

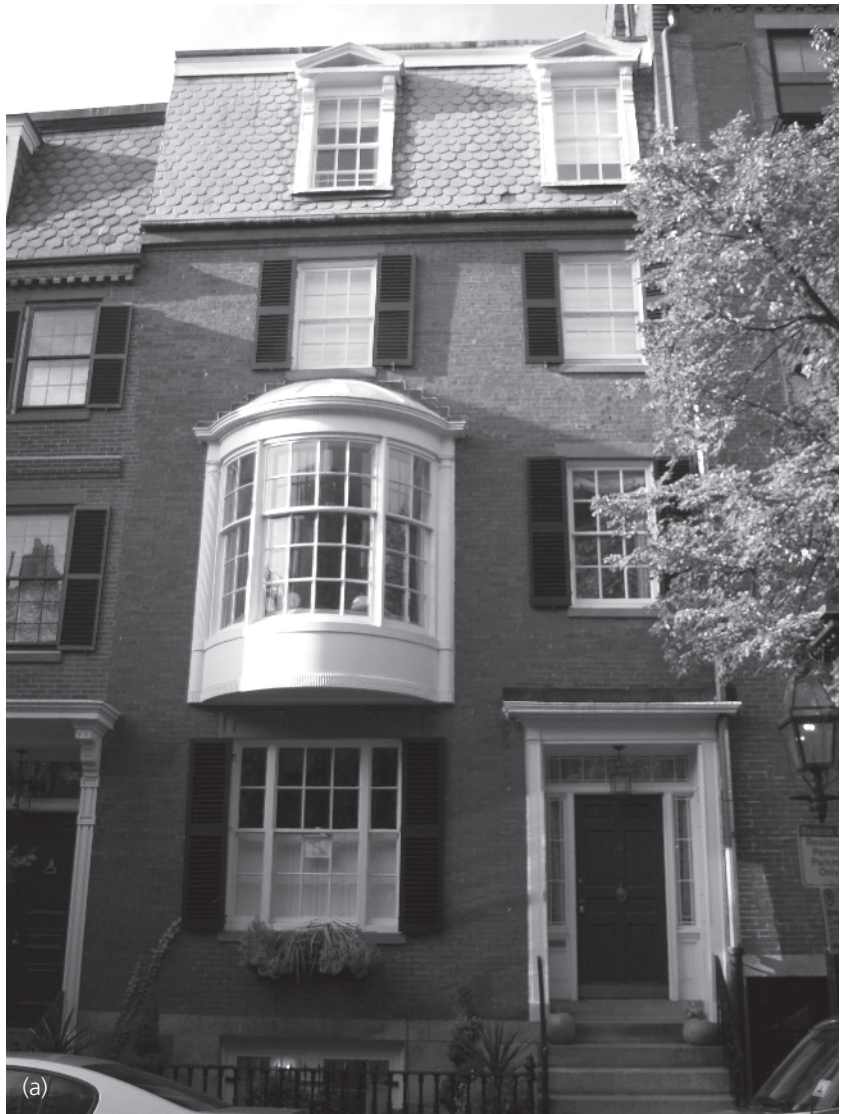
chapter 1

To Suburbia and Back: How Urbanist Law is Different

Dan Slone, Doris Goldstein, and Andy Gowder

In describing the characteristics and principles of urbanism as a design philosophy, planners or new urbanist proponents sometimes say that urbanism is not a *new* thing, it is an *old* thing that we have rediscovered. Similarly, the principles of sustainability involve a return to a philosophy under which humans wasted neither money nor resources because both were hard won for most of history. Urbanism and sustainable development have refocused the attention of planners, developers, and builders on what has historically made urban places unique and successful: the public realm, human scale, a mix of building types and uses, compact design (allowing for pedestrians and mass transit), attention to building design and details, and the myriad other features that promote civic life and efficient human habitats.

But during the time in which these principles lay dormant, the legal system changed. The regulatory environment that was erected was based on the suburban not the urban model, so it became difficult, if not impossible, to create true urbanism within the new set of laws. In fact, the advocates of New Urbanism have often noted that, given the current regulatory and legal environment, it would be impossible after a disaster to rebuild any older American city or town as it was. The places people love have been made illegal to build.



An older, urban townhouse (a), Beacon Hill, Boston; a townhouse (b) in a typical suburban location; and a New Urban townhouse (c), Kentlands, Gaithersburg, Maryland. The poor design of suburban townhouses, often sitting in the middle of parking lots and characterized by random acts of architecture with low-quality materials, has contributed to the public opposition to higher density. Courtesy of Sarah N. Hines (a); A. Nelessen Associates, Belle Mead, NJ (b); and Sandy Sorlien (c).

