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St. Bernard Parish Planning Report

Preliminary Recommendations:

**Proposed SmartCode, Land Use Regulation Review, and Other
Planning Topics**

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Finding and Recommendations

For over two and half years St. Bernard Parish has been faced with the very difficult task of dealing with the recovery and reconstruction from Hurricanes Katrina and Rita. It is evident that the process of recovery and reconstruction will continue as a focus for the Parish for many years to come. Implementing specific strategies now to encourage resettlement and redevelopment is crucial to the long term success of the Parish. In addition, planning for the future of the Parish is also important and must be accomplished in a meaningful way.

The Planning and Zoning Commission has been and will continue to play a key role in the recovery and reconstruction process. As part of this process the Commission can utilize land use codes as a tool to encourage investment and aid the recovery process. *However, the Planning and Zoning Commission will be faced with the challenge of balancing the needs and vision for the community with the market realities of development and investment.* The greatest challenge for the Planning and Zoning Commission will be to implement planning strategies and land use codes that will encourage investment and the redevelopment of existing properties, in a commercial and residential property market that is significantly less in demand than it was pre-Katrina. This means that land use codes adopted and implemented today may not significantly influence or impact development for many years to come. However, that does not diminish the importance of the land use codes or the need to prepare land use codes that shape the future of the Parish.

Zoning codes can be a powerful tool to both shape the community and to encourage investment. However, the very nature of zoning codes (government regulation of private property and the free-market) can also discourage development and create a barrier to investment. *The Planning and Zoning Commission must keep in mind that what they (the Commission representing the community) want and desire and what the market can support and will develop may be two very different things.* Therefore, the role of the Commission is to work within the context of market demands and existing conditions to create codes that will foster investment in a way that meets as many of the needs of the community as possible.

The finding of this report are based on a number of meetings with community leaders, a tour of the community provided by the Parish President, and an extensive review of planning documents, recovery reports, existing land use codes, and the proposed SmartCode (see page 11, section SN-II for a detail explanation of form-based codes). The following are specific recommendations related to the proposed SmartCode, the existing Zoning Regulations, administration of the land use approval process, and other land use planning challenges. The recommendations are then followed by a supplemental narrative of my research, review, and perspectives related to the challenges that face the Parish and the recommendations provided. The narrative is intended to help the Commission (and other officials) better understand how I came to the recommendations that are provided here.

Recommendations – Proposed SmartCode

I recommend that the Planning and Zoning Commission consider delaying the submission of the proposed SmartCode to the Parish Council for approval. As proposed, the adoption of a comprehensive SmartCode will create a significant and challenging change for the Parish and its

facilitation of the land use approval process. Such a significant change in this process will create a more complicated land use approval process at a time when the Parish should be considering means of lessening barriers or hurdles to investment and development. Adopting and implementing a more complicated and complex land use approval system may result in discouraging investment in the community. In addition, the proposed SmartCode most likely is not well-suited for many or most areas within the Parish. However, this recommendation against the immediate adoption of the proposed SmartCode does not mean that the Commission and Parish should not consider land use strategies and codes that will create development patterns and site design that will best meet the needs of the community in moving forward.

So while I recommend against adopting the proposed SmartCode at this time, I also recommend that the Commission consider the following options which provide the Commission with realistic alternatives to adopting the proposed SmartCode. These options are designed to provide the Commission with the ability to utilize aspects of the SmartCode that they feel can benefit the community and test those codes in specific locations that are best suited for SmartCode preferred style of development. The following options are listed in order of my recommended preference (1 being the most preferred):

1. **Adopt a Floating Zone - Design Development District:** A floating zone is a zoning district that is adopted in the zoning regulations but not placed on the Zoning Map at the time of adoption. The Zoning Map is not amended to designate the zoning district until an applicant applies to have the zoning district placed on the Zoning Map in a specific location to accommodate a specific development. The Design Development District would include a purpose and intent section that will clearly define and specify the areas in the Parish best suited for the district. In addition, the district regulation will include incentives related to density and bulk and area requirements to encourage developers to utilize the district. The Commission may also want to provide a more streamlined approval process and/or greater assurances of approval to further encourage its use. The Design Development District will provide the Commission greater authority over site and building designs. This will be accomplished by creating better standards for site and building design. Some of these standards could be based on those aspects of the SmartCode that the Commission believes will most benefit the community.
2. **Update the Existing Zoning Regulation:** Before committing to the adoption and implementation of a comprehensive SmartCode, the Commission should consider a comprehensive rewrite and updating of the existing zoning regulations. While the existing zoning regulations are fairly typical of most zoning regulations, they could benefit greatly from a comprehensive updating. The review of the Zoning Regulations revealed that the greatest deficiencies with the regulations are related to site design standards. This was not surprising since one of the more common reasons to consider form based zoning (SmartCodes) is dissatisfaction with the appearance of past and present developments. Therefore, a comprehensive update to the regulations and the addition of modern site design standards (including provisions that allow flexibility, reducing the need for waivers) would most likely achieve the better development aesthetics that the Commission hopes to achieve with the proposed SmartCodes. In addition to improving the site design aspects of the regulations, a comprehensive updating of the Zoning Regulations would create a better organized and more user-

