

NATIONAL PLANNING CONFERENCE

AMERICAN PLANNING ASSOCIATION



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Summary of sessions attended
Gregg Poppen



Busting silos through metropolitan planning

“Siloing” is the tendency within an agency to act independently from other agencies ... sometimes to the detriment of a program that might be better with collaborative effort. De-siloing or silo-busting integrates policy development and implementation across disciplines and across geographic boundaries.

Federal agencies reviewed grant applications jointly and met weekly with the aim of avoiding conflict and duplication. They identified problems that needed coordinated efforts and made public commitments to solve them.

Local agencies in St. Paul worked across disciplines and sectors as they developed light rail with federal money. Planning was a multidisciplinary process. Private-sector issues were addressed. Development codes and the need for housing were integrated into the process.

BASED ON CASE STUDIES, THIS SESSION ASSESSES THE PROGRESS H.U.D.'S REGIONAL SUSTAINABLE COMMUNITIES PROGRAM HAS MADE TOWARD BREAKING SILOS TO CREATE MORE SUSTAINABLE COMMUNITIES.

Sandra Rosenbloom of the Urban Institute in Washington, D.C., discussed improved relationships among HUD, DOT and EPA—federal partner agencies. For planning and spending through the TIGER 1 and TIGER 2 grants (Transportation Investment Generating Economic Recovery, part of the post-recession recovery program), agency leaders established joint review of regional planning grant applications and contracting. Personnel met weekly to keep channels open among the agencies and to ensure that conflict and duplication were minimized.

A basic test for a de-siloing effort: Did the program result in altered or augmented resource flows; new cooperative structures for decision-making; new approaches to problem-solving; and cooperatively developed new policies?

Those involved must work together to identify the problems that need to be addressed and then must commit very publicly to a shared program to solve the problems.

LisaBeth Barajas of the Metropolitan Council in St. Paul talked about regional wastewater and transit planning—development founded on grants from HUD and from the Living Cities and Corridors of Opportunity mass transit programs. The goal was to advance “system change” with broader participation by agencies and more-inclusive decision-making. Those involved wanted to integrate the planning process across disciplines and across geographic boundaries—e.g., by bringing in engineers and land use planners to address issues together, rather than in sequence or separately.

Leaders of the effort tried to institutionalize planning and engineering “best practices” as standard practices.

The silo-busting example was the planning and development of Southwest LRT (light rail) in St. Paul. A “corridor-wide vision” for the rail line included outreach to the corporate world, particularly to ascertain their transit needs. Corridor-wide development tools (i.e., development codes) were used to further the transit objective while preserving community values. Planners, private entities and government leaders committed to a housing inventory and housing development strategy that went along with planning for the light-rail transit infrastructure.

Innovative community financing: public-private partnerships

Many municipalities are raising revenue the conventional way: boosting property tax levies and selling ad space on buses.

Some are engaging in public-private partnerships (often called “P3s”) in areas such as long-term leases on public infrastructure: e.g., leasing a toll highway.

Public-private financing is being used to enlarge housing stock, especially around the goal of creating affordable housing. The results for private developers are mixed.

Large P3s are boosting economic activity in some areas, such as in an Illinois research park that involves state government, a university, a private developer and a management/marketing entity.

HOW CAN YOU TAP INTO PRIVATE FUNDING FOR PUBLIC PROJECTS? EXAMINE CREATIVE WAYS COMMUNITIES HAVE MOVED PROJECTS FORWARD USING PUBLIC-PRIVATE PARTNERSHIPS.

Nearly 300 Illinois municipalities were surveyed on their fiscal conditions. Most thought conditions are improving. Forty percent had raised property tax in the past year; many had boosted water and/or sewer rates. Many reported bringing in ad revenues, such as for display ads on buses or on other municipal assets.

Marc Doussard of the University of Illinois outlined transportation infrastructure as a source of municipal revenue. Some cities are “selling” mature infrastructure assets, rather than engaging in design/build partnerships for development. Chicago sold, to a private company, a 99-year lease on the Skyway, the toll freeway to northern Indiana. Chicago similarly sold metered parking and offstreet parking.

