetscape elements.

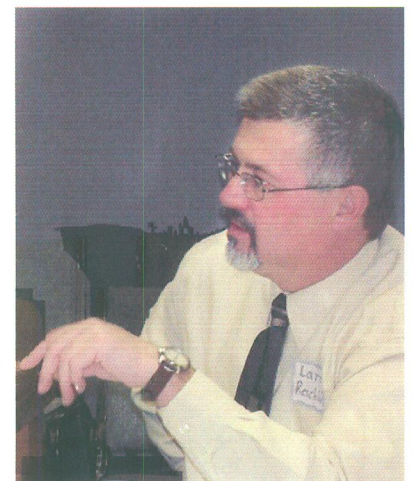
**Paul:** Excessive parking requirements create large parking lots that erode the livability of urban centers. Shared parking, and reducing or eliminating minimum on-site parking requirements promote transit.

**Tom:** In downtown Plano we had a traditional Euclidean parking standard, every time a tenant changed space, we were out there for three hours to figure out if the parking requirements have changed. The new code for the downtown allows available public parking to be credited towards required parking.

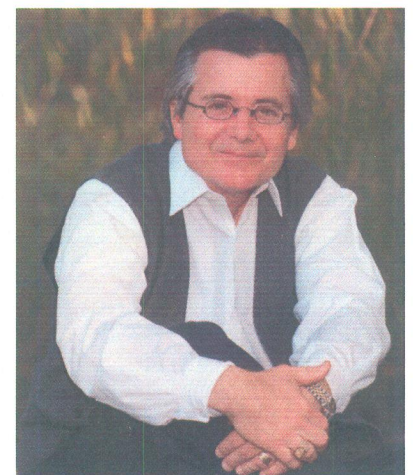
**Robin:** Locating civic buildings, such as city facilities, post office, school, or place of worship in visually prominent, central locations is vital.



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Types	Development Standards (19, 20)	Lot Widths Minimum (W) (1)	Lot Depth Minimum (D) (2)	Minimum Side Yard	Rear-loaded Covered Parking (3)	Off-Street Parking Spaces Per Dwelling Unit (3)	Garage Set Back (front-loaded) (4)	Maximum Height (H) (5)	Square Foot Minimum-Maximum Per Dwelling Unit	Gifts to the Street (6)	Porch / Depth Minimum (6)	Home Occupator Dwelling Accessory Unit	Prototypical Building Types
Multi-Unit House (Type 3)	60'-100'	110'	5	R (7)	1.5	5'	25'	850 - No max (14)	A	R/6'	A (9)	N	
Townhome (Type 3)	20'-30' (15)	none	5	R	2	n/a	25'/35' (16)	1100 - No Max	A	A	A (9)	N	
Courtyard Apartment (Type 3)	80'-180' (18)	none	10	A (3)	1.5	n/a	25'/35' (16)	750 - No Max	A	A	N	N	

A - Allowed

N - Not Allowed

R - Required

Gateway Planning Group/Townscape, Inc.

Housing Type Matrix from "Mills Branch" Code, Lancaster, Texas

Form-based codes facilitate the market- and neighborhood-based evolution of uses and housing types through an urban design structure. Ultimately, the urbanism sought from form-based codes falters if the resulting neighborhoods do not provide opportunities for families to "move up" without having to "move out." Accordingly, form-based codes should facilitate a mix of housing types within each neighborhood.

A robust housing mix also provides an effective means to envelope "starter" homes within the context of a neighborhood. By facilitating a mix, the market will generate a natural value enhancement. In other words, the relative scarcity of any given housing type within a neighborhood will necessarily elevate the values of all types, especially the smaller units on a relative per acre basis as they transition resell generation to generation.

In addition, form-based codes should utilize performance standards where feasible. For example, instead

of prescribing the location of neighborhood green space, the code can harness the genius of the design profession by establishing that a certain percentage of lots be located within a defined distance, such as 800 feet. That distance is the approximate maximum distance within which a home will realize a green space premium in terms of adjacency value.

Finally, the development of form-based codes should be predicated upon a transect-based master plan. The transect is a tool developed by Andres Duany to facilitate a gradient of urban design from the most natural to the most urban. The application of the transect to a planning area informs the structure and detail of the code within each particular sub-area, and it facilitates meaningful transitions through the various neighborhoods.

Scott Polikov, AICP, CNU, Gateway Planning Group

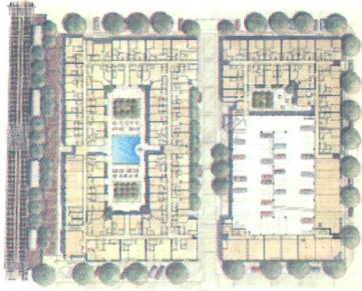


Photo courtesy of Womack + Hampton Architects, L.L.C.

