

League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

January 27, 2008

Grant Eichhorn, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEMS NO. 8, 9, and 10: CPA-2007-6; CPA-2007; & ADOPTION OF THE LAWRENCE SMARTCODE (TA-11-24;07)

Dear Chairman Eichhorn and Planning Commissioners:

Over this past year we have been studying the progress of the SmartCode as revisions were made available. We note that there have been important changes in the most recent version and there are some contradicting sections which are going to require closer review. We have some general observations which we can make at this time, but would like to be able to present to you our more detailed comments of the text which we will make available to you on CD with a general hard copy outline in February.

The following are some general points we would like to make.

1. The goals that the SmartCode hopes to achieve are similar to those of the local position on land use adopted in the early 1970s by the LWVL-DC and which we continue to support: pedestrian-friendly neighborhoods conveniently arranged and sized to allow multi-modal transportation choices and freedom from private automobile dependence. We support neighborhood schools and other neighborhood needs such as parks and neighborhood shopping within walking distance of residences, and housing for people of all ages and incomes. In fact, these are needs that are becoming increasingly apparent, as "smart growth" advocates are making the public aware of the relationship between urban structure and function, and the urgent need for energy and resource conservation.

2. We are disappointed that some of the other aspects of the SmartCode do not seem to facilitate reaching these goals. The following are some of our criticisms:

a. The incentive system provided to encourage developers to use the SmartCode seems to us to be counterproductive. We anticipate that speeding up the approval process by avoiding public input and involvement is going to create an atmosphere of mistrust and hostility, leading to the SmartCode not being workable or publicly accepted. One suggestion we have is the exact opposite: actively involve the public, make the process transparent and accessible to public hearing, review and input. However, at the same time provide substitute development incentives to the current ones provided in the SmartCode. One suggestion, for example, would be to allow neighborhood involvement and public participation as currently is done for standard development. At the same time eliminate benefit district financing for local streets and storm sewers in *standard* development, but provide it for SmartCode development instead, as the major development incentive.

b. There are mistakes and contradictions which we suggest are better corrected before the SmartCode is adopted, rather than later. We are only beginning to enumerate these in our review.

c. There is much in the process which is unclear. For example, what is the rezoning process and what kind of information will be available at that stage and what kind of public input is allowed? Once the Sector Plans have been adopted how binding are they? When are the transects and growth areas adopted? Who reviews and approves Community Plans? Is there any public input during these approvals? Is there any accountability? Does the public have access to the information as the process proceeds?

d. The role and membership of the Consolidated Review Committee (CRC) does not lend public confidence in their decisions. Much of what comes under their exclusive jurisdiction requires much expertise in the type of development that is unknown to our area. Because of the amount of pressure that they will be subjected to, the lack of public input and transparency in the process, as well as lack of avenues for public appeal lead to fear of major mistakes. The process, itself, allows so much flexibility with Warrants and Special Districts that the prospect of good intentions being misdirected seems only too possible.

These are only some of our impressions on reading this SmartCode. We believe that with revisions this form-based, compact, pedestrian-oriented code could be workable in our city. We don't want to give up, but we ask that you not adopt it until the obvious mistakes are corrected and the system is made more accessible to the Lawrence public.

Sincerely yours,

Paula Schumacher
President

Alan Black, Chairman
Land Use Committee

Kirk McClure
707 Tennessee Street
Lawrence, Kansas 66044-2369
mcclurefamily@sbcglobal.net

January 25, 2008

Members of the Planning Commission
Lawrence Douglas County Planning Commission
City Hall
6 East 6th Street
Lawrence, Kansas 66044

Re: **The Smartcode should not be adopted**

Commissioners:

Is the Smartcode worthy of its name?

"Smart growth, or sustainable development, has been tested as a policy in at least two-dozen states since the 1970s, when the term first appeared. It's evolved over the decades, to be sure, but the chief goals remain: to plan better, rein in sprawl, redevelop in established urban areas, promote mixed-use growth near transit and in environments that are easy to walk around, and offer a range of housing types that are affordable to different incomes. " - Lincoln Land Institute Smart Growth: Form and Consequences (2002).

The Smartcode does nothing to rein in sprawl, it works against the redevelopment of established areas, and it does not ensure that development proceeds at a sustainable pace. While it makes a nod to mixed-use and the ability to walk around, it does nothing to ensure that affordable housing is provided in new developments. As such, the Smartcode fails to deliver what it promises.

The Smartcode is a poorly designed development code that removes most public input from the development process and circumvents needed review of many development projects by both the Planning Commission and the City Commission.

The basics are as follows:

Certain districts would be designated as appropriate for development. Once designated and zoned, no further public input is permitted on any development proposal. Yet, we know from experience that citizens rarely become involved in the zoning process; they only become involved when a development proposal comes forward.

If a developer plans a development within these districts, and if a committee of planning staff members (called the Consolidated Review Committee or CRC) finds that the architectural design of the development meets the design guidelines of the Smartcode, then a building permit is issued.

There is no review by the Planning Commission, and there is no review by the City Commission. Because public input is only received through hearings before these two bodies, there is no public input on the development plans.

The Smartcode assumes that if land is zoned, that the developer can build at any time with only cursory staff review. If the market cannot absorb the new development without negative impact upon existing space, the Smartcode does not prevent this negative impact. In fact, it facilitates growth at an unsustainable pace.

If the CRC does not approve the development plan, the developer may appeal to the Planning Commission. There is no obligation for the CRC to inform the public of the development plan or seek out public input. If the public does learn of the development plan, it has no capacity to provide input. The public cannot appeal the decision of the CRC to either the Planning Commission or the City Commission.

The Smartcode calls for subsidies to certain types of developments that meet the architectural guidelines within the code. It is apparent that the Smartcode calls for subsidies to development that will take place without subsidy. This is wasteful. The Smartcode fails to assist development in older neighborhoods that will not take place without subsidy. This is counterproductive.

Good design does not resolve all planning problems

Smartcode is a needless giveaway to the developers. The Smartcode derives from a false belief that if development meets certain design guidelines, that all of the other planning and developments problems resulting from the proposal are resolved. It would be nice if beautiful architecture could overcome all the other problems, but it cannot. There is nothing in the Smartcode that prevents the development community from its continued overbuilding. If the district is zoned

and if the development plan meets certain architectural guidelines, then the development can obtain its building permit even if the neighbors object and even if the development will have a negative impact upon other parts of the community (such as traffic congestion or adding to an already overbuilt supply of space).

The planning staff made a few modifications to the initial draft of the Smartcode by agreeing that the CRC will examine a developer provided market analysis and traffic impact study. The staff has not demonstrated either the skill or the willingness to respond appropriately to market studies in the past. There is nothing in the Smartcode mandating attention to these issues now. Further, there is little reason to believe that developer-provided studies will tell the truth. In Lawrence, we have seen many false reports making phony claims and exaggerated promises. For every piece of failed real estate, there is a market study saying the property would succeed. The planning staff have accepted and approved these studies in the past. They have made few, if any, efforts to correct these studies or to create their own studies. This record does not suggest that the public can trust the planning staff to do better in the future.

Building space faster than growth in demand for that space

The greatest threat to Lawrence is the excessive pace of growth in the supply of real estate. The community should expect, even demand, good design without offering subsidies or accelerated access to building permits. The community should be a part of the development process from the zoning decision all the way through to the final development plan approval.

Too often the City and the development industry confuse growth in supply with economic growth. Economic growth is assessed by the growth in demand, which is the growth in people and their income. When we have more people and these people have more income, then their spending will demand more goods and services.

These goods and services may include more homes and support more retail stores. Note that building more homes and stores does not generate more people or income. Demand growth must precede supply growth. If supply is built beyond the available demand, then bad things happen. Older shopping centers empty out and become blighted. Older neighborhoods decline. Developers never pick up the cost of this blight; they simply look to the taxpayers to pay the very expensive costs of redevelopment. Even this expensive redevelopment fails unless there is sufficient demand for the revitalized space.

Sustainable growth means supply growing no faster than the growth in demand

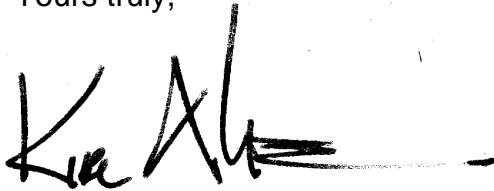
It is crucial to the health of any community that the growth in supply be kept at a pace that matches the growth in demand. Unfortunately, the development and construction industries are prone to overbuilding. Cities, under pressure from developers, are prone to over-zoning. This is true throughout the nation, not just here in Lawrence. Preventing excessive growth in supply is easy and costless; it only takes well-managed growth controls by the community.

This is the purpose of the market analysis requirement integrated into the planning process. Lawrence has ignored this analysis because it has, for years, indicated that Lawrence is building more homes than it needs and more retail space than it needs and more office space than it needs. Developers and builders have brought political pressure on the planners to ignore the market signals indicating that the market is building at an unsustainable pace. Except at the extreme, developers make money even in overbuilt markets. Thus, the builders and developers have captured control of the political process to prevent the community from taking steps to slow the pace of growth.

What Lawrence needs is smart growth management tools, not misnamed alternative development codes that are giveaways to a development industry that has proven itself prone to overbuilding.

Lawrence should not adopt the Smartcode and should actively work toward bringing the pace of real estate development in line with the growth in demand for that development.

Yours truly,

A handwritten signature in black ink, appearing to read "Kirk McClure", with a long horizontal line extending to the right.

Kirk McClure

Dan Warner

From: Tony Moss [tonymoss@sunflower.com]
Sent: Thursday, February 14, 2008 6:53 PM
To: Dan Warner
Subject: residential solar, wind and geo-thermal addressed in SmartCode?

Hello Dan,

If I recall correctly, the estimates I saw in Business Week said we would be paying over \$200 per barrel of oil in the near future. How will low-income people stay warm in the winter? How will the older home stock keep its value?