A problem can arise: privatization brings a big lump sum but forgoes long-term revenue. Privatization also shifts interest in the infrastructure from the transportation department to the revenue department—and the two entities’ policies and goals aren’t necessarily compatible.

Andrew Greenlee of the University of Illinois talked about the prospects and pitfalls of public-private housing development, based on Chicago’s effort to create mixed-income housing.

A chief goal was to alleviate concentrations of poverty. Other goals were to produce “high-quality developments” and to address the shortage of affordable units through a cross-subsidy of affordable units by market-rate units.

He said Chicago used a third-third-third formula: development should include a third each of market-rate, of lightly subsidized and of publicly subsidized units.

He said 38,000 housing units were involved; more than 20,000 were demolished; nearly 10,000 were rehabilitated; and more than 3,000 new mixed-income units were built. The program was financed by Fannie Mae and guaranteed by MacArthur Foundation; debt service involved tax increment financing (TIF) by the city.

Greenlee said some developers of the mixed-income housing went bankrupt, unable to sell enough market-rate housing to subsidize construction of affordable housing. The overall program led to some overbuilding and competition with private housing developments.

Laura Frerichs, director of the University of Illinois Research Park, said the state of Illinois wanted to foment economic development and commercialization of technology in a research park. The U. of Illinois didn’t want to finance development or commit to occupancy, but did allocate 200 acres of suitable land (the state’s contribution). The research park is primarily privately funded and is marketed by a management corporation (UIRP), via an operating agreement. In the master developer agreement, the developer committed to building at least 120,000 square feet of leasable area on spec every three years and UIRP works to fill it. The university involves its faculty and students in the tenants’ research and development.

Addressing development entitlements

The housing crash of 2008 aggravated problems with premature, obsolete and distressed (or “zombie”) subdivisions.

Some municipalities require development agreements even before plats are approved and recorded.

Vacating unsustainable or unsuccessful subdivisions can be legally and procedurally difficult; ordinances and careful administration by planners can help.

Comp plans should address the balance of land use and market demand. Development agreements must be exacting. Financial feasibility with respect to market demand can be a valid criterion.

EXPLORE VARIOUS ISSUES SURROUNDING DEVELOPMENT ENTITLEMENTS HIGHLIGHTED IN A RECENT FOUR-YEAR STUDY CONDUCTED BY THE LINCOLN INSTITUTE OF LAND POLICY AND THE SONORAN INSTITUTE.

Jim Holway of the Sonoran Institute in Phoenix looked at subdivision problems involving development entitlements that don't result in productive land use. (These are especially acute since the land-development crash of 2008.)

Premature subdivisions occur when development entitlements exceed market demand and the land use as proposed is unfeasible. *Obsolete subdivisions* result when development doesn't occur and the entitled land use is effectively precluded by financial issues, code changes, environmental factors, etc. *Distressed subdivisions* are incomplete, stalled developments, which can affect land values and can force the municipality to maintain infrastructure without compensating tax revenue.

He said some Arizona cities have required subdivision commitments before platting is approved: development agreements are made part of plat approval. Failures in development can result in vacating of the plat and subdivision. He said entitled but vacant subdivision lots in western U.S. municipalities range from about 15 percent to 68 percent (according to an informal survey).

The key challenges in addressing subdivision problems:

- Lack of authority on the part of the municipality: a code issue;
- Lack of foresight: a planning issue;
- Unsustainable fiscal impacts;
- Lack of regulatory tools and consistent application;
- Inadequate assurances of development per entitlements.

Kathy Rinaldi, a planning commissioner in Teton Valley, Idaho, said her city of 10,000 people has endured “40 years of boom and bust” and many of its 9,000 platted lots are in doomed subdivisions.

She said development agreements were involved in subdivisions, but that developers wrote them to their advantage. Lot sales were needed for infrastructure. There was little to no oversight by the city.