### Downtown Plano Station:

A 3-story height and careful attention to architectural details for the building side that faces an existing residential neighborhood and a taller 4-story height for the sides fronting the downtown allow this mixed-use building to pack a very high density.

The City assembled the site and abated environmental contamination. The site was leased to the developer at a discounted rate. City assumed responsibility for the construction of off-site infrastructure serving the development. Development fees paid to the city were credited against the ground lease rent during the first and second years. The neighborhood park fee was waived.

## What incentives could the code offer?

**Robin:** The City should clarify specific expectations for granting incentives. The applicant must provide a significant value in return. For example if density bonus or parking ratio reduction is granted, what is the related specific public benefit? Public benefits could include commitments for an enhanced public realm (plaza, parks, streetscape improvements), cultural amenities (public art), social amenity (affordable housing, day care centers), mixed-use amenity (retail and restaurants), or environmental protection of sensitive land.

**Brian:** If the developer provides an amenity, incentives could be offered as a matter of right, or the specific details could be negotiated on a case-by-case basis between the developer and city. Either way, the financial value of the incentive should have to be equal or greater than the cost of providing the amenity.

**Larry:** If the city can get the amenity without the incentive, it would be better off. The incentive should ideally be offered where it is necessary to engage the private sector's cooperation. In Denton, the city is going to be improving the streetscapes when we see private investment occurring -- the incentive is "if you invest here you get a new street".

**Paul:** Procedurally, the city could consider processing conforming applications administratively rather than through a public hearing process -- such applications could be processed with priority over others with prior filing dates. Review fees could also be reduced.

## What's important to the design of the public realm?

**Larry:** In Denton, developments greater than 40,000 square feet in area located in an urban setting have to comply with additional site design standards, which include providing public spaces. One square foot of plaza or public space is required for every 10 square feet of gross ground floor area. Plazas and public spaces are required to provide at least 3 streetscape elements from a list that include benches, areas of shade, water feature, public art, and outdoor eating areas or food vendors. Additional design flexibility is afforded through the Alternate Development Plan process that allows creative projects to exceed the design objectives without meeting the specified standards of the code.

**Stephen:** Developers can be allowed to transfer development rights in return for public spaces.

**Paul:** Open space needs in a conventional suburban development are usually defined quantitatively, as a function of population or development acreage. The sole reliance on quantifiable numbers could result in large, misplaced open areas that are underutilized by the community or disparate, poorly located and poorly suited spaces that fail to meet the needs of the community or unique needs of individual neighborhoods.

**John:** Besides the streets and open spaces, the design of the public realm must also address the areas between buildings and configuration of the on-site parking lots. The code must specify and require the dedication of various types of open spaces to be designed to establish an identity or character for each neighborhood.

**Brian:** Open spaces, to be fully functional, should be easily accessible and be adjacent to meaningful destinations. Care should be taken that open spaces have visual supervision from fronting buildings. Dense, visually impenetrable planting creates the opportunity for crime.

## How do you strike a balance between flexibility and predictability?

**Kevin:** To accomplish the goals of the Comprehensive Plan the city staff wants more flexibility than conventional zoning allows; developers are interested in an expedited and predictable process; the design professionals want flexibility to be unique and innovative and don't want to be constrained with restrictive design standards; and the neighbors like certainty, not surprises. Any desired flexibility must be applied consistently in an equitable and uniform manner. The code must also establish clear standards and criteria for approval and offer all parties a reasonable timeframe for processing.

**Robin:** The Code must be able to respond fast to changing markets. Lengthy development processes could put the city at a competitive disadvantage.

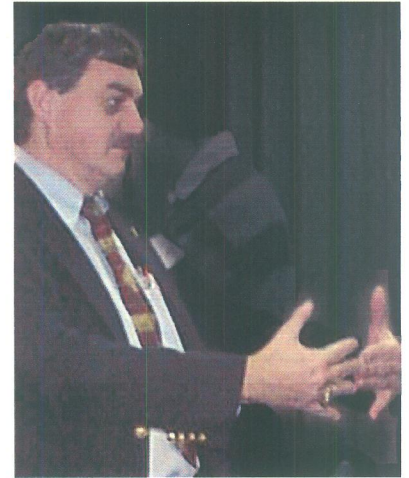
**Paul:** Most conventional codes offer a number of flexible processes. The PD district is an open-ended option that could allow an unspecified range of uses with flexible development standards. The PDs together with variances and special exceptions are more likely to upset adjoining neighbors that take solace in the frail certainty of status quo.

**Tom:** In mixed-use centers, use itself is less important than how it fits within the context of the neighborhood – the physical form must be more predictable.