Rather than wait for a crisis, with low-income people freezing in their homes, and those who can rushing to build super-energy efficient homes further out, should we as a community look to invent a system to upgrade the energy efficiency of all our infrastructure? Isn't the SmartCode the place to get this started? I imagine there are some creative ways to work with energy suppliers, builders and local organizations. San Diego recently completed what may be one of the most energy-efficient housing projects in the nation--Solara. It was designed for the local climate and ecology. We could do something as far sighted, but designed for our climate and resources.

Where in the plan do we address this long-term need? I didn't see mention of residential solar, high-hill wind generation, hyper-insulated homes, hillside berming, or geo-thermal heating and cooling. These are sustainable technologies that fit this climate. Shouldn't they be explicitly included in the plan?

Thanks,
Tony Moss

Dan Warner

From: McClure, Kirk [mcclure@ku.edu]
Sent: Tuesday, April 22, 2008 4:20 PM
To: Lisa Harris E-mail; greg@moorevaluation.com; cblaser@sunflower.com; bradfink@stevensbrand.com; hugh.carter@ubs.com; grant@dgcounty.com; rhird@pihlawyers.com; thomasjennings@hotmail.com; jeff@chaney-inc.com; dennis.lawson@frontierfarmcredit.com
Cc: Scott McCullough; Dan Warner
Subject: Comments on the Revised Version of SmartCode

Members of the Planning Commission

I will be unable to attend the Planning Commission public hearing on the adoption of the Smartcode. Many positive changes have been made to the Smartcode, and this is heartening. Below are my comments.

1. Public input will now be heard

The initial draft of the Smartcode created a new administrative body, the Comprehensive Review Committee, composed of staff personnel. This process eliminated public input from the process.

The current draft returns the development review process to the Planning Commission for review and public hearing and sends the proposal on to the City Commission for decision after a public hearing. This is a significant improvement.

2. Smart growth means managing the pace of growth

The Smartcode, as now drafted, does not contain the planning tools normally associated with the terms "smart code" and "smart growth". The Smartcode is really little more than a set of design guidelines. The Smartcode has extensive provisions on signage, roof pitch, how windows are shaped and how they operate, the finish of fences, the materials used to make balconies, the number of trees planted, and many others. None of this ensures that the city will experience smart, balanced growth.

Smart growth means helping the marketplace balance the pace of growth in supply of space with the growth in demand for that space. Smart growth provisions help a city, first, gauge the need for building more homes, offices, or stores and, second, pace development so that the amount built is the amount that can be absorbed. These provisions prevent the harm that comes from overbuilding. Overbuilding hurts existing neighborhoods and shopping districts and scuttles redevelopment plans. We have seen this in Lawrence in the failed redevelopment plans downtown leaving the downtown with empty lots and an empty parking garage that is costing the taxpayers heavily. We have seen this in Lawrence in older neighborhoods losing population and witnessing disinvestment while the city squandered its growth by permitting more new subdivisions to be built than the population could support.

At the minimum, the Smartcode should be renamed "Design Guidelines for Traditional Neighborhood Design". If Lawrence truly wants a "smart code", it should adopt a set of smart growth planning tools to prevent further harm from overbuilding.

3. Density bonuses

The Smartcode, as now drafted, contains language that offers what are commonly referred to as density bonuses. Density bonuses permit a qualified development to build additional units on a site beyond what would normally be permitted if certain conditions are met. The Smartcode offers a density bonus for, among other things, providing some number of moderately priced units.

Experience with density bonuses nationwide suggests that they will produce few, if any, affordable units.

If the community wants to ensure that affordable units are available in all parts of the community, then the mechanism to achieve this is inclusionary zoning. Inclusionary zoning mandates that all subdivisions provide a minimum percentage of affordable units. Inclusionary zoning is working in communities throughout the nation.

Thank you.

Kirk

Kirk McClure
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League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

April 20, 2008

Grant Eichhorn, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

RE: ITEM NO. 15: ADOPTION OF THE LAWRENCE SMARTCODE (TA-11-24-07)

Dear Chairman Eichhorn and Planning Commissioners:

We very much appreciate the changes to the SmartCode that you are recommending. One of the major reasons that we have supported the *idea* of the SmartCode is that it requires that large areas be developed as complete neighborhoods, be pedestrian friendly, and supportive of public transit. This corresponds to our local League Land Use Position. Most of all, the SmartCode requires that large areas be planned in advance and in detail before development.

We appreciate your change from an approval system based on the Consolidated Review Committee (CRC) to a system based on review by the Planning Commission and City Commission adoption. However, there is no mention of whether any of the review process is subject to the same procedures as those of standard rezoning: i.e., public notice, public hearing, right of protest, etc. Please address this question.

There are other concerns we have had that are not yet answered, mentioned in previous letters, plus some new ones that we have. Please see attached to this letter a list of questions and excerpted annotated pages.

Thank you for being receptive to public comment and for including the changes listed.

Sincerely yours,

Carrie Lindsey
President

Alan Black, Chairman
Land Use Committee

Attachments

ATTACHMENT

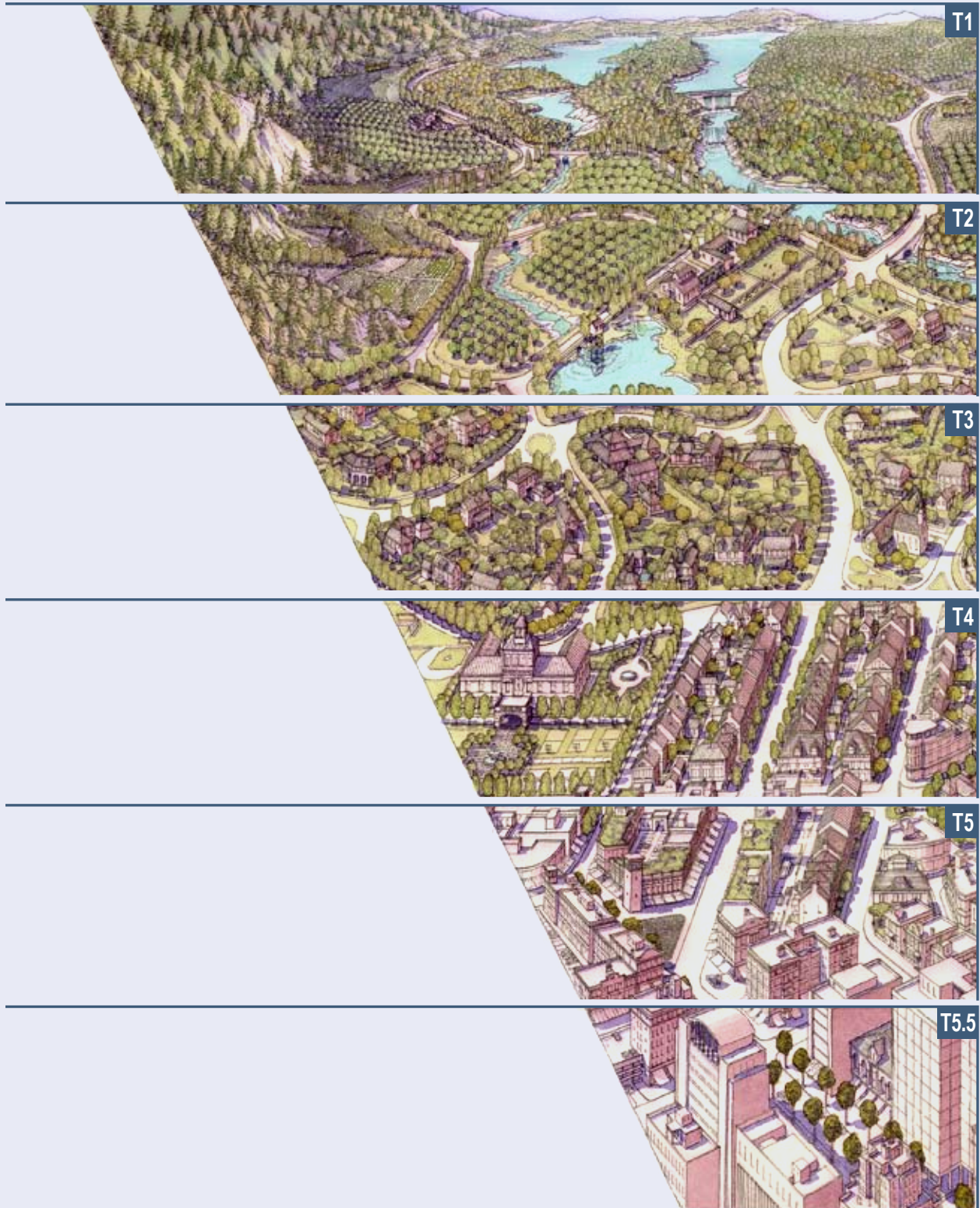
Questions:

1. Is it required that all land divisions must be platted? The definition for "Lot" and "Subdivision" don't make this clear in this version. Unless formal platting is a requirement, you will not be able to enforce this Code, because site planning doesn't deal with subdivision---only with building placement and the like.
2. Section 20-810 requires that individual lots must front on dedicated public streets. Is this portion of Article 20-810 also required in the SmartCode?
3. Are private streets permitted? Section 20-810 allows private streets only in Planned Development in the city. The county subdivision regulations do not allow private streets.
4. Are shared private driveways permitted? Section 20-810 allows shared driveways only in the public street right-of-way. Are lanes dedicated to the public?
5. How are building envelopes to be used? We assume that they are to be used only on platted lots. Is that correct?
6. Where are Articles 5a and 5b located in the text?
7. Table 11, T3 transect, ownership of dwellings: Unless you define "single ownership" it isn't clear that this means both dwellings—the principal dwelling and the accessory dwelling—have the same owner. The problem is in the definition of "lot" in the SmartCode definitions. To explain the problem: if a platted lot can be subdivided without replatting, as in the case of a townhouse, then the owner of a building on a lot isn't necessarily the same owner as that of another building on the same lot.

The new Land Development Code and Subdivision Regulations (Article 8) were written specifically to make the owner of a single family dwelling also the owner of the lot and all structures on the lot on which the dwelling is sited, including accessory dwellings. Because the SmartCode doesn't make this clear, it is going to create problems for the City and for those buying into the SmartCode developments where accessory dwellings are permitted on single family lots. This is one reason that the Land Development Code requires that all accessory dwellings be part of either the main building or part of a separate garage on the same lot.