She said new development ordinances require infrastructure to be in place before a subdivision plat is recorded. A new re-plat ordinance requires a developer seeking relief to show a “significant decrease of impact.” Teton Valley can file a notice of non-compliance. Many subdivision plats have been vacated for lack of action. Some developers contested this action, arguing they were vested with water systems or other infrastructure.

Don Elliott, a professional planner, said comp plan language should address how to avoid entitling development in advance of market demand.

A development agreement template: a timeframe for development; provisions for the lapsing of approval; phased sale provisions tied to a percentage sale of phases; and installation of infrastructure

He recommended market feasibility study, based on documented historical building rates and patterns, not on lot sales.

He would add criteria for subdivision approval related to the inventory of existing lots within a certain number of miles and the distance between proposed subdivisions and existing roads and

Creating an investment environment to revitalize downtowns

Reversing out-migration from the city core, which started with housing, also starts with housing stock.

Creating and sustaining activities that bring people downtown is indispensable to residential and commercial development.

Public participation is essential and takes forms from land assembly to financing or backstopping investment.

Find out what the community wants. Market aggressively. Build around a community—e.g., artists.

Historic preservation is a job engine and expresses community values.

WHAT ARE THE ISSUES THAT TYPICALLY FEED DOWNTOWN DECAY? WHAT ARE THE MOST WORKABLE SOLUTIONS TO THIS PERNICIOUS PROBLEM?

Robin McCaffrey of MESA Planning in Dallas said out-migration of housing, commercial activity and employment from city centers to suburbs has gone on for decades. Revitalization of downtowns reverses the order, with residential development first.

The “land product” and investments in the core offer values to owners, developers and tenants.

Activities in a downtown area are critical: they create demand for residential uses and commercial siting follows. “Duration of stay” is a crucial factor: Longer stays in a community (or in a neighborhood of a larger city) increase retail opportunities for investors; longer stays also bring in hotels.

A public component must underpin development. Planners and developers should identify “catalyst projects” that capture and express the value opportunity. The public entity must seek partnerships whereby public investment induces private financing. Some municipalities use “land assembly”—collecting developable land. Some offer buy-back guarantees. Some act as “master landlord” for a composite development.

Weiming Lu, a professional planner, outlined development of St. Paul’s Lowertown, a Mississippi River landing left behind as railroads took over. The city used a McKnight Foundation grant to plan and catalyze redevelopment. The goal was to generate \$100 million in investments; to create jobs; and to add housing stock through public-private partnerships. The subtext: Don’t just create projects—create a community.

A marketing campaign for Lowertown Revitalization was introduced. Community surveys were conducted. Gap financing was introduced, with the project as the funder of last resort. Financing guidelines were established.

The first project was housing to attract artists; 25 units were in the affordable class. A building was rehabbed for senior housing; developers applied for federal rent subsidies. Art organizations moved in and more than 500 artists now live in the area. The project put in neighborhood amenities: parks, play space, etc. Buildings were restored for galleries, art schools, cafes and retail spaces. Lowertown became a cyber village with fiberoptic links, servers, etc. Preserved historic buildings were retrofitted for energy efficiency. The project led an effort to buy an abandoned railyard, converting it to a nature sanctuary and donating it to the city.

Bonnie McDonald of Landmarks Illinois said historic preservation projects create more jobs than does new construction. But small communities have greater difficulties in revitalizing their downtowns. They must build on cultural and value assets, especially historic buildings.

The Main Street program and principles are used in many places. Tax credits for development of historic properties are useful. Comp plans can address historic districts. USDA Rural Development funding has been important. One town on the Mississippi River developed a list of “Core Values of the Community” and wove historic preservation into all six core values.

Investment ready places

Migration to small cities is under way, typified but not limited to the “technomobile.” Those drawn to small cities want to live in walkable, bikeable communities.

Investment ready places have a number of features that make them attractive and livable, from food production to a vital civic culture.

One nonprofit group undertakes to school mayors in current design principles.

“Regenerative culture” can be abetted by placing collegians in particular study areas into business, finance and government.

“Nurtured traits” in communities range from thrifty use of resources to the discarding of ineffective methods—akin to the traits that successful businesses use.

