

Chapter 3

Land Use

A. OVERVIEW

Cities that have emerged through rapid and unplanned growth are now experiencing the effects of their negative growth patterns. Residential, commercial and industrial projects that grow rapidly and are unplanned propagate traffic congestion, water and air pollution, high real estate taxes, and the irreversible loss of open space, character and identity. Only through long-term careful land use planning and wise decision-making can those issues be mitigated. In urban planning the efficient and logical arrangement of land uses is fundamental to the protection of the public health, safety and general welfare of the community.

Zoning ordinances were first established to protect public health and safety by ensuring that urban residents had access to light and air. Maintaining community character was not at the forefront of early zoning ordinances. Early in United States planning history, land use control was the responsibility of the court systems. The notion that slaughterhouses and residences don't make good neighbors had to be determined through public nuisance litigation. The first modern, comprehensive zoning ordinance was enacted by New York City in 1916; it grouped similar uses and mapped residential, commercial and industrial zoning districts. In 1926, the U.S. Supreme Court in the landmark case of *The Village of Euclid v. Ambler Realty Co.* upheld the validity of zoning laws. This ruling, legitimized zoning as a proper use of police power by municipalities and the practice of crafting zoning ordinances that addressed the fundamental elements of height, bulk and use and relies on the strict separation of incompatible land uses became known as "Euclidian" zoning. This approach to zoning was deployed in federal legislation (Standard State Zoning Enabling Act¹) that was proposed as a model for enabling zoning legislation that was eventually enacted in all 50 states. Beginning in the late 1920s, municipalities throughout the country adopted Euclidian zoning ordinances. Most communities today continue to use ordinances with a Euclidian framework.

Since the *Euclid* decision, municipalities have discovered that while traditional zoning is a valid means of controlling land use patterns, it can be improved to allow efficient, logical growth without being overly prescriptive. States have recently voiced their desire to make adjustments to their Planning and Zoning legislation to give municipalities more flexible land use controls. A focus of this shift has been the effort to reduce sprawl or the outward development of cities. The "neotraditional" view of urban planning that began in the early 1980s with the widely publicized new town of Seaside, Florida, has since matured into the New Urbanism movement of the 1990s. New Urbanism has captured the imagination of the American public like no urban planning movement in decades. Amid great fanfare, New Urbanism seeks to redefine the nature of the American cities by reintroducing traditional notions of neighborhood design and fitting those ideas into a variety of urban and suburban settings. New Urbanism is a reaction to sprawl. New Urbanism is based on principles of planning and architecture that work together to create human-scale, walkable communities. New urbanists take a wide variety of approaches — some work exclusively on infill projects, others focus on transit-oriented development, still others are attempting to transform the suburbs, and many are working in all of these categories. The New Urbanism includes traditional architects and those with modernist sensibilities. All, however,

believe in the power and ability of traditional neighborhoods to restore functional, sustainable communities.

The revision to the West Virginia State Planning Enabling Legislation made in 2004 allows for communities to be more flexible in its planning philosophies by adopting Smart Growth principles or New Urbanism principles as well as the option of adhering to the traditional Euclidean standards. The revised state law gives municipalities the ability craft zoning codes that utilize any number of land use controls such as performance and design standards, design review, plan-unit development, land development ordinances and several others.

B. GOALS AND ACTIONS

The goals and actions relating to the Land Use chapter of the Comprehensive Plan are developed to promote logical, efficient, and well-organized land use patterns within the City of Fairmont, to encourage and promote attractive sustainable growth.

Goal: Eliminate land use based conflict within the City of Fairmont through the enactment of this Comprehensive Plan and a modernized Zoning Ordinance.

Actions:

- Determine the existing land use patterns of the City of Fairmont.
- Determine the land use pattern that would facilitate attractive sustainable growth for the City of Fairmont.
- Recognize viable land uses within the City of Fairmont and protect them from development pressures that would create conflict.
 - Maintain diversity and balance in land uses.
 - Recognize patterns of compatibility that meet future needs;
- Preserve and protect open space and important environmental resources,
- Identify areas most appropriate for new residential growth and to set aside land best suited for new commercial and industrial growth that will increase job opportunities and provide a stable tax base.

C. EXISTING CONDITIONS (Existing Land Use)

The City of Fairmont Zoning Code was enacted, March 16, 1959 and with few exceptions has had few substantive changes since then. The current zoning code and land use patterns of the City of Fairmont very much follow the framework of Euclidian Zoning with regulations addressing fundamental elements such as height, and density and different uses being separated.