In addition, please see annotated pages of the latest draft of the SmartCode.

SMARTCODE



Lawrence, Kansas

APRIL 9, 2008

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- the remaining provisions shall not in any way be affected or impaired.
- 1.3.6 All SmartCode applications shall comply with the following sections of Article 11, General Development Standards, of the Lawrence Development Code.
20-1104 Performance Agreements; Guarantees
20-1106 Agreement Not to Protest Formation of a Benefit District
- 1.3.7 Retail Market Impact Analysis
(a) Applicability
An independent market analysis shall be required for all SmartCode applications , including rezonings, that could result in 100,000 square feet or more of additional floor area for retail businesses in the City. Developments that would create less than 100,000 square feet of added retail space in the City or those that would reoccupy retail space that is already part of the City's retail database (whether currently occupied or currently vacant shall be exempt from the independent market impact analysis.
See 20-1107 (b) through (e) of the Land Development Code for Market Analysis criteria and process.
- 1.3.8 Traffic Impact Study
A traffic impact study is required when necessary for Article 3, Article 4 and Article 5a applications. See 20-916 of the Land Development Code for details if required.
- 1.4 **PROCESS**
- 1.4.1 Sectors (defined in Article 2) are comprised of Open Spaces and Communities (defined in Articles 3 and 4) which are comprised of Transect Zones (defined by the elements appropriate to them in Article 5 and in Article 6 Standards & Tables).
- 1.4.2 Appeals ^{to} of the Director of Planning and Development Services' (the "Planning Director") decision on Article 5a or 5b applications may be taken to the City Commission by filing a notice of appeal with the Planning Director. Appeals shall be filed within 9 days of a decision to approve or disapprove Article 5a or 5b applications.
- 1.4.3 Should a violation of an approved plan occur during construction, the Planning Director has the right to require the Developer to stop, remove, and/or mitigate the violation, or to require the Developer to secure a Variance to cover the violation.
- 1.4.4 In order to utilize this Code, a developer must petition for the land at issue to be rezoned to a SmartCode District pursuant to the rezoning requirements set forth in Section 20-1303 of the Lawrence Development Code.
- 1.4.5 Land for which a Transect Map has previously been adopted by the City shall be rezoned to the Transect Zone identified for that land on the adopted Transect Map.
- 1.4.6 For Greenfield or Infill land for which a Transect Map has not been previously adopted by the City and which meets the minimum contiguous acreage requirements in Article 3 or Article 4 respectively, the developer may petition to have an entire parcel rezoned to a SmartCode District. The City shall not be required to approve the proposed rezoning; however, if it does not, it shall explain in writing to the developer the specific reasons that it did not approve the requested rezoning. If the City approves the rezoning request, then that land shall immediately be designated as a SmartCode District. In order to obtain this rezoning, the developer does not have to submit a proposed Transect Map with the rezoning application. However, before any development within the SmartCode District may commence, the developer shall comply with the requirements set forth in Section 1.4.7.

This is too large before a market analysis is required.

This is counter to the original intention of the SmartCode as described by the Consultants. The original idea was to provide neighborhood-type shopping plus public transportation to free neighborhood residents from total auto-dependence, or at least provide choice. There should be maximum-sized commercial uses permitted similar to the CN1 District limiting the retail outlets to less than 3000 gross square feet. (See box below for quote from the Land Dev. Code.)

"20-526 Retail Establishments
(2) Market Impact Analysis
A Commercial Center proposed for more than 50,000 gross square feet of commercial space is required to have a market impact analysis submitted at the time of application for rezoning in accordance with Sec. 20-1107."

n. If the Planning Director has approved and certified the Final Plat in accordance with this Code, the Planning Director within 5 working days of receipt of the recordable copies of the Final Plat, shall submit the Final Plat to the Chair of the Planning Commission and to the Mayor for signatures. Each of these persons shall, if he or she accepts the certification of the Planning Director, sign the Final Plat, including the "Acceptance of Dedications" certificate; if any of these persons refuse to sign the Final Plat, he or she shall refer the Final Plat to the Planning Commission for consideration at its next meeting in accordance with the requirements of this Code, together with a memorandum explaining the reasons why such person refused to sign it.

j. After all signatures have been obtained, the Planning Director shall forward the recordable copy of the Final Plat to the Register of Deeds for recording. The recorded version of the Plat shall bear the endorsements herein provided, including the endorsement by the City Commission accepting the Dedications.

(1) Upon approval and acceptance of all Final Plats that create new Street/Roads, detailed Street/Road plans shall be submitted to the City Engineer for approval prior to filing of the Plat, and these plans shall include the following:

(i) Plan, profile, ditch grades, and cross-sections of all Street/Roads, Alleys and other public ways; and,

(ii) Drainage areas and size and length of cross-road drainage Structures.

(2) Prior to the Final Plat being recorded with the Register of Deeds, a digital version of the Plat shall be submitted to the Planning Director in a format approved by the Planning Director. The digital file shall be registered to the State Plane Coordinate Grid System used by the city and county. Any Final Plat not submitted in a digital format will be converted by the City, and the cost for conversion will be paid by the Developer before the Plat can be recorded at the Register of Deeds.

(3) Errors found in closure shall be corrected prior to filing the Final Plat.

(4) Approval of a Final Plat by the Planning Commission and acceptance of Dedications by the appropriate City Commission shall be effective for no more than 18 months from the date of acceptance unless all conditions of approval have been completed.

1.4.11 All Subdivisions shall comply with the following sections of Article 8, Subdivision Design and Improvements, of the Lawrence Development Code. Any references or requirements in the following code sections to property outside the of the corporate limits of the City of Lawrence, Kansas or provisions of Article 8 enforceable by the Board of County Commissioners for the Unincorporated Area of Douglas County shall not apply to SmartCode applications.

20-810 (e) (Thoroughfare Names and Lot and Block Numbering)

(1) Thoroughfare names shall be proposed by the Applicant, reviewed by the Public Works Department, and approved by the City Commission. The approval of Thoroughfare names shall be within the legislative discretion of City Commission, subject to the following standards:

(i) Compass directions shall not be used as part of Thoroughfare names;

Why have you included in with the other SmartCode regulations the portions of the Subdivision Regulations that don't apply?

1.2). The Planning Commission shall have the authority to approve or disapprove a request for a Warrant for Article 3 and Article 4 applications. The Planning Director shall have the authority to administratively approve or disapprove a request for a Warrant for Article 5a and 5b applications.

Where are Articles 5a and 5b?

1.5.3 A Variance is any ruling on a deviation other than a Warrant. Variances shall be granted only in accordance with the procedures established by the Board of Zoning Appeals.

1.5.4 The request for a Variance shall not subject the entire application to public hearing, but only that portion necessary to rule on the issue requiring a Variance.

1.5.5 The following standards and requirements shall not be available for Warrants or Variances:

- a. The allocation ratios of each Transect Zone. (See Table 14A)
- b. The maximum dimensions of traffic lanes. (See Table 3)
- c. The required provision of Rear Alleys and Rear Lanes.
- d. The minimum Base Residential Densities. (See Table 14B)
- e. The permission to build Outbuildings. The provision to build accessory dwelling units is contingent upon the primary dwelling or the accessory dwelling unit being owner-occupied.
- f. The requirements for parking. (See Table 12)

The bonus insertion seems to contradict this.

1.5.6 Approval of a warrant or variance does not grant any vesting rights pursuant to K.S.A. 12-764 and amendments thereto.

1.6 INCENTIVES

1.6.1 To encourage the use of this Code, the City Commission grants the following incentives, to the extent authorized by state law:

a. Development Bonuses

A development bonus is an incentive-based tool that permits an increase in the allowable development potential of a property in exchange for helping the community achieve goals as stated in the Lawrence/Douglas County Comprehensive Land Use Plan. Developments utilizing the Lawrence SmartCode, which contain features it identified as public goals in the table below, may be eligible to increase development potential based upon the number of points earned. The applicant shall make a request for development bonus(es) in writing with the Article 5a application. The request shall state the goal(s) provided, points earned and development bonus redeemed for the points earned. Such information shall also be stated on the approved Article 5a plan.

Public Goal	Points Earned
Goal I: Provision of Moderately-Priced Dwelling Units	
Percentage of all dwelling units which are considered to be <u>Moderately-Priced Dwelling Units</u>	100 points for the first 10%; PLUS 10 points for each 1% provided in addition to 10%
Goal II: Provision of a variety of housing types	
In the T4 zone, a minimum Residential mix of three Building Disposition types (none less than 20%) are used, selected from Table 9	50 points
Goal III: Provision of transit-supportive development	
Location adjacent to <u>Designated Transit Stop</u>	100 points if located directly adjacent to a transit stop and if stop is integrated into the development and transit stop/pedestrian amenities are provided.
Goal IV: Ensuring availability of adequate public facilities	
Location within ½ mile of a fire station	10 points
Location within 1 mile of a police station	10 points
Location within ¼ mile of a public park or open space	25 points
Location within ¼ mile of a school or cultural center	25 points
Redevelopment of an existing commercial or nonresidential center with adequate utility and transportation infrastructure to support redevelopment	75 points
Location adjacent to the intersection of two streets classified as either Minor Arterial or Principal Arterial according to the adopted Major Thoroughfares Map	15 points
Goal V: Ensuring Protection of Environmental Quality	
Provision of a green roof or rooftop garden to control storm water runoff (determination of materials used to constitute a green roof or rooftop garden shall be made by the City Stormwater Engineer)	75 points
Construction of a structure with LEED (Leadership in Energy Efficient Design) Certification	50 points per structure certified;
Construction of a residential structure with ENERGY STAR Certification	25 points per attached or detached dwelling certified;

This is a passive method for achieving these goals. In contrast, the developers should actively seek locations for these needs in their plans and reserve space within the development for them.

For example, open space can be reserved for parks. Space can be reserved for educational and community purposes---private schools and other educational functions. Recreational and community centers can be located in these reserved areas if the public school system cannot change its policies. These community centers are essential to provide identity and function to neighborhoods.