Urbanist law is different, because it is used to create places that are different from what has become the suburban status quo. It does not outlaw the single-family residential neighborhood, but it does legitimize the row house with a granny flat over the garage in the rear (accessed by



the service alley), across the street from the retail storefront with the lawyer's office above, with its third-floor residents looking down on the park, the sidewalk café, and the corner grocery. Where these places already exist, urbanist law seeks to protect and improve them.



An older, urban drugstore (a), Charlotte, North Carolina; a drugstore (b) in a typical suburban location; and a New Urban drugstore (c), Baldwin Park, Orlando, Florida. The suburban store in (b) stands alone behind its parking and signage. Trees along the road are placed close to screen the parking, not to create the public streetscape. Courtesy of Doris Goldstein (a) and (c) and Ben W. Brockenbrough (b).





Urban open space (a), Bryant Park, Manhattan; landscaped open space (b) in a typical gated suburban community; and open space shaped into a New Urban park (c), WaterColor, Walton County, Florida. In many suburban projects “open space” is limited to the areas required by code for buffering and leftover lands undevelopable because of topography or legal constraints. Large scale PUDs may provide extensive amenity areas for pools, tennis courts, or playgrounds, but parks, greens, and squares are uncommon, even in these more thoroughly planned suburban projects. Courtesy of Doris Goldstein (a, b) and Eric deNeve, DMR Architecture, FLLC (c).

Urbanist Law Defined

Urbanist law is the body of law arising from or in connection with the implementation of urban-design principles. As a body of law, it includes the zoning and land-use coding that results in urban design, the legal response to the deep system of regulatory and policy barriers to implementation of these principles, the policies and statutes that advance and institutionalize urbanism, and the unique issues and approaches necessary to accommodate the urban-design principles in common-interest communities and special building types. It also includes the case law that interprets these interactions. While urbanist law does not stand without relationship to other bodies of law, it is certainly distinct from the body of law dealing with rural-design principles and, more particularly, the laws implementing and resulting from suburban-design principles. This book catalogs the nature of these differences, but because many of the differences result from specific design approaches, it is useful to begin with some of the larger and more generally philosophical differences.

THE SUBURBAN STATUS QUO

Suburban sprawl, though seemingly ubiquitous, is new in the history of the human-built environment. Until the last century, and coincident with the increased use of the automobile and intensive highway construction, the traditional neighborhood, whether located in a village hamlet or

Automobile-centric design results in ugly landscapes: houses easily accessed by cars but uninviting to people (a); stores that can be reached only by automobile (b); and signs that compete for the attention of motorists (c). Courtesy of Christopher Podstawski (a) and (b) and Ben W. Brockenbrough (c).





a cosmopolitan city, was the prevalent form of postsettlement American community design. The rise of the automobile and the interstate highway system, coupled with the growth and development of municipal zoning ordinances focused on single, separate uses, gave rise to housing subdivisions as residential enclaves, shopping centers as retail islands surrounded by seas of asphalt for parking, office parks where no one lived or shopped, and civic institutions housed in buildings to which one could only drive.

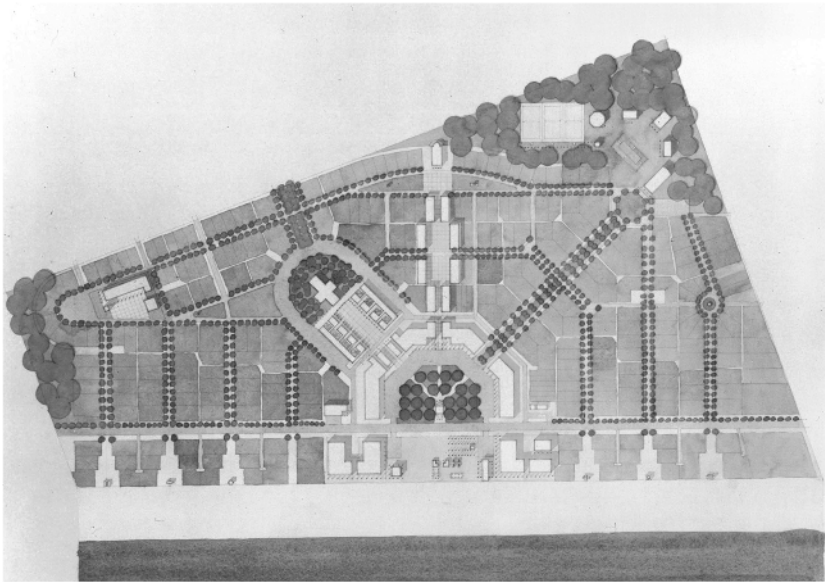
As most local zoning ordinances in the United States were adopted in the last fifty years, it is not surprising that the majority of them are wired—intentionally or unintentionally—to enable, encourage, and preserve suburban subdivision development and to prevent or discourage the traditional urban designs that existed up to that time. Residential uses are separated from commercial uses; different residential uses, such as multifamily buildings, duplexes, and even single-family homes on larger or smaller lots are separated from each other. In fact, a clear bias in favor of detached, single-family dwellings over apartment or other multifamily dwellings undergirds many of these codes.