Fairmont currently has four general land use categories; 1) Residential; 2) Commercial; 3) Industrial; and 4) Specialized. Within each land use category, zoning districts have been developed and through the zoning ordinance regulation is given to permitted uses and varying degrees of control placed upon those uses. A complete copy of the Planning and Zoning Code for the City of Fairmont has been attached as an Appendix to this Chapter.

Land Use

The following is an outline of the four land use categories and the corresponding zoning districts found within each land use category:

I. Residential Land Use

a. Residence A

b. Residence A1

c. Residence B

d. Residence C

II. Commercial Land Use

a. Business A

b. Business B

c. Central Business District

III. Industrial Land Use

a. Industrial A

b. Industrial B

c. Industrial C

IV. Specialized Land Use

a. Pro-Zone

b. Higher Education Zone

c. Technology Zone

C. BASIC ISSUES



Previous sections of this Chapter have documented the nationwide shift in planning methods from traditional Euclidean techniques to the recent push of Smart Growth Principles and New Urbanism philosophies. The 2004 update to the West Virginia State Planning Enabling Legislation also accounts for this shift by specifically calling attention to elimination of sprawl in municipal and county comprehensive plans and zoning ordinances. All of these actions coincide with several development projects and plans that are evolving in the City that will affect the future land uses of Fairmont.

The construction of the Gateway Connector will dramatically change the landscape of the City's East Side residential and commercial neighborhoods when completed in 2006. Residential neighborhoods that once set two and three blocks deep from main arterial streets will now become frontage roads. The design of the Connector itself with landscape medians, pedestrian walkways and bike paths will demand connection to surrounding neighborhoods that will cause a need for existing land uses to be more closely examined.

Plans for riverfront development on the East Side of the Monongahela River as apart of the overall redevelopment of the Downtown Central Business District takes advantage of underutilized industrial zoned property and envisions an area of mixed use development with residential, commercial and entertainment high density uses. This vision is not compatible with the existing land use categories of the City nor does the current Zoning Code of the City permit the coexistence of these uses.

The continued growth of the I-79 Technology Park as envisioned through their Master Plan adheres to the principles of New Urbanism with built in amenities for the workers such as nature trails and open space preservation. With a clear vision for the distinctive architecture to be used on new buildings in the park, the need for design standards and design review will be a valuable element for the future of the Technology zone.

The redevelopment of the former Fairmont Coke Works Site envisions the transformation of vacant contaminated industrial property and incorporates a mix of recreation entertainment and commercial uses to add to the tax and employment base of the City.

The success of the Fairmont Community Development Partnership's redevelopment efforts in the Maple/Ogden Avenue area of Fairmont depends upon the flexibility to create higher density projects, traditional neighborhoods with decreased setbacks and the flexibility of housing types.

All of these development projects are linked by the commonality of change. The needs of Fairmont and its residents have changed. Growth patterns, commuting patterns and housing patterns are evolving and demanding a more flexible approach be taken with the land uses of the City and its enforcement.

D. FUTURE LAND USE

The West Virginia State Planning Enabling Legislation passed in 2004 has given municipalities a better opportunity to cope with the changing needs of their respective communities. The new code has added some flexibility to how governing bodies can manage land uses within their corporate bounds that is not as prescriptive as Euclidean Zoning. This

much needed flexibility comes in the form of Density Bonuses, Clustering, Design Guidelines including Planned Unit Development, Infill Development and any other innovative land use technique that will promote the governing bodies development plan.

This flexibility will allow cities to keep pace with the inevitable changing land use needs of their citizens while continuing to promote and protect the health, safety and general welfare of the community at large. Considering the list of projects mentioned in the previous section the City of Fairmont is on the verge of major changes to its land use and development patterns. The vision of a riverfront lined with smokestack industries is now relegated to history. Cities across the U.S. are reclaiming their riverfronts for a mix of entertainment, commerce, recreation and residential use. As mentioned above a quality riverfront development is a priority for the City of Fairmont. In order to promote development of this standard the City's zoning and land use regulations must be updated.

Fairmont has captured a large portion of West Virginia's High Technology market, and will bolster the local economy by providing more opportunities for various scales of commercial ventures as well as opportunities for mixed use commercial/residential ventures. Small-scale commercial uses will be encouraged within walking distance of most residential neighborhoods, to serve the basic needs of the residential neighborhoods.

Comparison of the 1990 and 2000 Census data shows that Fairmont's population has declined, which could indicate a lack of housing pressure. However, the City of Fairmont is feeling pressure for higher density housing units for students in close proximity to Fairmont State University. This pressure is likely to increase as the Fairmont State College expansion project is completed. Outside of the FSU neighborhood housing densities are not as great an issue as the gaps in the variety of market levels. The residential land uses in Fairmont should accommodate all levels of housing densities and affordability.