Lawrence, Kansas

- (1) Redemption of Development Bonus
 - (i) Increase in Building Height

In a designated T4 or T5 Transect Zone, building height may be increased above the permitted maximum height as stated in Sections 5.4.11 and 5.5.11 at the rate of 1 story for every 100 points earned. Points earned in any development zone may be transferred to the T4 or T5 Transect Zone for redemption.
 - (ii) Increase in Lot Coverage above Maximum

In a designated T4 or T5 Transect Zone, lot coverage may be increased above the maximum permitted as per Sections 5.4.11 and 5.5.11 up to 100% coverage for 75 points earned. Only those points earned through provision of features of Goal V may be redeemed for an increase in lot coverage.
 - (iii) Reduction in Minimum Parking Requirement

The minimum number of parking spaces required may be reduced at a rate of 1 parking space for every 5 points earned. Only those points earned through provision of features of Goal III may be redeemed for a reduction in the minimum parking requirement.

There is a limit to how much density and crowding people will permit when they have a choice. For success, small lot development depends on how a neighborhood is designed and how much alternative, conveniently located open space is available.

2.1 INSTRUCTIONS

This Article governs the permissible uses of land within the city that has not been previously transect-mapped.

2.2 (O-1) PRESERVED OPEN SECTOR

2.2.1 The Preserved Open Sector shall be assigned to open space that is protected from development in perpetuity. The Preserved Open Sector includes areas under environmental protection by law or regulation, as well as land acquired for conservation through purchase, by easement, or by past transfer of development rights.

2.2.2 The Preserved Open Sector shall consist of the aggregate of the following categories:

- a. Surface Waterbodies
- b. Protected Wetlands
- c. Protected Habitat
- d. Riparian Corridors
- e. Purchased Open Space
- f. Conservation Easements
- g. Transportation Corridors
- h. Residual to Clustered Land Developments (CLD)

2.2.3 Development and construction within the Preserved Open Sector and the specifications required to do so shall be determined on an individual project basis in public hearing of the City Commission.

2.3 (O-2) RESERVED OPEN SECTOR

2.3.1 The Reserved Open Sector shall be assigned to open space that should be, but is not yet, protected from development.

2.3.2 The Reserved Open Sector shall consist of the aggregate of the following categories:

- a. Flood Way and Flood Fringe
- b. Steep Slopes
- c. Open Space to be Acquired
- d. Corridors to be Acquired
- e. Buffers to be Acquired
- f. Legacy Woodland
- g. Legacy Farmland
- h. Legacy Viewsheds

2.4 (G-1) RESTRICTED GROWTH SECTOR

2.4.1 The Restricted Growth Sector shall be assigned to areas that have value as open space but nevertheless are subject to development, either because the zoning has already been granted or because there is no legally defensible reason, in the long term, to deny it.

2.4.2 Within the Restricted Growth Sector, Clustered Land Developments (CLD) shall be permitted By Right. CLDs shall consist of no more than one Standard Pedestrian Shed with that portion of its site assigned to the T1 Natural or T2 Rural Zones as specified in Section 3.3.1.

2.5 (G-2) CONTROLLED GROWTH SECTOR

2.5.1 The Controlled Growth Sector shall be assigned to those locations where development is encouraged, as it can support mixed-use by virtue of proximity to a Thoroughfare or Fixed Transit Route.

2.5.2 Within the Controlled Growth Sector, Traditional Neighborhood Developments (TND)

This is extremely bad public policy, or we are misunderstanding the statement. It places the preservation of environmentally sensitive land into a political (subject to judgment) rather than a legal status based on standards in the Code. Preservation should be predictable, based on the land constraints and the legal requirements of the Code, and not subject to arbitrary fiat.

How you are going to deal with the CLDs is critical. Are all developments required to be annexed? Are they all located on the map in the Plan?

3.1 INSTRUCTIONS

- 3.1.1 Once Greenfield land has been rezoned as a SmartCode District, this Code shall be the exclusive and mandatory zoning regulation for land within that SmartCode District. Whenever utilized, the provisions of this Code shall be applied in their entirety, subject to the requirements of Section 1.3.2
- 3.1.2 Incentives for the use of this Code are listed in Section 1.6. Development in the "SmartCode Districts" shall be eligible for Section 1.6 incentives.
- 3.1.3 The Planning Commission will review the Article 3 applications and recommend approval, approval with modifications or conditions, or recommend disapproval of the applications to the City Commission.
- 3.1.4 New Community Plans ~~should~~ ^{shall} respond to the existing conditions of the site, adjacent developments, connecting Thoroughfares, and natural features.
- 3.1.5 New Community Plans shall be structured as at least one partial or entire Standard or Long Pedestrian Sheds as specified in Section 3.3.
- 3.1.6 New Community Plans shall allocate the Transect Zones as specified in Table 14.
- 3.1.7 New Community Plans shall classify land within the project but outside the Standard or Long Pedestrian Sheds as either Natural Zones (T1), Rural Zones (T2), Sub-Urban Zones (T3) or as Civic Space (CS).
- 3.1.8 New Community Plans shall lay out the Thoroughfare network according to the provisions of Section 3.4 and Table 3.
- 3.1.9 New Community Plans shall allocate the Civic Functions according to Section 3.5.
- 3.1.10 New Community Plans shall be detailed with the Special Requirements described in Section 3.6.

If there is any wiggle room, this section, 3.1.4, probably won't be followed.

3.2 TRANSECT ZONES

- 3.2.1 Transect Zones shall be constituted of the elements described in Table 1 and the standards summarized in Table 14. When calculating the allocation of Transect Zones according to Table 14, the allocation shall apply only to the Net Site Area.

3.3 COMMUNITY TYPES**3.3.1 Clustered Land Development (CLD)**

- a. CLDs shall be permitted By Right for New Community Plans of at least 40 contiguous Greenfield acres.
- b. A CLD shall consist of one partial or entire Standard Pedestrian Shed (1/4 mile radius). A CLD's Standard Pedestrian Shed shall satisfy the individual Transect Zone requirements as specified in Table 14A. However, a minimum of 50% of the parcel shall be permanently allocated to the T2 Zone.

3.3.2 Traditional Neighborhood Development (TND)

- a. TNDs shall be permitted by right for New Community Plans of at least 60 contiguous Greenfield acres.
- b. A TND shall consist of at least one partial or entire Standard or Long Pedestrian Shed (1/4 mile radius). Each Standard Pedestrian Shed within a TND shall satisfy the individual Transect Zone requirements as specified in Table 14A.

4.1 INSTRUCTIONS

4.1.1 Subject to Section 4.1.2 and 4.1.3, a Developer may prepare a proposed Infill Community Plan. In order to obtain approval of the proposed Infill Community Plan, the Developer shall submit the Infill Community Plan for the required rezoning approvals per 1.4.4 and 1.4.8 and for approval of the actual Infill Community Plan. The Planning Director will review the Article 4 applications and provide a report to the Planning Commission. The Planning Commission will review the Article 4 applications and recommend approval, approval with modifications or conditions, or recommend disapproval of the applications to the City Commission.

4.1.2 Preparation of an Infill Community Plan shall require the entity preparing the Plan to meet with and involve the neighborhoods surrounding the Infill project at least once prior to submitting the Infill Community Plan to the Planning Director. A report showing how neighborhood comments were addressed in the Infill Community Plan shall also be submitted to the Planning Director along with the Infill Community Plan.

4.1.3 For any Infill sites comprising at least 30 contiguous acres, the Developer or the Planning and Development Services may prepare an Infill Community Plan. For sites comprising less than 30 contiguous acres, only Planning and Development Services or its designee shall prepare an Infill Community Plan, except that upon petition by a landowner the Planning Director may allow a landowner to prepare an Infill Community Plan when doing so would be in accordance with the Purpose section of this Code. The Plan area should connect and blend with surrounding urbanism.

4.1.4 An Infill Community Plan shall demonstrate compliance with the requirements of the Community Types described in Section 4.3 and with the Streetscape requirements set forth in Section 4.4.

4.1.5 An Infill Community Plan shall demonstrate compliance with the requirements governing Civic Functions within each Community Type as described in Section 4.5.

4.2 TRANSECT ZONES

4.2.1 Infill Community Plans shall consist of Infill TNDs. An Infill TND is composed of the same Transect Zones as a TND. When calculating the allocation of Transect Zones according to Table 14, the allocation shall apply only to the Net Site Area.

4.3 COMMUNITY TYPES

Infill Community Plans shall be based on conserving, completing or creating Transect-based urban structure.

4.3.1 Infill TND

Infill TNDs shall be urbanized areas of at least 30 contiguous acres. An Infill TND shall be based upon a partial or entire Standard Pedestrian Shed. The physical center of the Infill TND should be located at an important traffic intersection associated with a Civic or Commercial institution. The edges of the Infill TND should blend into an adjacent development without buffer. An Infill TND shall meet the requirements for a TND as set forth in Table 14.

4.3.2 [RESERVED]**4.3.3 Special Districts (SD)**

Special Districts shall be areas dedicated for certain Functions that by virtue of size or incompatibility with other surrounding Building Functions cannot meet the

PLEASE

All infill community plans should include a minimum amount of recreational open space located within at least one-eighth of a mile of each residence. It doesn't need to be large, but it should be much closer than one-fourth mile and not separated from the residents by a street or other hazardous barrier.

One reason that single family suburban-type residential areas are so attractive to families with children is the close accessibility to recreational space on the same level as the living quarters. This is also why cul-de-sacs are popular---they substitute for open play space in areas without sidewalks or playgrounds.

TABLE 7: Private Frontages. This table sets forth the permitted Private Frontage types by Transect Zone.