Our built environment reflects the cumulative effect of these biases and decisions. The fire chief maximizes road widths for the convenience of the fire truck. Traffic engineers eliminate parking and street trees so that cars can safely go faster. Fast, noisy roadways are no longer hospitable for housing frontage, so houses turn their backs on them. Berms are sprinkled liberally across the landscape to create barriers between uses, to hide ugly parking-lot frontages, and to hide the backs of houses. With the intention of delivering a superior community, the law homogenizes community, prohibiting the creation of more urban neighborhood forms.

INFILL, URBAN REDEVELOPMENT, AND THE RISE OF NEW URBANISM

The movement back to urbanism began slowly, its roots in the writing of Jane Jacobs, whose landmark 1961 book, *The Death and Life of Great American Cities*,¹ celebrated dense, mixed-use urban neighborhoods. In the early 1960s, American cities were at their nadir. Ill-conceived urban renewal projects razed many of the urban-neighborhood types that Jacobs found so vital. In their place, expressways were built that cut through downtowns, sucking traffic away from Main Street and destroying local businesses.

The early 1980s saw the creation of Seaside, an 80-acre “new town” on the Florida Panhandle that *Time* magazine declared “could be the most astounding design achievement of its era.”² And what exactly was this daring concept? It was a new mixed-use community “designed on the concept



Seaside's breakthrough concept, shown here in an early watercolor rendition of the master plan, was the creation of a new small town. Streets interconnect in a modified grid, and it is an easy walk from the residential streets to the mixed-use town center. Courtesy of Duany Plater-Zyberk and Company.



"The picture was taken as we all left the first morning session of the first CNU in 1993," remembers Peter Katz. "It took place in the Lyceum in Alexandria, Virginia. The people are standing on a porch of a big house just around the corner from the Lyceum. I was behind the camera with the photographer." *First row:* Mark Schimmenti, Barbara Littenberg, Jaime Correa, Geoffrey Ferrell, Joseph Kohl, Elizabeth Moule, and Elizabeth Plater-Zyberk. *Second row:* Erick Valle, Steven Peterson, Victor Dover, Stefanos Polyzoides, Daniel Solomon, Andrés Duany, and Peter Calthorpe. Courtesy of Adam B. Auel.

Elements of a Traditional Neighborhood Development

By 1996 even *Consumer Reports*—better known for rating automobiles and washing machines—had taken notice of the interest in revitalization of older community-building concepts. In an article entitled “Neighborhoods Reborn,”⁶ the magazine gave this succinct definition of a traditional neighborhood development:

- Houses occupy small lots clustered around pretty public spaces, such as parks or playgrounds.
- Garages retreat to the rear of the lot or an alley.
- Street grids replace isolated cul-de-sacs and the broader roads that connect them.
- Shopping takes place on intimate main streets, with stores lined up along the sidewalk and parking to the rear.
- Walking is encouraged by sidewalks, street trees, front porches, narrow roads that slow down cars, and—most important—commercial and recreational areas located a short walk from most houses.
- Public transportation is made possible by clustering neighborhoods and offices along lines that can readily be served by buses, trolleys, or light-rail lines.
- Housing types are varied in size and price to facilitate the kind of mix of people found in a city. The mix also means that grown children won’t have to move so far away to start a home, and older people won’t have to leave the neighborhood when they retire to a smaller home.