THE CREATIVE TOOLS AND PRINCIPLES THAT SMALL TOWNS AND RURAL AREAS IN AND BEYOND PENNSYLVANIA HAVE ADOPTED TO REVITALIZE THEIR COMMUNITIES.

Atul Sharma, a private planner in Washington, D.C., discussed gateway cities; suburban cities; and small cities in the U.S. He said suburban settlements are not sustainable as they have developed. A migration is under way to walkable small cities, abetted by “technomobility”—people’s capacity to employ themselves and/or operate businesses based on the Internet.

He said investment ready places (IRPs) have these features: sources of local food production; a stable water source; a walkable, bikeable infrastructure; connections to other cities via highway or railroad; access to technical knowledge, whether that’s software or specialized production such as breweries and small manufacturing; and a cohesive, active civic culture.

Sharma curates an “IRP locator” web site that has an IRP checklist for development.

Radhika Mohan of the Mayors Institute of City Design addressed municipal leaders’ role in revitalizing cities. He said his group, founded in 1986 in Charleston, is affiliated with the National Endowment for the Arts.

Its goals are to educate mayors on design language and principles; to ensure that mayors understand the design process; to generate ideas and solutions; and to help civic leaders create beautiful places.

Mohan said mayors early on proposed design cases related to particular parcels. As time went on, mayors brought in more projects related to development corridors and integration of multimodal transit. Participating mayors’ goals came to include code reform.

Scott Ford of Community Investment in South Bend, Ind., talked about creating a “regenerative culture” of entrepreneurship within a high-capacity built environment. His program embeds “intrapreneurs” from Indiana colleges in business, finance and government. A sample project: technologically advanced sewer/water monitoring to improve efficiency and manage costs in municipal systems.

Joseph Nickol of Urban Design Associates in Pittsburgh outlined “inherited traits” and “nurtured traits” in businesses and communities.

Favorable nurtured traits include:

- Thrift: pragmatic use of what’s available;
- Innovation: constant tinkering to improve systems and processes;
- Adaptivity: flexibility, nimbleness and quickness;
- Discovery-driven planning: using real-time market research;
- Stickiness: holding onto positive results and discarding ineffective methods.

Nickol said new rules are needed for the new frontier of community development. These include: making many small plans to realize extraordinary performance; maximizing interactions and multipliers to get the most out of small successes; and designing for both known and unknown possibilities.

Legal framework for the planning commission

Notice requirements must be fulfilled and evidence should be in the hearing record.

Absence of bias must be assured.

Ex parte communications can be a danger area. Independent site visits are to be avoided; group site visits are OK if public notice is provided.

Strict procedures for quasi-judicial hearings must be followed and track with common judicial procedures.

“Taking” claims are costly to those who make them. Variances to design standards can provide alternatives to rising taking claims.

C. Gregory Dale, an attorney in Cincinnati, summarized legislative and quasi-judicial functions of the planning commission and outlined due process related to hearings.

Notice requirements must be fulfilled; it's a good idea to enter the notice into the record with an eye on appeals. Public notice includes publication in a newspaper; posting a sign on the property; and mailing a letter to property owners near the application.

The commission must be unbiased. A commissioner must not have a financial interest in the issue; must not be related to the applicant or opponent; must have no conflicts of interest; and must not be subject to recusal issues. Thorough review of the application packet in advance is necessary to ensure these standards are met.

He stressed dangers of ex parte communications on the part of commissioners. Citizen contact with a commissioner should be divulged.

The attorney warned of site visits by individual commissioners; they can lead to decisions based on information that other commissioners may not know. A site visit by commissioners should be advertised to the public. Anything learned on the site visit should be disclosed at the outset of the hearing. Courts have overturned commission decisions based on ex parte communications such as on-site communications with an applicant.

Even staff reports can be ex parte, especially if delivered just before a hearing. If submitted to all parties several days before hearing, that should be OK with a reviewing court.