	SECTION	PLAN
	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE	LOT PRIVATE FRONTAGE R.O.W. PUBLIC FRONTAGE
<p>a. Common Yard: a frontage wherein the facade is set back substantially from the frontage line. The front yard created remains unfenced and is visually continuous with adjacent yards, supporting a common landscape. The deep setback provides a buffer from the higher speed thoroughfares.</p>		<div>T2 T3</div>
<p>b. Porch & Fence: a frontage wherein the facade is set back from the frontage line with an attached porch permitted to encroach into the setback. A fence at the frontage line maintains the demarcation of the yard. The porches shall be no less than 8 feet deep.</p>		<div>T3 T4</div>
<p>c. Terrace or Light Court: a frontage wherein the facade is set back from the frontage line by an elevated terrace or a sunken light court. This type buffers residential use from urban sidewalks and removes the private yard from public encroachment. The terrace is suitable for conversion to outdoor cafes.</p>		<div>T4 T5</div>
<p>d. Forecourt: a frontage wherein a portion of the facade is close to the frontage line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs. This type should be allocated in conjunction with other frontage types. Large trees within the forecourts may overhang the sidewalks.</p>		<div>T4 T5</div>
<p>e. Stoop: a frontage wherein the facade is aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows. The entrance is usually an exterior stair and landing. This type is recommended for ground-floor residential use.</p>		<div>T4 T5</div>
<p>f. Shopfront and Awning: a frontage wherein the facade is aligned close to the frontage line with the building entrance at sidewalk grade. This type is conventional for retail use. It has a substantial glazing on the sidewalk level and an awning that may overlap the sidewalk to the maximum extent possible.</p>		<div>T4 T5 T5.5</div>
<p>g. Gallery: a frontage wherein the facade is aligned close to the frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk. This type is conventional for retail use. The gallery shall be no less than 10 feet wide and may overlap the whole width of the sidewalk to within 2 feet of the curb.</p>		<div>T4 T5 T5.5</div>
<p>h. Arcade: a frontage wherein the facade is a colonnade that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line. This type is conventional for retail use. The arcade shall be no less than 12 feet wide and may overlap the whole width of the sidewalk to within 2 feet of the curb.</p>		<div>T5 T5.5</div>

Please check this. I thought that the front lot line fence requirement allowing a chain link fence in front had been changed.

TABLE 11: Building Function - General. This table sets forth the permitted Building Functions by Transect Zone and general function.

Unless you define "single ownership" it isn't clear that this means both dwellings have the same owner. This is where the definition of lot is important. The buildings should be owned by the owner of the lot.

	T3	T4	T5 T5.5
a. RESIDENTIAL	Restricted Residential: The number of residential units on each lot is restricted to one within a principal building and one within an outbuilding, with 2.0 assigned parking places for each. Both dwellings shall be under single ownership. At least one dwelling shall be owner-occupied at all times. The habitable area of the Outbuilding shall not exceed 500 square feet.	Limited Residential: The number of residential units on each lot is limited by the requirement of 1.5 assigned parking places for each residential unit.	Open Residential: The number of residential units on each lot is limited by the requirement of 1.0 assigned parking places for each residential unit. Parking requirements do not apply to T5.5
b. LODGING	Restricted Lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of 1.0 assigned parking place for each bedroom, up to five, in addition to the parking requirement for the residential unit. Food service may be provided between 5a.m. and 11a.m. The maximum length of stay shall not exceed ten days.	Limited Lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of 1.0 assigned parking place for each bedroom, up to twelve, in addition to the parking requirement for the residential unit. Food service may be provided between 5a.m. and 11a.m. The maximum length of stay shall not exceed ten days.	Open Lodging: The number of bedrooms available on each lot for lodging is limited by the requirement of 1.0 assigned parking place for each bedroom in addition to the parking requirement for the residential unit. Food service may be provided at all times. Parking requirements do not apply to T5.5
c. OFFICE	Restricted Office: The building area available for office use on each lot is restricted to the first story of the principal or the out building and by the requirement of 3.0 assigned parking places per 1000 square feet of net office space in addition to the parking requirement for each residential unit.	Limited Office: The building area available for office use on each lot is limited to the first story of the principal building and/or to the outbuilding, and by the requirement of 3.0 assigned parking places per 1000 square feet of net office space in addition to the parking requirement for each residential unit.	Open Office: The building area available for office use on each lot is limited by the requirement of 2.0 assigned parking places per 1000 square feet of net office space in addition to the parking requirement for each residential unit. Parking requirements do not apply to T5.5
d. RETAIL You got it!	Restricted Retail: The building area available for retail use is restricted to one block corner location at the first story for each 300 residential units and by the requirement of 4.0 assigned parking places per 1000 square feet of net retail space in addition to the parking requirement of each residential unit. This specific function shall be further limited to neighborhood store or food service seating of no more than 20.	Limited Retail: The building area available for retail use is limited to the first story of buildings at corner locations, not more than one per block, and by the requirement of 4.0 assigned parking places per 1000 square feet of net retail space in addition to the parking requirement of each residential unit. The specific function shall be further limited to neighborhood store, or food service seating no more than 40.	Open Retail: The building area available for retail use is limited by the requirement of 3.0 assigned parking places per 1000 square feet of net retail space in addition to the parking requirement of each residential unit. Parking requirements do not apply to T5.5
e. CIVIC	See Table 10	See Table 10	See Table 10
f. OTHER	See Table 10	See Table 10	See Table 10

TABLE 12: Parking Calculation. The Required Parking table summarizes the parking requirements of Table 11 for each site or, conversely, the amount of building allowed on each site given the parking available.

	REQUIRED PARKING (See table 11)		
	T3	T4	T5
RESIDENTIAL	2.0 / residential unit	1.5 / residential unit	1.0 / residential unit
LODGING	1.0 / bedroom	1.0 / bedroom	1.0 / bedroom
OFFICE	3.0 / 1000 sq. ft.	3.0 / 1000 sq. ft.	2.0 / 1000 sq. ft.
RETAIL	4.0 / 1000 sq. ft.	4.0 / 1000 sq. ft.	3.0 / 1000 sq. ft.
CIVIC	To be determined by warrant		
OTHER	To be determined by warrant		

SHARING FACTOR

Function	with	Function
RESIDENTIAL		RESIDENTIAL
LODGING		LODGING
OFFICE		OFFICE
RETAIL		RETAIL

Sharing Factor Matrix (Values in the center of the diamond):

- RESIDENTIAL with RESIDENTIAL: 1
- LODGING with LODGING: 1
- OFFICE with OFFICE: 1
- RETAIL with RETAIL: 1
- RESIDENTIAL with LODGING: 1.1
- LODGING with RESIDENTIAL: 1.1
- RESIDENTIAL with OFFICE: 1.4
- OFFICE with RESIDENTIAL: 1.4
- LODGING with OFFICE: 1.7
- OFFICE with LODGING: 1.7
- RESIDENTIAL with RETAIL: 1.2
- RETAIL with RESIDENTIAL: 1.2
- LODGING with RETAIL: 1.3
- RETAIL with LODGING: 1.3
- OFFICE with RETAIL: 1.2
- RETAIL with OFFICE: 1.2

Final Plat: A map of a land Subdivision prepared in a form suitable for filing of record with necessary affidavits, Dedications, restrictions, and acceptances, and with complete bearings and dimensions of all lines defining Lots and Blocks, Streets, Alleys, public areas and other dimensions of land.

Frontage Line: those Lot Lines that coincide with a Public Frontage. Facades along Frontage Lines define the public realm and are therefore more regulated than the elevations that coincide with other Lot Lines (see Table 16).

Greenfield: an area that consists of open fields and farmland which has not been previously developed. All property shall be considered an Infill (see below) unless the Developer has demonstrated to the satisfaction of the Planning Director that the property is a Greenfield.

Greenway: an open space corridor in largely natural conditions which may include Trails for bicycles and pedestrians.

Home Occupation: non-retail Commercial enterprises permitted in Transect Zones T3-6. The work quarters should be invisible from the frontage, located either within the house or in an Outbuilding. Permitted activities are defined by the Restricted Office category.

Independent Building: a building designed by a different architect from the adjacent buildings.

Infill: An infill consists of land which has been previously developed property. All property shall be considered infill, unless the Developer has demonstrated to the satisfaction of the Planning Director that the property is Greenfield.

Inside Turning Radius: the curved edge of a Thoroughfare at an intersection, measured at the inside edge of the vehicular tracking. The smaller the Turning Radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn. (See Tables 3 and 16)

Long Pedestrian Shed: a Pedestrian Shed of 1/2 mile radius used for mapping community types when a transit stop (bus or rail) is present or proposed as the Common Destination. People have been shown to walk ten minutes to transit.

Layer: a range of depth of a lot within which certain elements are permitted (see Table 16).

Liner Building: a building specifically designed to mask a parking lot or a parking garage from a frontage. A Liner Building, if less than 30 feet deep and two stories, shall be exempt from parking requirements.

Live-Work: a unit that contains a Commercial component anywhere in the unit.

Lodging: premises available for daily and weekly renting of bedrooms. The area allocated for food service shall be calculated and provided with parking according to Retail use.

Lot: A designated parcel or area of land established by Plat or Subdivision to be used, transferred, developed or built upon as a unit.

Lot Line: the boundary that legally and geometrically demarcates a lot.

Lot Width: the length of the principal Frontage Line of a lot.

Please note that most people will willingly walk only 5 minutes to get to a bus stop, according to other sources.

please delete

This is going to be a major source of trouble if the term "lot" doesn't conform to the same definition as in the Land Development Code. Please see "The Game." Unless all lots must be platted before subdivision, major problems will arise between the rezoning for SmartCode and the submission of development plans.

Primary-Secondary Grid: Thoroughfare designations appearing on the Regulating Plan. Buildings on the P-Grid are subject to all of the provisions of this Code. Buildings on the S-Grid are exempt from certain provisions, allowing for Warranted open parking lots, unlined parking decks, drive-throughs and hermetic building fronts.

What is a "hermetic building front?"

Principal Frontage: (See Table 16)

Principal Building: the main building on a lot, usually located toward the frontage (see Table 16).

Principal Entrance: the main point of access of pedestrians into a building.

Private Frontage: the privately held layer between the Frontage Line and the principal building facade. The structures and landscaping within the Private Frontage may be held to specific standards. The variables of Private Frontage are the depth of the setback and the combination of architectural elements such as fences, stoops, porches and galleries.

Public Frontage: the area between the curb of the vehicular lanes and the Frontage Line. Elements of the Public Frontage include the Type of Planter, Curb, Sidewalk, street tree and streetlight.