(a)



In traditional neighborhood development, sidewalks, street trees, narrow streets, and small parks (a, Celebration, Florida), encourage walking; placing shops and restaurants within walking distance also aids this goal (b, Kentlands Town Center, Gaithersburg, Maryland). Garage access from an alley (c) in the rear of houses removes the clutter of garage doors from the streetscape. Courtesy of Doris Goldstein (a); Town Paper (b); and Dan Slone (c).

of a small, turn-of-the-century Southern beach town.”³ Seaside’s financial success, media attention, and the community’s charm inspired a series of planned communities—large and small, greenfield and infill, resort and full time, luxury and affordable.

Seaside’s planners, Andrés Duany and Elizabeth Plater-Zyberk—and other leading architects and planners such as Peter Calthorpe, Dan Solomon, Stefanos Polyzoides, and Elizabeth Moule—began gathering the concepts that were being advanced as “neotraditional design,” “transit-oriented design” and “traditional neighborhood development” under the New Urban flag and founded the Congress for the New Urbanism (CNU)⁴ in 1993 with a number of similarly intentioned architects, planners, lawyers, and developers. Peter Katz’s book *The New Urbanism: Toward an Architecture of Community*,⁵ helped to popularize the movement, and Katz went on to be the first director of the CNU. At its fourth annual congress, in 1996, the CNU ratified the Charter of the New Urbanism, which outlined principles for building better communities, from the scale of the region down to the building.

Henry Cisneros, secretary of the Department of Housing and Urban Development in 1996, was the first signer of the CNU charter, and he used its principles to design the Hope VI program (discussed further in Chapter 9), replacing HUD’s high-rise approach to affordable housing with human-scale neighborhoods.⁷ Cities themselves began to reawaken, with downtown populations growing by 10 percent in the 1990s after twenty years

The HOPE VI program replaced high-rise subsidized housing projects with human-scale, mixed-income communities based on New Urban principles, proving in the process that good design can be made affordable: (a) Heritage Crossing, Baltimore, Maryland; and (b) Westbury, Portsmouth, Virginia. Similarly, the Urban Redevelopment Authority of Pittsburgh replaced dangerous substandard housing with a highly successful mixed-income neighborhood, (c) Crawford Square, Pittsburgh, Pennsylvania. Courtesy of UDA (Urban Design Associates).



(a)



of overall decline. Downtowns became more ethnically diverse as well as age diverse, attracting more young adults and college-educated residents. The voices of a number of urban architects, planners, and activists, who had been working on urbanism all along and sometimes found the use of “new” insulting, began to increase in volume. “Smart growth” emerged as a regional planning movement in the early 1990s, and the Smart Growth Network⁸ was created in 1996 by a consortium of organizations led by the Environmental Protection Agency (EPA). Smart-growth advocates called for regional growth to be directed to existing urban areas. While rejecting “new towns” planned by some New Urbanists, smart-growth advocates embraced the principles of New Urbanism as appropriate for design of urban areas.

The emphasis of Smart Growth and New Urbanism on compact, higher-density, human-scale, pedestrian-oriented development, linked by public transportation where possible, also found support in the environmental movement, particularly as planners and developers began to focus on sustainable development. Though some advocates of sustainable development embrace less dense, light-on-the-land development, many understand the significant benefits that accrue from various elements of the urban-development approach (discussed further in Chapter 2). Rather than simply greening the buildings without regard to their context, or greening the city by essentially making it more suburban, the sustainable development advocates are now focusing on ecocities where entirely new approaches to environmental systems, like wastewater reuse and distributed energy, are possible because of the compact design.

The convergence of the principles of New Urbanism, Smart Growth, and sustainable development has led to a new, third-party program that certifies neighborhood projects that reflect best practices for both urbanism and sustainability. Administered by the U.S. Green Building Council,⁹ LEED (Leadership in Energy and Environmental Design) for Neighborhood Design (or LEED ND)¹⁰ was developed in concert with CNU and smart-growth advocates, such as the National Resources Defense Council.¹¹

PRINCIPLES OF URBANISM AND SUSTAINABILITY

All urbanist projects are different, but they have certain unifying characteristics that identify them as urbanist. Simply put, urbanism calls for development that is compact, mixed-use, and human-scale, whether that development is a small town or a busy metropolitan area. Because of the way that our laws have evolved around suburbia, each of these fundamental design concepts is likely to encounter difficulties.

However, appropriate density is necessary to bring enough people together to make public transportation viable and to locate a reasonable number of residents within walking distance of shops and restaurants.