For quasi-judicial hearings, there is of course the opportunity to present evidence. Testimony should be under oath; swearing witnesses individually rather than en masse is preferable for the record. Allowing for cross-examination is preferable to complete the record, especially for reviews on appeal. Opportunity to rebut testimony is preferable—as in applicant, then opponent, then applicant.

When it comes to lay witnesses versus expert witnesses: experts may provide opinions (touching on safety, engineering, areas of special knowledge); lay people may testify on facts, neighborhood character, impacts and the like. Petitions are not evidence and may not be used in deliberations.

The hearing results in a written order and findings of fact with conclusions of law. The decision must be based on “competent, substantial evidence”—not on emotion.

Dale summarized “taking” theory—government’s denying rightful use of private property ... as in “private property shall not be taken for a public use without just compensation.” He said it is very difficult for a private property owner to succeed in a legal case based on a taking claim. The process is expensive and time-consuming,

The plaintiff needs to show what was lost: What is the “delta” between what the property owner thought could be done with the property and what the owner has now? Cases hang on points such as physical intrusion (installing cable TV) or denial of all use (a beach lot owner denied development of a second house).

Variances can provide a safety valve, reduce risk of taking claims.

Building a small business ecosystem

Pursuing “big game”—the big employer—is outmoded economic development. What’s needed is retention and expansion of existing small businesses.

A community’s businesses must be interconnected with each other.

Training opportunities are primary; providing delivery space may be indispensable.

A county that lost its single largest job generator developed a plan that reduced “leakage” and promoted responsiveness to consumers’ needs and civic interest.

An economic incubator in a mid-sized city is proud to think small, bringing existing vendors together thematically and making in-town shopping more convenient.

THE CHALLENGES THAT SMALL-BUSINESS OWNERS FACE AND THE STRATEGIES THAT PLANNERS CAN EMPLOY TO HELP THEM SUCCEED

Della Rucker, a planner with Wise Economy Workshop in Cincinnati, works in historic preservation and economic development. She said economic development too often focuses on “big game”—big employers and industries. There’s growing recognition that communities need to improve on retention and expansion of small business. Average business size in the U.S. has decreased 20 percent in a decade, to 15 people.

Old-style economic development was like making paper: dump in raw materials, tweak the rollers and pull off the end product. In economic development, dump in money and tweak the process with incentives and approvals—e.g., TIFs and zoning.

The new model is based on interconnectedness. Businesses must be knitted together. Training is a primary aspect. Economic development people can integrate training resources with those who need them. Space for delivering training and some modest resources may be all that’s needed.

Taylor Stuckert of Energize Clinton County in Wilmington, Ohio, described a town of 13,000 whose airport was the primary job generator. DHL invested hundreds of millions to upgrade it as a shipping hub. DHL closed U.S. operations in 2008 and 10,000 airport jobs were lost in Clinton County. Wilmington had neglected its economic ecosystem and relied on one big employer.

Wilmington devised a response developed in and controlled in the community. Leaders considered financial inflow and outflow. Leakage from the community wasn’t seen until DHL closed. This included the brain drain of young people leaving town; energy costs; and outside purchases. Small businesses in Wilmington weren’t integrated with each other and operated inconveniently. The community pushed a Buy Local First campaign and branding. Surveys and email gathered consumer info. Posters and email pushed the brand. Energy usage was addressed and Wilmington built a solar energy field. A farmers market was established. Wilmington studied site plans for food production and processing. The city addressed unused and under-utilized buildings and drew up development concepts. Wilmington created a fellowship program for high school grads aimed at bringing them back as leaders.

Carolyn Dellutria is director of Downtown Evanston in Illinois. The community created an economic incubator, the Technology and Innovation Center, with Northwestern University and Rotary International. The downtown district created a gift card for businesses (Store International, MC-based) and a mobile app.

The incubator is a partner with the chamber of commerce, business associations and others. Working principles: define your roles and understand each other’s strengths; meet with business owners in the district; create events where business owners work together; use after-hours meetings to bring them together.

Downtown Evanston created a “wedding cluster” involving five hotels, a florist and a recruited bridal gown maker that had been selling only online. Downtown Evanston produced the “Wedding Walk” event and carried prospective brides to vendors by van.