Rear Alley (AL): a vehicular Driveway located to the rear of lots providing access to service areas and parking, and containing utility easements. Rear Alleys should be paved from building face to building face, with drainage by inverted crown at the center or with roll curbs at the edges.

What does "from building face to building face" mean?

Rear Lane (LA): a vehicular Driveway located to the rear of lots providing access to parking and outbuildings and containing utility easements. Rear Lanes may be paved lightly to Driveway standards. Its streetscape consists of gravel or landscaped edges, no raised curb and is drained by percolation.

This is going to be a source of trouble unless the standards are higher and provision is made for private maintenance. Otherwise these should be public and built to high standards.

Rearyard Building: a building that occupies the full Frontage Line, leaving the rear of the lot as the sole yard. This is a more urban type, as the continuous facade spatially defines the public thoroughfare. For its Residential function, this type yields a rowhouse. For its Commercial function, the rear yard can accommodate substantial parking.

Required Parking: The amount of parking per unit as set forth in Table 12.

Residential: premises available for long-term human dwelling.

Retail: premises available for the sale of merchandise and food service.

Retail Frontage: Frontage Lines designated on a Community Plan that require the provision of a shopfront, causing the ground level to be available for Retail use.

Road (RD): a local, rural and suburban thoroughfare of low vehicular speed and capacity. Its public frontage consists of swales drained by percolation and a walking path or bicycle trail along one or both sides. The landscaping consists of multiple species composed in naturalistic clusters. This type is allocated to the more rural Transect Zones (T1-T3).

Secondary Grid: see **Primary-Secondary Grid**.

Dan Warner

From: Bradley R. Finkeldei [BradFink@stevensbrand.com]
Sent: Wednesday, April 23, 2008 4:12 PM
To: Scott McCullough; Dan Warner
Subject: FW: CRC

You probably saw this, but if not...

Bradley R. Finkeldei
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From: Bobbie Flory [mailto:bobbie@lhba.net]
Sent: Wednesday, April 23, 2008 3:44 PM
To: lharris@ku.edu; greg@moorevaluation.com; cblaser@sunflower.com; Bradley R. Finkeldei; hugh.carter@ubs.com; grant@dgcounty.com; rhird@pihhlawyers.com; thomasjennings@hotmail.com; jeff@chaney-inc.com; dennis.lawson@frontierfarmcredit.com
Subject: FW: CRC

Planning Commissioners,

Below is an email from Hazel Borys, Managing Principal, PlaceMakers. I asked her to confirm my understanding of the importance of the administrative approval process to the adoption and, more importantly, the acceptance of the SmartCode, which she did. It was explained throughout the public process that public input would occur at the front end of development and then a developer would be allowed to follow a very prescriptive Code with an administrative approval. If the developer did not follow the prescriptive Code, then they would no longer be eligible for the administrative approval process. Commissioner Sue Hack explained this to the community when the idea of a SmartCode was originally pitched, it was explained by PlaceMakers at their Opening Public Presentation in January 2007, throughout the charrettes, and then at the public hearing they hosted last summer at Holcomb Recreation Center.

The Planning Commission should give the SmartCode an opportunity to be tried before this fundamental element (CRC) is removed.

Bobbie Flory
 Lawrence Home Builders Association

From: Hazel Borys [mailto:hazel@placemakers.com]
Sent: Wednesday, April 23, 2008 1:38 PM
To: Bobbie Flory
Subject: Re: CRC

Bobbie,

We are delighted that Lawrence is in the final stages of SmartCode adoption. However, we do share your concern about the proposed deletion of administrative review. PlaceMakers recommendation in the Lawrence SmartCode calibration was to have the administrative review in place, and we encourage this evening's hearing to give it careful consideration.

The public process of the Lawrence SmartCode calibration garnered consensus about the parameters of development that are both acceptable to the community, and in keeping with your comprehensive plan. Requiring each new neighborhood to go through the public process again would be revisiting the SmartCode calibration, and therefore is a disincentive to developers to use the optional SmartCode.

The "terms of the agreement," so to speak, of the SmartCode intent are simple. The exchange is increased up front work for the developer in return for increased certainty. Without some sort of incentive for the developer to do the extra planning and design work, the SmartCode will not get used. Administrative review is the least expensive of the potential incentives.

One way to reassure people may be to institute some form of administrative review (the CRC, the Planning Department, etc.), but specify a time (6 months or 1 year) for an evaluation of its function. Staff or an outside consultant could prepare an evaluation, based on review of the cases as well as interviews with key stakeholders, and present the evaluation to the Commission for discussion.

We recommend administrative review in all of our SmartCode calibrations.

Best,
Hazel Borys
Managing Principal
PlaceMakers, LLC
7527 Camden Harbour Drive
Bradenton, FL 34212

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www.SmartCodeComplete.com

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(941) 748-5861 direct
(941) 779-8851 cellular

On Apr 23, 2008, at 8:25 AM, Bobbie Flory wrote:

Hazel,

The Lawrence Douglas County Metropolitan Planning Commission is holding a hearing tonight on removing the CRC administrative approval process from the SmartCode. I represent the Lawrence Home Builders Association (LHBA) and participated in the charrette process, was interviewed individually by Placemakers, and provided

6/18/2008

written comment which was publicly posted on the website for public review. The LHBA feels that there is a great support for the concept of Traditional Neighborhood Design because of the walk-ability and sustainability that is designed into neighborhoods. The potential for TND's in Lawrence, KS is exciting.

When the SmartCode was originally pitched to the community, it was made clear that a fundamental element of the SmartCode was the administrative approval incentive. The 'discussion' would all be held up front during SmartCode adoption and Lawrence citizens definitely participated. In fact, the Placemakers went to considerable lengths to make sure that all voices were heard. After the community adopted the SmartCode, developments would be a matter of meeting the prescriptive rules. If the CRC administrative process is removed, with it goes the incentive for a developer to try something new and visionary in this community. In fact, there is a developer who was intrigued by SmartCode, brought his actual plan in and let Placemakers design a TND for it during the charrettes. He let his existing conventionally zoned plat expire, assuming the fundamental administrative process would remain intact and he could utilize the Placemaker's planned TND as a starting point. He said he will absolutely not use the SmartCode if his incentive is removed and will, instead, go back to conventional zoning.

The LHBA feels the CRC administrative approval process is an essential component of SmartCode. If the incentive is removed it is unlikely the SmartCode will be utilized and instead will marginalize the existence of the SmartCode. Could you please comment on Placemaker's position on the administrative approval incentive?

Bobbie Flory
Lawrence Home Builders Association
P.O. Box 3490
Lawrence, KS 66046
(785) 748-0612
bobbie@lhba.net



May 21, 2008

Lawrence Douglas County Planning Commission
Grant Eichhorn, Chairman
6 E. 6th
Lawrence, KS 66044

Dear Chairman Eichhorn and Commissioners,

I would like to reiterate the position of the Lawrence Home Builders Association in support for an administrative approval process as part of the SmartCode adoption.

The Placemakers consulting firm came to the Lawrence community to hold charrettes were very clear from the first public presentations in January 2007 that an administrative approval process was a fundamental element in the use of a SmartCode.

1/5/07, Placemakers, "Tell 'em what they can do and make it incentive based"

1/31/07, Placemakers, "Staff should approve a SmartCode development if the proposal meets the prescriptive methods."

We were also told that having a prescriptive SmartCode in place with an administrative approval process would remove much of the divisiveness and uncertainty that currently exists when new developments are proposed. This would happen because the specific rules would be clearly defined by extensive public input up front (prescriptive) and would only allow administrative approval if those predetermined rules would be followed.

Correspondence to me from Hazel Borys, Managing Principal, Placemakers, 4/23/08, encourages careful consideration of the Consolidated Review Committee (CRC.) "The public process of the Lawrence SmartCode calibration garnered consensus about the parameters of development that are both acceptable to the community, and in keeping with your comprehensive plan. Requiring each new neighborhood to go through the public process **again** would be revisiting the SmartCode calibration, and therefore is a **disincentive** to developers to use the optional SmartCode." She goes on to say that without the CRC incentive, the SmartCode will not get used.

Our position does not discourage public input. On the contrary, we want it to occur at the front end so that the effort to comply will be based on the *known* calibration.

Sincerely,

Bobbie Flory
Executive Director

P.O. Box 3490 • Lawrence, Kansas 66046 • (785) 748-0612 • fax (785) 748-0622 • www.lhba.net



Dan Warner

From: McClure, Kirk [mcclure@ku.edu]
Sent: Monday, May 19, 2008 2:30 PM
To: Lisa Harris Email; bradfink@stevensbrand.com; cblaser@sunflower.com; greg@moorevaluation.com; thomasjennings@hotmail.com; dennis.Lawson@fcbw.com; jeff@chaney-inc.com; rick@hirdlaw.com; grant@dgcounty.com
Cc: Dan Warner; Scott McCullough
Subject: Comments on Revised SmartCode
Attachments: image001.png

**Kirk McClure
 707 Tennessee Street
 Lawrence, Kansas 66044**

May 19, 2008

Re: **Comments on Revised SmartCode**

Members of the Lawrence Douglas County Planning Commission

The latest version of the SmartCode continues to be prohibitively flawed as an alternative development code. The SmartCode provides a speedy path to a building permit in exchange for a development plan that adheres to a set of design guidelines. This "fast track" alternative development code has both procedural problems as well as substantive problems.

Procedural Problems

The revised SmartCode returns to the earlier approach with removes public input from the planning review process. Important development decisions are made by staff without effective public notice of the development to all affected parties and without any effort to obtain public input. What public notice is provided is only to inform a very few members of the public of their meager rights to appeal. Nothing in the process seeks out their input and incorporates it into the development process.

"1.4.2 The City hereby creates a Consolidated Review Committee (CRC) comprised of a representative from: Planning and Development Services, Fire, Parks, Public Works, and Utilities. The CRC shall be the administrative approval body for SmartCode applications accept (sic) for rezoning and platting."

The latest version of the SmartCode reverts back to a Consolidated Review Committee (CRC) with membership drawn from city staff members many of whom are not planners and for whom planning is only tangential to their normal duties. These staff members have not earned the trust of the public in

the past, and this will only worsen their standing with the public.