Perhaps because density is so easily reduced to a number—residential dwelling units per acre—and because people assume that they understand this number, density becomes the battleground over which many urbanist projects are fought. As discussed in the case study accompanying Chapter 8, the designers of a traditional neighborhood development, l’On, believed 12 units per acre would be optimum but designed 6 units per acre to make the project politically palatable. In effect, the anticipation of public objection caused the developer to limit the project’s potential even before beginning the entitlement process. Even so, public opposition forced the developer to further reduce density for the project to only 3.1 units per acre, in line with the existing low-density zoning for the parcel.

As in so many legal issues raised by urbanism, the answer often lies in design; the legal challenge is opening the door to allow a design solution. High density in conventional, single-use suburbia is unappealing. Density done right creates vibrant, exciting places.

Seeing is Believing

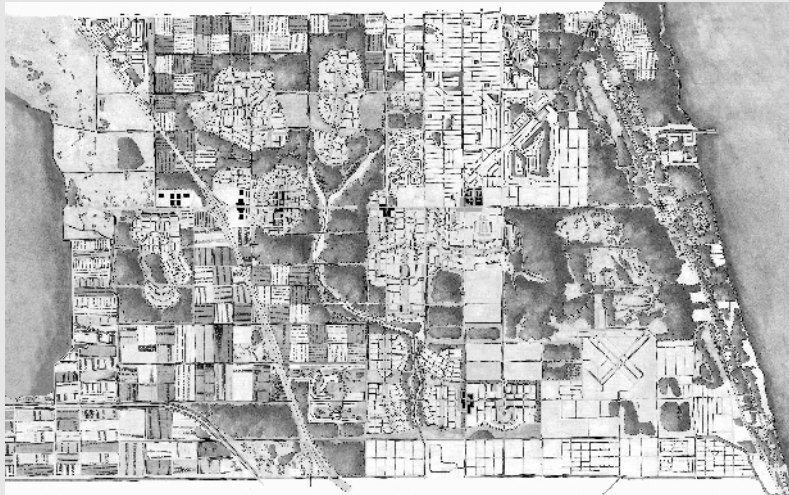
The northern part of St. Lucie County, Florida, has always been a rural area, with vast acres given over to citrus groves. Under pressure from both overseas farmers and the citrus canker virus, its citrus industry appears to be doomed. At the same time, the county was in the path of growth spreading from the more populous counties to the south. It seemed inevitable that the citrus groves would be chewed up into endless plats of low-density subdivisions.

However, the farsighted Treasure Coast Regional Planning Council intervened. As a demonstration, it cut-and-pasted aerial photos of such subdivisions over aerial photos of the county, all at the one-unit-per-acre rate permitted under the zoning code. The council showed the resulting graphic to the county commission and asked if that was the best future the county could envision.

The answer to the planning council’s question was a resounding *no*. After much study and public debate, in 2006 the county passed the “Towns, Villages and Countryside” plan, calling for the preservation of open space by clustering development in dense, walkable towns and villages. Such development will not have density caps; instead, density minimums will be achieved by buying transferable development rights from land that will be preserved for farming and other open space.



This aerial projection shows what northern St. Lucie County would look like in the year 2025 if built out at the zoning rate of one unit per acre. Courtesy of Treasure Coast Regional Planning Council, St. Lucie County, Florida.



Instead, St. Lucie County approved an alternative plan to cluster growth and preserve open space. Courtesy of Treasure Coast Regional Planning Council, St. Lucie County, Florida.

In addition to density, compact development requires efficient land use. Parking minimums are perhaps the most common difficulty. Other obstacles include supersized roads, minimum lot sizes, and front and side setbacks. Chapter 5 discusses various creative approaches for these and other legal barriers.

For those communities that want to encourage urbanism, density bonuses that allow the developer to create more residential units than would otherwise be permitted are often the reward for complying with the other requirements. Zoning is discussed further in Chapters 3 and 4.

Mixture of Uses and Housing Types

Most existing zoning ordinances classify zones based on use descriptions: there are *single-family residential* districts, *multifamily residential* districts, *general business* districts, *retail* districts, *light industrial* districts, *heavy industrial* districts, and *conservation* and *rural* districts. Some of these classifications allow an overlap of uses (lighter industrial uses may exist in heavy industrial areas, single-family residential houses may exist in multifamily residential areas), but rarely do these districts allow for mixing residential districts with any business or retail uses. *Flex space* and *light industrial* use are segregated from other business uses, as well as from residential uses.



Higher density is part of the appeal of Rosemary Beach, Florida. Courtesy of Eric deNeve, DMR Architecture, FLLC.

Urbanism demands mixed use. This provides not only the opportunity for someone to work and shop near where they live, often allowing residents to walk or bicycle, but also creates activity within the building and surrounding area at different times during the day (the 24/7 environment, in the words of planners and developers). This activity makes for a more appealing and safer living situation.