Strict prescriptive Euclidean Zoning seemingly has created the most suffering among the commercial land uses in Fairmont. The strict, unflexible zoning requirements has been and continues to be interpreted by small business owners and entrepreneurs as an "anti small business or not business friendly" atmosphere in Fairmont. This is due in large part to the fact that when Fairmont was developing, land parcels were laid out as relatively small lots. And prior to the adoption and enforcement of Subdivision Regulations by the City these small lots could be further subdivided and sold without regard to future consequences. Small businesses established on these small parcels immediately became nonconforming when the Zoning Code with yard requirements was adopted in 1959. If the business prospered and needed to expand its operations the zoning would not afford any flexibility if the yard or other zoning requirements could not be met. The Future Land Use Map for the City of Fairmont shows a marked increase of commercially zoned land.

At the turn of the twentieth century Fairmont's industrial base was growing. Manufacturing plants relying heavily on barge traffic and rail for the transport of raw materials and finished products grew up along the riverfront and near the railroad at the city center. Currently Fairmont's existing industrial base is greatly diminished, and new industrial development is more reliant on the truck traffic to move goods. This has made property on the edge of the City near Interstate 79 more desirable for industrial development than the riverfront and inside city limits. The national shift from a manufacturing to service oriented economy and

locally the shift from manufacturing to high technology and service has reduced the need for large tracts of industrially zoned property. Property previously zoned industrial is being converted to other uses that better fit their surroundings and better serve the community.

The introduction of high technology and the increase of service related uses in Fairmont has generated a need to change the Land Use Map of the City to provide opportunities for support services and amenities that this demographic desires. Increasing the amount of land available for recreation and cultural institutions, and creating specialized land use categories that offer differing levels of commercial densities and mixed uses are necessary to ensure that the City of Fairmont is attractive to the service and high technology employees as a place to live. Institutional land uses should be afforded protection from incompatible land uses so that they are not negatively impacted and may operate efficiently. Parks and recreational facilities are the type of amenities that add to the overall quality of life of a community. The specialized land use categories that have been created tend to be low to medium density commercial and mixed uses. Residential/Commercial uses should be located within walking distance or inside of residential neighborhoods. These uses are low-density commercial uses such as a corner store, or newsstand, small barber or salon that serves the neighborhood within which they are located. Village/Commercial uses are medium-density uses that serve more than a single neighborhood, may include specialty shops and services, and confectioneries. This level of commercial use would not create the density of a big box retail store, and appearance and performance standards would be implemented to lessen the potential negative impacts.

Many communities are embracing Smart Growth and New Urbanism in their planning and zoning codes, with the notion that in some instances a better result can be accomplished from regulating the impacts and appearances of a development rather than separating uses and enforcing strict set backs and yard requirements. Some of the assumptions toward development are starting to be reversed through Smart Growth and New Urbanism planning. Developers and planners are starting to consider the outward focus of the project rather than the inward focus so that the project can enhance the quality of life of the community where it is located. Voluntary creative collaboration is introduced into the permitting process rather than relying solely on the regulations and masterplan. Proposed developments can be viewed as opportunities to improve the surrounding neighborhood rather than dwelling on perceived negative impacts. The developer's expertise and the neighbors' awareness of the neighborhood conditions can create the project of the greatest value to the neighborhood. All this can be accomplished to the mutual benefit of the developer and the community. The opportunity before the City of Fairmont with the passage of the new State Legislation is to move beyond prescriptive zoning and use some of the Smart Growth and New Urbanism techniques to create a community that fully realizes its potential as a vibrant, livable city.

E. RECOMMENDATIONS

1. Short Range (2005-2008)

- a. Adopt the 2005 Comprehensive Plan for the City of Fairmont
- b. Implement strategies as outlined in the Comprehensive Plan
- c. Develop and adopt new Zoning Ordinance reflective of future land use patterns
- d. Develop and adopt new Subdivision Ordinance reflective of future land use patterns

- e. Develop and adopt new Land Development Ordinance reflective of future land use patterns
- f. Implement principles of New Urbanism as a land use management technique

2. Medium Range (2008-2011)

- a. Review and amend the Comprehensive Plan as needed
- b. Review and amend the Zoning Ordinance as needed
- c. Review and amend the Subdivision Ordinance as needed
- d. Review and amend the Land Development Ordinance as needed

3. Long Range (2011-2015)

- a. Review and amend the Comprehensive Plan as needed
- b. Review and amend the Zoning Ordinance as needed
- c. Review and amend the Subdivision Ordinance as needed
- d. Review and amend the Land Development Ordinance as needed
- e. Undertake process to update the 2005 Comprehensive Plan as required by WV Code