The decisions on a development plan are once again made administratively, without public input. The CRC does not seek out or receive public input.

The SmartCode process only includes notification of registered neighborhood groups. It does not ensure that all interested parties are notified. Neighbors whose properties do not touch subject property or are not represented by organized neighborhood groups will not learn of the development plan. This is an unacceptably low level of public notice. The Planning Department should view its role as providing the broadest possible public notice and the widest public input. Rather, this code institutes too many mechanisms where many affected members of the public will not be notified. The process relies on neighborhood organizations with few or no resources to do the work of the Planning Department to inform citizens. This is abrogation of good planning by the Planning Department

“1.3.3 Except where this Smart Code provides for an appeal to another quasi-judicial or administrative body, any person, official or agency aggrieved by a final decision on an application provided for in this Smart Code desiring to appeal said decision shall file the appeal in the district court of Douglas County within thirty (30) days of the making of the decision.”

The SmartCode process only provides for the most minimal of notification; it does not provide for public input. The lack of citizen participation in the review and decision making process is not good planning or good democracy.

The SmartCode calls for appeal to the Douglas County District Court. This is an impractical, disingenuous, and misguided.

It is impractical because neighbors will not be able to raise the financial resources necessary to file for an appeal within such a short time period. Neighbors do not have the financial resources that developers possess. Developers are paid professionals whose full-time occupation is development; neighbors must rely upon volunteers who have limited time to devote to the planning process and usually have no financial resources to commit.

It is disingenuous because the Planning Commission and the City Commission are the bodies where citizens should be able seek a hearing on issues of development. To tell citizens that they cannot go to these commissions but may go to court is to shirk the duties these commissions should shoulder.

It is misguided because the Court exists to arbitrate legal issues, not planning issues. The Court is not in a position to determine the substantive merits of good planning. Even if neighbors can find the resources to appeal, it is very likely that they will be told that the Court can only stop the development if procedural errors were made. The Court will probably defer to the CRC and not make a substantive finding about the merits of the development plan.

“1.4.13 Appeals

Appeals of the CRC’s decision on Article 3, 5a or 5b applications may be taken to the City Commission by filing a notice of appeal with the Planning Director. Appeals shall be filed within 9 days of a decision to approve or disapprove Article 3, 5a or 5b applications.”

The time frame for an appeal is too short. It is very hard for citizens, who are working, have active lives, and volunteer their time to participate in planning and development decisions, to work within such a short time space. It is very likely that interested citizens who would like to appeal will not even learn of the problems posed by a development within the 9 days provided. It is even less likely that they can make a determination of the merits of attempting an appeal.

“1.4.14 Right to Appeal

The following persons and entities have standing to appeal the action of the CRC on Article 3, 5a or 5b applications: 1) the applicant; 2) the City Commission; 3) the neighborhood association for the neighborhood the application is located in or is adjacent to; or 4) record Owner of all adjoining property, as the term “adjoining property” is defined in Sec. 20-1305(g).”

Standing has been too narrowly drawn. It appears that this narrow awarding of standing is an effort to thwart citizens from participating in the planning process. A great many citizens who live in affected neighborhoods do not have standing because their properties do not touch the subject property, do not have a neighborhood association, or their neighborhood association is not active.

“1.4.15 Action on Appeal

(1) The City Commission shall consider the appealed Article 3, 5a or 5b decision as a new matter, inviting public comment before acting on the original application. Mailed notice of the City Commission’s meeting shall be provided a minimum of 14 days prior to the Commission’s meeting.

(2) After considering the matter, the City Commission shall act on the original application, applying the criteria of Sec.1.4.12, taking action as provided in Sec. 1.4.10 and giving notice of its decision as provided in Sec. 1.4.11.”

It is laudable that an appeal may be heard by the City Commission. It is unfortunate that so few citizens have the capacity to call for an appeal. Their alternative is to go to court, which is a poor forum for a planning decision. Citizens without standing may petition members of the City Commission to initiate the appeal. However, this seems to be an unnecessarily burdensome process designed to prevent citizens from participating in the development decision.

“1.4.16 Modifications to Approved Plans

(1) An applicant who wishes to alter or revise an approved Article 3, 5a or 5b plan shall contact the CRC.

(2) The CRC is authorized to approve, without public notice, any modification that complies with the approval criteria of Sec. 1.4.12 as long as the CRC determines that the proposed modification does not represent a material change that would create a substantial adverse impact on surrounding Landowners.

(3) Any other modification may be approved only after re-notification in accordance with Sec. 1.4.9. The CRC’s approval of modifications shall be appealable in accordance with the appeal procedures of Sections 1.4.13, 1.4.15 and 1.4.15.”

The staff can be placed under political pressure to approve changes. While these changes are subject to appeal, the appeal process is flawed. Through this mechanism, developers can wear down the staff and the citizens without being subject to normal public scrutiny and input. This will further the already high level of citizen distrust of the planning process.

Substantive Problems

The merits of mixed-used and traditional neighborhood design are, as yet, unproven. There is no metric that justifies the removal of citizen input in exchange for use of the design guidelines found in the SmartCode. There is nothing in the SmartCode that forces a development to generate benefits for the community.

“1.2.2 The Community

a. That Traditional Neighborhood Developments should be compact,”

The SmartCode promotes further sprawl because it does nothing to stop the overbuilding that has hurt this community. Mixed-use is desirable, but excessive development is harmful. Building more than we need is a much greater threat to the community than is the development of single-use subdivisions. Until the SmartCode finds a mechanism to bring the pace of growth in supply in line with the pace of growth in demand, it cannot be truly smart.

“1.3.8 Retail Market Impact Analysis

(a) Applicability

An independent market analysis shall be required for all SmartCode applications , including rezonings, that could result in 100,000 square feet or more of additional floor area for retail businesses in the City.”

This plan ignores the impact of neighborhood retail centers which are routinely less than 100,000 square feet. Retail developments of all sizes contribute to the city’s stock of space, and their impact should be assessed by a valid process. Developers will not provide valid impact studies. This work needs to be done by skilled staff persons who are not under political pressure to make findings in favor of the developers.

“1.6 Incentives

1.6.1 To encourage the use of this Code, the City Commission grants the following incentives, to the extent authorized by state law:

a. Development Bonuses A development bonus is an incentive-based tool that permits an increase in the allowable development potential of a property in exchange for helping the community achieve goals as stated in the Lawrence/Douglas County Comprehensive Land Use Plan. Developments utilizing the Lawrence SmartCode, which contain features it identified as public goals in the table below, may be eligible to increase development potential based upon the number of points earned. The applicant shall make a request for development bonus(es) in writing with the Article 5a application. The request shall state the goal(s) provided, points earned and development bonus redeemed for the points earned. Such information shall also be stated on the approved Article 5a plan.”

Density bonuses usually fail. If the City wants affordable housing, it needs to adopt mechanisms that have been proven to succeed. Inclusionary zoning is a tool with a proven track record of bringing affordable housing into the development mix. It works; density bonuses do not.

Other issues such as LEED certification and transit stops are unlikely outcomes of density bonuses. If the City wants these, it should mandate them.

Conclusion

There is nothing in the SmartCode that prevents sprawl. There is nothing in the SmartCode that prevents overbuilding. There is nothing in the SmartCode that ensures the provision of affordable housing. The SmartCode reduces, evens eliminates, public input. The SmartCode is a misguided tradeoff between fast track development permission and a set of design guidelines that will not resolve the planning problems of this community. It may make them worse.

The Planning Commission should recommend to the City Commission this alternative development code not be adopted.

Yours truly,



Kirk McClure

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League of Women Voters of Lawrence-Douglas County

P.O. Box 1072, Lawrence, Kansas 66044

May 18, 2008

RECEIVED

MAY 19 2008

City County Planning Office
Lawrence, Kansas

Grant Eichhorn, Chairman
Members
Lawrence-Douglas County Planning Commission
City Hall
Lawrence, Kansas 66044

Re: ITEM NO. 15: ADOPTION OF THE LAWRENCE SMARTCODE (DDW)

Dear Chairman Eichhorn and Planning Commissioners:

The League has followed the inception and writing of the SmartCode over many months with hope that the final document would be beneficial to both the City and developers and result in a more livable, functional, community. Our goals were to seek a written code that would result in predictable development by means of an approval process that would be transparent, provide accountability, allow public participation, and include standards that would protect the public. We have had many concerns about this code that we hoped would be resolved, and you appeared to be getting closer in the previous version of the SmartCode that you reviewed. We don't see that in this latest version which has reverted to using the CRC.

We hoped that the written standards would provide for high-quality infrastructure with public maintenance. We don't see that in this version. We were concerned with the need for providing for public streets with public maintenance and the security needed by buyers through having their land transfers be recorded platted lots. We don't see that in this version.

For example, in reviewing the language on subdivision, the only portions of the Subdivision Regulation standards that have been included are 20-810(e) and 20-810(f). These are rules on street names and providing utility easements. Neither of these deal with requirements for platted lots, public streets built to public street standards, or even that lots must be platted before land can be subdivided. Drainage plans accommodate building envelopes, but there is no mention that these must be on platted lots. The function of the Planning Commission in reviewing a Preliminary Plat is confusing (see below).

1.4.18(c) "If the Planning Commission finds that the proposed **Plan** *[emphasis added]* fails in any way to conform to the standards set forth in this paragraph, the Planning Commission shall, by motion, deny approval of the proposed Preliminary Plat and shall state in the motion the reason(s) for that denial."

On the other hand, the Subdivision Exemptions can be used. These omissions give the impression that the SmartCode developments can be built on one huge platted lot with streets built to driveway construction standards with private maintenance, and the code will allow subdivision by using the exemptions from the Subdivision Regulations and building envelopes. The Special Districts now permit the use of the Land Development Code with no restriction on size or on how many of these districts are allowed. These are only some of our concerns about this current revision.

We are very disappointed with the version you are asked to approve, and we ask that you not accept this SmartCode as it is written at this time.