To create a community in which a person can walk to shopping or work from home, zoning codes must be rewritten to allow or require a mixture



In this mixed-use project, located at Eighth and Pearl Streets in Boulder, Colorado, a bakery-café and other retail shops occupy the ground floor. Offices, including the office of project designer Wolff Lyon Architects, are on the second floor. Five residential townhomes, with front porches and small gardens, access landscaped upper and lower terraces. Subtle changes in brick color and building articulation help the new structure fit into the existing neighborhood, with its historic 25-foot-wide lots. Forty parking spaces are hidden on-site, many of them in a garage built into the hill. Courtesy of Wolff Lyon Architects, Boulder.

of uses. This mixture would extend not only to uses within neighborhoods but also to a diversity of uses within blocks and within buildings themselves. For example, a multistory building could have a café, restaurant, or dress shop on the ground floor; professional offices on the second floor; and residential lofts or apartments (either rented or owned through a condominium regime) on the upper floors. Smaller-scale, mixed-use buildings, commonly known as live-work units, allow an owner to have space in his or her home for a small business.

In addition to mixture of uses, housing types should also be mixed. In traditional zoning, the detached single-family residence is often segregated from other housing types, such as apartments, patio homes and duplexes. Because apartment buildings are deemed undesirable, zoning codes usually do not allow multifamily buildings close to single-family homes.

Urbanism allows and encourages a range of housing types, sizes, and prices to exist in closer proximity to each other. This variety allows for more affordability without subsidies and provides for a diversity of people within one area, as opposed to a neighborhood composed entirely of retirees or young families with children. Older parents can live in units located behind houses occupied by their adult children, or downsize into a bungalow court without leaving the neighborhood. College students or young professionals can reside in garage apartments or carriage houses within a community of established homes. Less affluent families can reside in the same neighborhoods as more-affluent families, enjoying the same public amenities and sharing the same civic life.

Some of the specialized building types commonly found in urbanist communities are discussed in Chapter 7.

Various housing types provide opportunities for people at different income levels and different stages of their lives. Here, within a few blocks in Amelia Park, Amelia Island, Florida, are single-family homes (a), small cottages (b), townhouses (c), and alley-access granny flats (d). Courtesy of Stan Cottle, CCOM, Inc.





Because so much development after World War II took for granted the concept of separation of uses, the bias against mixed-use development appears in unexpected places, in addition to the obvious zoning issues. For instance, as further discussed in Chapter 6, a commonly used exemption to the Interstate Land Sales Act requires the property to be zoned for single-family residential use, and the income tax exemption used by most homeowners' associations is not available to many mixed-use communities.

Human Scale

The concept of *human scale* is closely related to another term, *pedestrian friendly*, which is often used to describe urbanist or sustainable communities. Both are ways of saying that the community welcomes pedestrians and that walking is a pleasant experience. It also means that walking is a useful way to accomplish basic tasks; walking on a recreational trail in a conventional gated community might be pleasant enough, but it will not get you anywhere near a store where you can buy milk and a loaf of bread. When done well, human-scale development creates a sense of place—a distinctive neighborhood with its own identity, a place that intrigues visitors and delights long-term residents.

Certainly the other primary factors of sustainable urbanism—*compact development* and *mixed use*—contribute greatly to human-scale design. However, a whole set of other design elements also contribute to human-scale and pedestrian-friendly design, and these have legal implications as well.

This focus on the pedestrian has dramatic implications for road and sidewalk design and construction, and the setback, parking, and other autocentric regulations built into the current zoning, building, and road ordinances in our communities. Planning for pedestrian-friendly design must be an integral part of road design—i.e., street width, curb radii, on-street parking, and intersection design—to encourage the use of bicycles and walking as daily means of transportation. To slow the speed of automobile traffic, urbanism places buildings closer to the street; provides for porches, windows, and doors that address the street; plans tree-lined rights-of-way next to sidewalks, on-street parking, hidden parking lots behind buildings, garages in rear lanes, and narrower streets.

In addition, urbanism requires advance strategic planning for transportation and creates and facilitates public transportation that may connect cities and neighborhoods through a network of buses, trains, ferries, and water taxis. In some cases, urbanist design prohibits automobiles at certain times of the day or entirely.