Jobs, jobs, jobs: planning and economic development

Chicago used tax increment financing (TIF) to boost economic development. Public investments were made after weighing proposals against strict criteria.

San Jose boosted business by linking the offices of economic development, planning and city administration. Incentives brought in public resources.

Denver created a non-municipally funded consortium on the principles that vicious competition hurts and that a rising tide lifts all boats.

HOW ARE PLANNERS IMPACTING ECONOMIC DEVELOPMENT? CONSIDER THAT QUESTION AND EXAMINE HOW INFRASTRUCTURE INVESTMENT CAN TRANSFORM A CITY.

Jim Horan of Chicago conducted a study of tax increment financing (TIF). The city of Chicago developed an economic development plan, where it had none before. Planners identified “10 transformative strategies” addressing manufacturing, transportation, tourism, entertainment and other economic sectors.

Prospective developers were judged on their track records; likely return on investment; jobs to be created; the public benefit; and adherence of the proposal to the Chicago economic development plan. Local hire of at least 51 percent became a condition.

Public investments included:

—Accretive Health ... \$1 million in building infrastructure, \$5 million in training for health-records jobs / a cost of >\$6,000 per job;

—Coyote Logistics ... TIF investment in training / a cost of >\$6,000 per job;

—Federal Savings Bank ... Training / a cost of >\$9,000 per job.

Joseph Horwedel of the San Jose planning staff said the city used hundreds of millions of TIF in downtown redevelopment. San Jose has been bedroom community and wanted to increase the percentage of residents working within the city. San Jose focused on attracting immigrants and young professionals.

The Green Vision invested in new green jobs along with building or retrofitting 50 million square feet of structures in “green” standards.

The economic development manager, planning director and city administration together. The city lowered the “traffic impact” fee for new construction of offices and manufacturing. Bureaucrats got out to consult with developers, financial institutions, etc. A “special tenant program” offered incentives for new construction. Five-year utility tax rebates were instituted. Samsung invested \$200 million in a project that brought in \$7 million in public investment.

Thomas Clark of Metro Denver Economic Development Corp. runs a non-governmental group spanning 70 cities and 9 counties. It’s privately funded and has no elected people in its leadership. Members “pay to play” on the board—\$25,000 or \$10,000 per year.

After Denver’s oil and gas bust in the mid-1980s, there was a 30 percent office vacancy downtown. Cities competed vigorously for new businesses. Seeing that model failing, municipalities and businesses established Metro Denver First. A code of ethics was written and collaboration was enforced. The foundation was that what’s good for one city or county is good for all—that the metro system is integrated.

Smart codes

Well-laid form-based codes can transform city core spaces to increase economic activity and livability.

“Transects” across urbanized areas can use organically derived smart codes to redevelop land in ways that suit the community.

Smart codes can initiate development standards such that approval “by right” takes the place of an onerous “may I?” basis.

Infrastructure development can incorporate environmental and social overlays as well as functional factors.

MIAMI AND MONTGOMERY HAVE HAD FORM-BASED CODES IN PLACE FOR MORE THAN FIVE YEARS. HOW ARE THESE CODES WORKING?

Victor Dover, a private planner in Florida, talked about the transformation of an auto-oriented downtown area of Kendall, Fla. Regulations for downtown Kendall included street types, arcades, habitable space facing public space and open space. Codes guided building heights and oriented architecture toward walkability. Where parking lots had fronted on the street, new development put attractive retail along the walkway and placed parking out of sight.

After years of smart codes, residential value comparisons showed that downtown core values increased markedly over values outside the core.

Emily Talen of Arizona State University, former director of the Urban Phoenix Research Lab, discussed transect codes and how they can result in a mosaic of development, rather than a linear system of urbanized to suburban land uses. She said transit is a linchpin in transect development; in some urban areas, planning for light rail becomes pre-eminent.

Application of codes along transects should consider the “DNA” of each zone and establish urban intensities that express the best types in each area. Code criteria should follow those guidelines.