Sincerely yours,


Milton Scott
Board Representative



Alan Black, Chairman
Land Use Committee

Dan Warner

From: Lauren Bailey [LBailey@vinylsiding.org]
Sent: Tuesday, May 20, 2008 3:01 PM
To: Dan Warner
Subject: SmartCode material restrictions
Attachments: A15 Siding with Neighborhoods (Updated 2-08).pdf; A1 America Sides with Vinyl EPS.pdf

Hi Dan,

It was great to speak with you on the phone today. As I mentioned on the phone, SmartCode 9.0 does not include the material restrictions for facades found in versions 8.0. As you mentioned, your house has vinyl siding on it and Lawrence does use a lot of vinyl siding in the city's residential areas. I'm sure there are some great examples of our product in your community so it would be very unfortunate to see vinyl siding banned with the implementation of an outdated of the SmartCode.

I've attached some information on today's vinyl siding to this email for you to share with your consultant on the SmartCode implementation. Please let me know if there is any more information I can provide you about our product or our industry.

Thanks so much,

Lauren

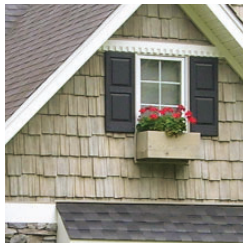
Lauren Bailey
Director, Code and Regulatory
Vinyl Siding Institute
1201 15th Street NW
Suite 220
Washington, DC 20005

6/18/2008

Siding with Neighborhoods

The goal of every neighborhood is to offer a distinct style of life.

A haven for the spirit of individuality and diversity. Neighborhoods that truly thrive provide unique character and charm to enrich the lives of all who live and work there. That's why the versatility of today's vinyl siding is an ideal match for New Urbanist and Traditional Neighborhood Design (TND) communities seeking to set themselves apart.



Free Design Guide

Designing Style: A Guide to Designing with Today's Vinyl Siding is filled with information and inspiration to help you bring your vision to life with lasting beauty. Order your free copy at www.vinylsiding.org/design.

Creating Distinguished Character

Whether developers and designers are planning to recreate the look of a historic neighborhood – or looking to blend distinctive homes, shops and other mixed-use buildings in a contemporary, new way – vinyl siding can help bring the vision to life. Local character can be preserved, or influences from around the world can be reflected. In fact, no other exterior cladding material offers the variety of profiles, textures, colors, trim and accessories to meet virtually any architectural style.

Vinyl siding offers the widest array of profiles of any cladding, including traditional clapboard, Dutchlap, board & batten, shakes, scallops, beaded and more. Textures include both wood grain and smooth, which can replicate sanded and sealed wood, delivering the distinguished and attractive looks of the originals that inspired them.

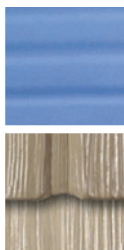
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DID YOU KNOW?

Fort Belvoir* TND (in Fairfax County, VA) puts an emphasis on diverse streetscapes and housing units. Less obvious – intentionally so – are things that keep construction costs low: on-grade concrete foundations, vinyl siding and simple massing. — *New Urban News*

*2006 American Planning Association award winner

VINYL SIDING INSTITUTE
America Sides with VinylSM



Diversity of Enduring Colors



More than 350 vinyl siding colors have been certified for color retention. How's that for diversity designed to endure?

The *VSI Vinyl Siding Product Certification Program* now includes certification based on the performance standard for color retention, **ASTM D6864**. VSI's color retention certification process requires that an outdoor weathering study be conducted for each color being considered. Each certified color must demonstrate the ability to resist major changes in a variety of climates.

The broad spectrum of vinyl siding colors includes rich hues as well as traditional neutral tones to suit virtually any color palette. All featuring greatly improved color retention. Visit www.vinylsiding.org for a complete list of certified products and colors.



Keeping Great Neighborhoods Affordable

Most TND and New Urbanist neighborhoods are defined by combining homes at various price points. With vinyl siding, trim and accessories, developers and designers can control costs without compromising quality for homes at all price levels.

Vinyl siding has by far the lowest average installed cost of any exterior cladding material, whether for new construction or renovation! Part of the reason is that vinyl siding goes up faster and doesn't need painting. This initial value extends to the homeowners for years to come. Vinyl siding's no-painting, low-maintenance features keep appreciating without using any additional natural resources.



Details of Distinction Vinyl siding offers dozens of trim and accent options as well as decorative accessories to create a custom look for every block, or every building.

Neighborhoods of Conscience

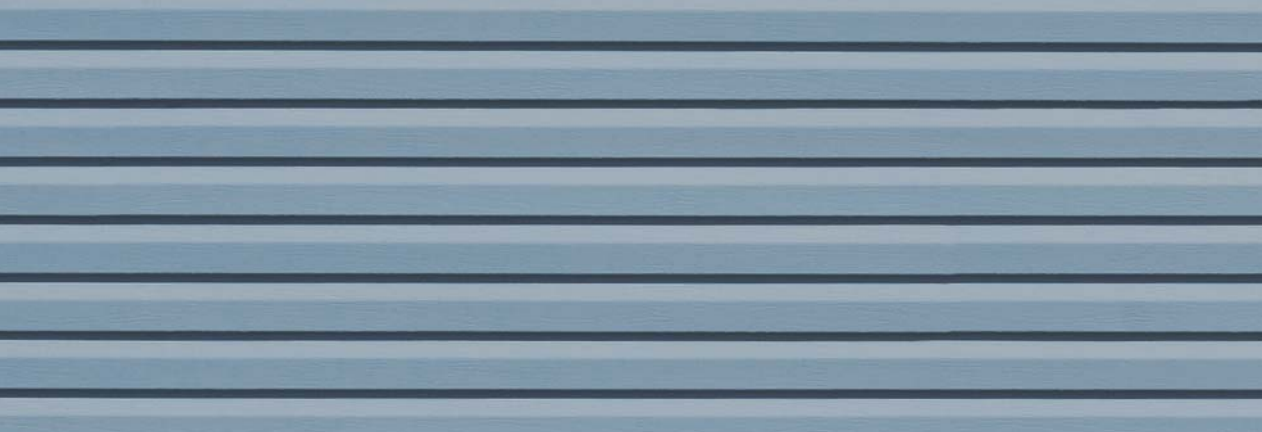
Many TND developments aim to address broader economic and environmental concerns. The value of vinyl siding helps ensure everyone can afford a home. As for the environment, take heart in the fact that vinyl siding is decidedly green.

For effective source reduction, vinyl siding uses minimal raw material in production – gaining strength instead through engineering and technological advancements. Nearly all plant scrap is reprocessed into new vinyl siding, resulting in almost zero waste. In addition, vinyl siding scores higher in environmental performance than the majority of other exterior cladding materials, including brick, in almost all criteria used to qualify for the USGBC LEED® for Home Environmentally Preferable Product Status.²

Distinct versatility. Affordable beauty. Social responsibility. To learn more about how vinyl siding can complement your TND or New Urbanist plans, visit www.vinylsiding.org.

²2007 R.S. Means Residential Cost Data. ³January 2007, United States Green Building Council LEED® for Home Program Pilot Rating System, Page 114 – BEES (Building for Environmental and Economical Sustainability).





VINYL SIDING INSTITUTE

America Sides with Vinyl





Vinyl siding

It's the number one choice of exterior cladding across America. In fact, according to the U.S. Census Bureau, nearly twice as many homeowners side their homes with vinyl than with any other material. Here's why.

Beautiful choices

Have you seen vinyl siding lately? New trim options, more styles and a full spectrum of colors help architects, builders and homeowners achieve their ideal exterior style for any type of home in any neighborhood.

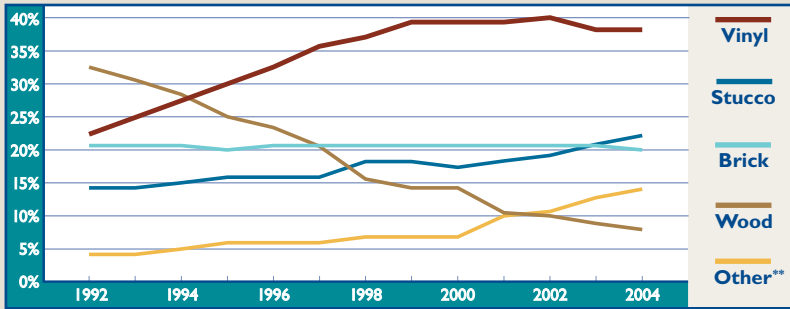
Tremendous value

Yet today's vinyl siding is more than great looking, it's a great value. It offers the lowest total installed cost, as well as the lowest life cycle cost over the life of a home. Homeowners who re-side their homes with vinyl typically recover nearly 100% of the cost when selling their homes*.

*2004 Cost vs. Value Report, *Remodeling*



New Single-Family Houses



Source: U.S. Census Bureau

**Includes cinder block, stone, fiber cement and other types.



Built-in durability

With the ability to withstand high winds (certified up to 90 mph or higher) and a composition that resists heat, cold and moisture, vinyl siding retains its great looks over time. It's why warranties offered by vinyl siding manufacturers are among the longest and strongest in the cladding industry.

Remarkably low-maintenance

Vinyl siding never needs paint. Ever. The only maintenance it will need is a simple wash with a soft cloth and garden hose to keep it looking great, a feature today's strapped-for-time homeowners totally appreciate!





For free materials on vinyl siding product certification, installation, installer certification, cleaning and questions regarding vinyl siding, visit www.vinylsiding.org.

Certified performance

The Vinyl Siding Institute is dedicated to assuring vinyl siding delivers maximum performance in every application.

- **The VSI Vinyl Siding Product Certification Program** Manufacturers certify through independent testing that their products meet or exceed the ASTM D3679 standard.
- **The VSI Certified Installer Program** Ensures individuals are properly trained and companies are properly staffed and managed to install vinyl siding (as well as soffit and accessories) consistent with the industry-recognized ASTM D4756 standard.
- **VSI-sponsored support tools** VSI offers its Vinyl Siding Installation Manual in five languages, a How to Install Vinyl Siding video, a one-page quick reference guide, as well as training programs to further ensure installers are expertly trained.



National Housing Center
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