Urban Streets

Streets form the skeleton of any urban area. Where they are done wrong, a project may still be better than a suburban design on several different evaluative scales, but it will not have the full functionality of an urban project. While there are many benefits to urban street design, most of the direct benefits have to do with pedestrianism. Urban streets must have pedestrian destinations achievable by safe and beautiful routes to be successful.

Urban planning creates neighborhoods with some civic or commercial activity, or both, at their centers. The site may be a school, a religious institution, a neighborhood shopping area, a restaurant or pub (functioning as a “third place”¹²), or a significant park. By mixing instead of separating uses and concentrating density around commercial areas, more people can walk to complete some part of their activities of daily living, reducing car trips.

The path for their walk is made beautiful through urbanism’s attention to the way the *private* buildings and lots are assembled to create great *public* space along the streets. The path is made both safe and pleasant by providing sidewalks,



A beautiful street with both businesses and public space brings people together, Ocean Drive in Miami’s South Beach neighborhood. Courtesy of Duany Plater-Zyberk and Company.

by generating activity along the street with storefronts instead of lining it with parking lots, parking structures and extended blank walls, by separating pedestrians from traffic with street trees, and by slowing traffic down with tighter turning radii, narrower streets, and cars parked along the streets. Because cars can and should park along the streets, on-site parking ratios are reduced.

With all of this, if pedestrians are confronted with large arterial roads, they may not be able to cross safely. Consequently, urban streets—while they may have different design speeds and traffic volumes—are typically in a connected pattern. Replacing the typical pattern of arterial, collector, and neighborhood roads with a fine grid of interconnected streets allows local traffic movement without resorting to larger roads intended for through traffic. It also allows safe passage for pedestrians and avoids creating roads so big and fast that homes and businesses cannot face them.¹³

GUIDING PRINCIPLES

This book is mostly about the practical application of real-world legal solutions to typical problems encountered in building urban and sustainable development. However, this book contains philosophical discussion as well. In stepping back from the day-to-day application of urbanist law, it is possible to identify certain overriding principles that define this new field of urbanist law and provide some unifying themes.

- *Urbanist law looks at the whole, not just the pieces.* It embraces commercial as well as civic and residential uses in neighborhoods, and the ability for all neighborhoods to accommodate a range of income levels. In a regulatory environment that has become fragmented and jurisdictional, urbanist law worries about both the fire department's need to have access to the neighborhood *and* the safety of the child trying to cross a too-wide street.
- *Urbanist law tends to be more inclusive than legal principles derived from other design philosophies.* This breadth of inclusiveness happens naturally in historic urban areas, led by social expectations, peer pressure, pride in workmanship, and economic constraints. However, laws supporting suburban development narrow that embrace. Instead, the laws reflect fragmented social elements, excluding other elements. As urbanist law emerges, codifying many elements rarely codified previously, the suburban elements are now immersed in more inclusive

codes that may specify design but typically vary the allowed design by appropriate context. This inclusiveness has meant that the Congress for the New Urbanism's charter addresses issues ranging from the region to the building.

- *Urbanist law tends to be affirmative rather than negative.* For example, most suburban codes provide setback lines: an owner cannot build any closer to the street than a certain distance, such as 25 feet. In urbanist law, a build-to line or zone would be established instead. If this line is set at 25 feet, or between 20 and 25 feet, then the front of the private building would have to occur at this line or within this zone. Consequently, the creation of a street front would be assured.

To a certain extent, this is merely a rhetorical trick, because an affirmation carries so many negatives. At another level, however, it is a means of constructing a desired landscape or streetscape with a specific goal.

- *Urbanist law emphasizes the public rather than the private space.* This very emphasis on the public realm and its conscious assembly—both directly and indirectly through the manipulation of the public face of private space—is unique to urbanist law. In part, this focus is a manifestation of urbanist law's emphasis on the pedestrian. It can be argued that the special street palette of urbanism—the street trees, the neighborhood size and characteristics, and the creation and location of compelling destinations—are all tools for increased pedestrianism. While suburban law may acknowledge the existence of the pedestrian, by requiring a sidewalk, it does little to integrate the desire for their presence into a vibrant and beautiful public realm.
- *Urbanist law seeks to balance individual property rights with the creation of a beautiful and compelling public realm.* It seeks to address the access of the public into a semipublic space—a space that is privately owned but that invites the public to enter, whether it be a shopping area or a private park.
- *Urbanist law is concerned with elegance, just like the design approaches that inform urbanist planning.* This distinction may be the most challenging and perhaps controversial aspect of urbanist law. In melding public safety, practical accommodation of needs and services, social goals, and beauty, urbanist law uses a broader range of tools, including graphics, charts, tables, and photographs, to attempt to create regulatory systems that are easier to understand, more appropriate to the various settings in which they are applied, and more certain to achieve their stated goals.