Regional center development (RCD) aids in correcting “urban sprawl.” This system blocks out areas needing special attention and informs the land use mix.

“It’s all about patterns, about knitting together a land use mix that fits the community.”

Chad Emerson of Montgomery, Ala., summarized the Downtown Montgomery Plan. Smart codes helped developers by easing the development approval process. The city adopted smart codes citywide.

“Know what you are and be that. Know what you have and build that.”

Dexter Avenue was a major street that had declined over the decades. It revived under smart codes and attention to economic development. New city code allowed a “by right” route to development approval, as opposed to the former “may I?” threshold.

Paul Crabtree, a civil engineer, said infrastructure is too often considered only in functional terms: e.g. parking lots, flood control.

He said environmental and social layers can be important in determining appropriate siting of infrastructure.

Environmental factors include topography, bedrock, drainage, fluvial action and the water cycle.

Linking urban design, historic preservation and public space

Hartford, Conn., unified planning efforts across many municipal areas and built on form-based codes.

Development side rails emphasized features such as the need for affordable housing.

Transit corridors became focuses of development.

PLANNING AND THE LAW CAN ADDRESS URBAN DESIGN CHALLENGES WITHIN HISTORIC DISTRICTS.

Roger O'Brien, a private-sector planner in Hartford, Conn., said Arlington County's form-based code was based around transit stops and mixed-use nodes. The code emphasized diversification of development and allowed speedier approval of development proposals.

The county is pursuing "corridor" financing of light rail. Hartford's core was developed around auto traffic; a capital, the city was aligned to be convenient "for legislators to get in and get out quickly."

Planners saw that rents in the urban area were increasing ahead of the pace of incomes. A revised comp plan and form-based codes extended farther from the major transit corridor. Form-based codes now reach into neighborhoods and conservation areas in order to preserve some affordable housing—as in garden apartment-style developments.

A program called Hartford Renaissance was essentially "one city and one plan" and integrated communities that previously developed under a multitude of planning programs.

Mixing it up with non-conforming uses

Registration of nonconforming uses can lead into a program of amortizing them: giving property owners some time to recover value before the use is abolished.

NCUs are in some places socially valuable in increasing affordable housing.

Conformity can be overdone and lead to homogeneity.

Judgment about the degree of nuisance embodied in the NCU is a criterion for deciding the time allowed in amortizing the use.

EXAMINE THE TREATMENT OF NONCONFORMING USES IN TRADITIONAL ZONING ORDINANCES AND EXPLORE WHY NONCONFORMING STRUCTURES CAN BE POSITIVE CONTRIBUTORS TO THE LOCAL ENVIRONMENT.

Susan Connor, an attorney, suggested use of a registration process to track nonconforming uses (NCUs) administratively; the goal could be to amortize the NCUs. She quoted a bromide that “nonconforming uses are harmful only when viewed by zoning enthusiasts.”

She said relaxing provisions about NCUs can help in providing affordable housing in a well-developed neighborhood—e.g., allowing retrofitting of garage structures as housing.

Deborah Rosenthal, an attorney, discussed some of the foundations of zoning codes related to separation of uses, uniformity of uses and uniformity of design. She argues that demanding uniformity of uses in an area can preclude social diversity and restricts access to walkable services. She cited codes that stretch to allow second-unit rental development, such as in Southern California communities.

She said commercial uses in residential areas, such as small stores, although nonconforming, provide important community gathering places. NCUs also provide visual diversity in otherwise homogeneous blocks.

She urged identification of some NCUs that are positive and preserving their uses via conditional use permits. She said some historic districts allow NCU overlays.

Gregory Dose, an attorney, focused on amortization to phase out NCUs: time allowed for a property owner to maintain the use while recovering investment value. He said courts have validated that posture.

The time period allowed is the big issue. Courts have addressed this by weighing the time needed to recover value versus the degree of nuisance the NCU embodies. An adult-oriented bookstore and an auto salvage business are subject to different criteria.

NCUs can affect property transfers and endorsements of “legal” NCUs by planning departments can allay concerns of buyers, lenders and insurers.