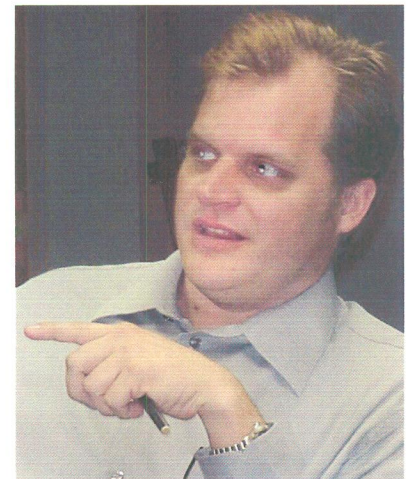
**John:** If a form-based code is established early on, with citizen participation in the formulation of a strong physical framework, because the discretionary public input was conducted upfront and all expectations are clearly stated early on, the development process becomes more predictable and less time is spent later on chasing approvals.

**Tom:** Conventional codes mostly focus on what cannot be done -- therefore the code is encyclopedic in scale. The downtown Plano code prescribes what can be done in a few pages -- its succinct but allows flexibility.

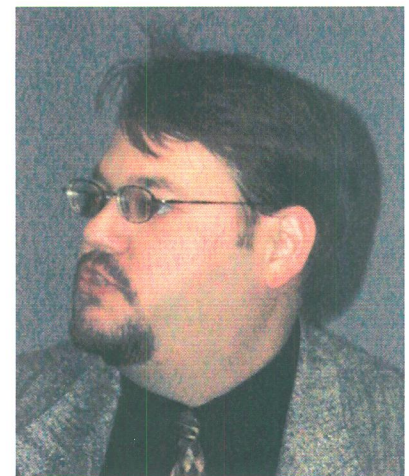
**Paul:** Simple and straightforward processes will be attractive to developers.



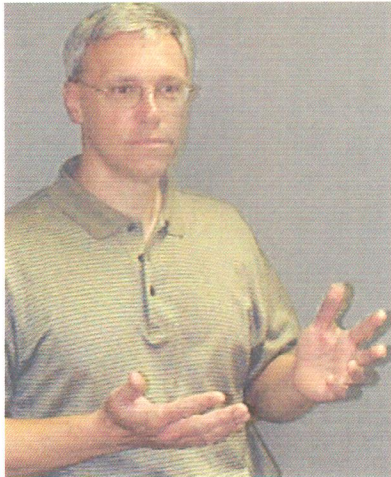
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## What process should the code offer?

**Robin:** The uncertainty of the development review process must be minimized and an expedited review process must be offered.

**Tom:** The review process must be kept to a minimum. Review the statutes and see what you have to do to expedite hearing dates -- shrink everything down to State minimums. Consider if you need site plans, and who usually reviews them. The majority of site plans in Plano are staff review only. We have a 24-day turn around time for plats and site plans, which are to be approved by consent. If you meet the requirements of the code when you submit you're guaranteed 24-day turn around. In Plano, you can start building under a preliminary plat. No reason for Council to review site plans -- 60% of all council time is spent on development cases.

**Larry:** The process should be streamlined for projects that comply with the code. Administrative approval saves time and money for all parties. If staff disagrees with what is being proposed by the developer, the developer should be entitled to due process -- in those instances the application can be forwarded to the Commission and Council for a hearing. To reduce process time, the Commission and Council should explore conducting joint meetings for major developments.

**Kevin:** In Irving, the focus is to get a project worked out at the development review committee level. Don't focus on going to Commission and Council.

**John:** In Forth Worth, the codes define the physical form we want development to take. The projects are then reviewed by a committee that understands the form.

**Tom:** Public involvement in site plan review raises the level of uncertainty. The normal person doesn't show up at the hearings. Why are we negotiating setbacks and architectural designs at site plan level? We should fix the code first.

**Stephen:** We conducted a visual preference survey where the residents and businesses told us the character of development they want to see in the city and are willing to be held up to those standards. We then coded those preferred images. We wanted to have an alternate development process for innovation so that when an architect comes in and proposes a project that is fantastic, but it doesn't meet our code, something new, show us, if it fits into our scheme, lets move forward.

**Larry:** Enact standards that are sufficiently clear and can be administered by staff without requiring discretionary board approvals. If you meet those standards, you get staff approval, otherwise you go through the entire process. You can offer that as an incentive to the developer. The developer knows that the proposal is going to be approved because that's the way the city wants to go.

**Paul:** Keep the process simple, fast, and generic -- away from long drawn-out discretionary processes.

The author wishes to thank Peter Katz and Scott Polikov for a number of insightful and constructive critiques.

Kaizer Rangwala is the Planning Director for City of Farmers Branch.