- *Urbanist law works in four dimensions, including time as well as space, as does urbanist planning.* Urban areas absorb change over time, but suburban laws and regulations, in their insistence on homogeneity, tend to freeze uses. Urbanist law recognizes that places need to evolve over time. Commercial facades change, uses change, and density increases. Abandoned urban buildings are converted to loft-living space, churches grow, and big boxes (whether department stores or schools) need new uses. A building may be torn down and the space may become a parking lot, only to have the site rebuilt later into a building, or perhaps become a building that lines the street immediately in front of structured parking. Urbanist law accommodates these changes and the complex legal arrangements they sometimes require.

ENDNOTES

1. Jane Jacobs, *The Death and Life of Great American Cities* (New York: Random House, 1961).
2. Editors, "Best of the Decade," *Time* 135, no. 1 (Jan. 1, 1990): 102; <http://www.time.com/time/printout/0,8816,969072,00.html> (accessed December 7, 2007).
3. This is how Seaside Community Development Corporation described its intended development to the Florida Department of Community Affairs in its 1984 application for approval as a Development of Regional Impact.
4. Congress for the New Urbanism, <http://www.cnu.org>.
5. Peter Katz, *The New Urbanism: Toward an Architecture of Community* (New York: McGraw-Hill, 1994).
6. "Neighborhoods Reborn," *Consumer Reports* 61 (May 1996): 24.
7. John Appleton, "Holyoke Homes are Touted as Model," *Springfield (MA) Republican*, April 23, 2006, C1.
8. Smart Growth Online, <http://www.smartgrowth.org>.
9. The U.S. Green Building Council (USGBC) is a nonprofit organization that promotes the construction of buildings that are environmentally responsible and that provide healthy places for people to work. The USGBC manages the Leadership in Energy and Environmental Design, or LEED, rating system for sustainable buildings. The LEED system focuses on "sustainable site development, water savings, energy efficiency, material selection and indoor environmental quality." U.S. Green Building Council, "What We Do," www.usgbc.org/DisplayPage.aspx?CMSPageID=1499& (accessed December 6, 2007).
10. "The LEED for Neighborhood Development Rating System integrates the principles of smart growth, urbanism and green building into the first national standard for neighborhood design. LEED certification provides independent, third-party

verification that a development's location and design meet accepted high standards for environmentally responsible, sustainable, development.

Currently in its pilot period, LEED for Neighborhood Development is a collaboration between the U.S. Green Building Council, the Congress for the New Urbanism and the Natural Resources Defense Council," U.S. Green Building Council, "LEED for Neighborhood Development," <http://www.usgbc.org/DisplayPage.aspx?CMSPageID=148> (accessed December 7, 2007).

11. The Natural Resources Defense Council (NRDC) is an environmental action organization that uses law and science to advocate for environmental issues. The mission statement of the organization is as follows:

The Natural Resources Defense Council's purpose is to safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends.

We work to restore the integrity of the elements that sustain life—air, land and water—and to defend endangered natural places.

We seek to establish sustainability and good stewardship of the Earth as central ethical imperatives of human society. NRDC affirms the integral place of human beings in the environment.

We strive to protect nature in ways that advance the long-term welfare of present and future generations.

We work to foster the fundamental right of all people to have a voice in decisions that affect their environment. We seek to break down the pattern of disproportionate environmental burdens borne by people of color and others who face social or economic inequities. Ultimately, NRDC strives to help create a new way of life for humankind, one that can be sustained indefinitely without fouling or depleting the resources that support all life on Earth.

"Mission Statement," Natural Resources Defense Council, <http://www.nrdc.org/about/mission.asp> (accessed December 6, 2007).

12. Ray Oldenburg, *The Great Good Place: Cafés, Coffee Shops, Bookstores, Bars, Hair Salons, and Other Hangouts at the Heart of a Community* (New York: Marlowe; Berkeley, Calif.: Distributed by Publishers Group West, 1999). For more on Oldenburg, see <http://www.pps.org/info/placemakingtools/placemakers/roldenburg> (accessed December 7, 2007).
13. Robert Steuterville and Philip Langdon, "Streets," in *New Urbanism: Comprehensive Report and Best Practices Guide*, 3rd ed., eds. Robert Steuterville and Philip Langdon, et al. (Ithaca, N.Y.: *New Urban News*, 2003).