Current issues in planning for commissioners

Residential housing is recovering slowly from the 2008 crash, but untypical demographics are coursing through the population and need attention from planners.

Zoning tends to favor uses that produce the greatest tax revenues amid the least demand for public services.

Form-based codes are on the rise and are improving property values.

Transit-oriented design (TOD) is increasingly influential.

Planning commissioners and planning staffs should follow fundamentals of responsibilities and of creating the record.

COMMON CONCEPTS, CRITICAL ISSUES IN THE PLANNING LANDSCAPE.

Robert Burchell, Clinton Andrews and Anton Nelessen are with the Center for Economic Research at Rutgers University. They reviewed demographics and economics that will influence housing development and zoning in coming years.

The residential housing market is recovering from the 2008 crash, but values average 27 percent less than that peak. Short/distressed/foreclosure sales are about a quarter of the market.

The hottest market is in rental multi-family housing, but single family residential is improving due to increased mortgage lending.

Half of U.S. population growth 2000-2010 was immigration, half was natural increase. Multigenerational households (MGH) are 16.2 percent—greatest since the 1960s. The elderly and the childless will create 90 percent of household growth in coming years. More women than ever are breadwinners or co-breadwinners and they will influence domicile choices to an unprecedented extent.

Local governments tend to zone for uses that produce the greatest property tax revenues against lesser demand for public services such as schools, streets, cops, etc.

Form-based codes are supplanting conventional codes nationwide. They guide design and create more property value.

The presenters outlined methods of calculating the need for affordable housing; those who are “cost-burdened” pay more than 30 percent of their incomes for housing. Housing in need of rehabilitation usually runs to 3-5 percent of existing stock.

They discussed common issues related to transit-oriented design (TOD). Transit hubs within a quarter-mile of housing are considered to be within a walkable radius (ca. 5 minutes’ walk).

Parking lots defeat urbanism. Remove parking from a quarter-mile radius or develop parking buildings with mixed-use design: e.g., retail along the street, parking above.

Joseph Burgis, a private planner in New Jersey, talked about how planning commissioners and staffs can build good decisions.

Expert testimony to the decision-makers (and staff reports) should make the complicated simple, not the simple complicated.

Fundamentals of good expert testimony:

—Know the audience. Speak to interested citizens and opponents who will listen. Reflexive opponents and gadflies can be addressed outside the hearing. The hearing record should consider the court that will review the decision if appealed.

—Identify issues. Detail solutions. Winnow the options and help the commissioners make a decision.

Planning staff responsibilities:

—Establish the record: zoning/the master plan/surrounding development/site conditions.

—Synthesize the testimony of experts

—Set the framework for commission action

Commission responsibilities:

—Set out the basis for the decision and build a case around it.

—Indicate how the negative criteria have been addressed.

PLANNING COMMISSION

8. A.

Meeting Date: 06/11/2013
Resolution #: 3824

STAFF REPORT

Title: 13-037 Such Major Variance
Case Manager: Jonathan Lappin, A.I.C.P., Associate Planner
Approved for Submittal: Dr. Tom Williams, Planning Director

Information

REQUESTED ACTION

Major Variance to Allow a Detached Garage to be Constructed and Encroach up to Ten Feet into the Required Twenty Foot Rear Yard

PROJECT DATA

Property Information			
Owner	Dennis and Gina Such	Applicant	Owners
Location	3349 S. Tongass Highway	Zoning/Overlay	RL
Access	S. Tongass Highway	Site Area	20,658 square feet
City/Service Area	S. Tongass Highway	Utilities	KPU/ private
Procedural Information			
Application Date	05/13/2013	Agency Notice Date	05/23/2013
PON Date (# sent)	05/24/2013 (83)	Legal Notice Date	05/25/2013
Notice Distance	1200 ft.	Site Visit Date	5/31/2013
Identifying Information			
Survey, Lot, Block	Lot EE-1 of the Aurum Nugget Replat		
Parcel Number	70-2230-078-001	Customer Number	60096