friendly document. Zoning Regulations tend to grow into less manageable documents over time. This is due to the continual amending of the regulations to address specific needs and the adding of new sections without eliminating old sections. Unfortunately, these ongoing amendments are done in a vacuum, with little regard for the regulations as a whole. The end result is a cumbersome document that is not user friendly. The Commission could also consider the addition of an appendix to the regulations that would provide design guidelines (recommended, not required standards) for buildings and structures. Such guidelines would provide developers and applicants with a clear understanding of the Commission's desire related to architectural design.

3. **Adopt the SmartCode in Targeted Areas:** If the Commission does not wish to consider or implement options one or two, then the Commission should consider adopting the proposed SmartCode, but have the code apply only to two or three specific geographic areas within the Parish that are best suited for SmartCode preferred style of development. This could be done as a means of experimenting with the SmartCode to evaluate if it works and provides the Commission with the site and building designs they want. This would also provide the Commission more time to work on and improve the SmartCode before applying it to the whole Parish.

If the Commission does not wish to follow any of the alternative options provided above and decides to move forward with the proposed SmartCode as is, then the Commission may wish to consider one more recommendation. The Commission should consider slowing down the process and holding off on adopting the SmartCode until it can complete a more comprehensive redraft of the SmartCode document. While the Commission has already spent a considerable amount of time modifying the SmartCode to meet the specific needs of the Parish, it should also consider spending additional time improving the document to be more user friendly.

As drafted, the SmartCode is a very cumbersome document and is not user friendly. For example, the document is very repetitive with standards and requirements that apply to each Transect. This duplicate language could be eliminated by consolidating like provisions into one section that applies to all Transects. In addition, the document is plagued by excessive cross references between provisions, forcing the reader to look at and understand two or three other sections of the regulations before he can understand the specific provision he is reading. This makes it very difficult to understand and use the regulations. The regulations should be drafted in a meaningful way that allows each section and specific provisions to stand on its own, eliminating the need for cross references. As drafted now, the SmartCode is very difficult to understand and use, this will create difficulties for the average user and the general public if adopted in the current form.

Recommendations – Existing Subdivision and Zoning Regulations

As part of the review and analysis of the proposed SmartCode, I also reviewed the existing Zoning and Subdivision Regulations to gain an understanding of how this change to form based zoning would impact the community. As a result of that review I have provided the following recommendations specifically related to the existing St. Bernard Parish Subdivision and Zoning Regulations:

Subdivision Regulations: The St. Bernard Parish Subdivision Regulations are typical of most subdivision regulations. The public infrastructure standards are adequate and in some cases modern and progressive. Based on site visits to newer and recent subdivisions in the community, it appears that the subdivision regulations are working very well and are providing for a pattern of residential neighborhoods and style of building lots that were and are in demand both pre and post-Katrina. Unless the Planning and Zoning Commission has specific concerns with the outcome (recent residential subdivisions) of these regulations, it is not recommended that changes be made to the Subdivision Regulations at this time.

Zoning Regulations: The St. Bernard Parish Zoning Regulations are much like typical zoning regulations found in most communities. It would not be fair to say that they are good or bad regulations, but that they are adequate and typical for the general regulation of uses and development by zoning districts. However, this does not mean that the regulations could not benefit from some changes and improvements. The following are items worthy of mention and recommendations that would improve the regulations:

- The number of zoning districts included in the regulations are excessive for the size and general character of the Parish. **Recommendation:** The Commission may want to consider reviewing the districts and general standards related to each district to see if some of the districts can be consolidated to reduce the number of zoning districts.
- The list of permitted and special permitted uses in the regulations are very cumbersome and excessive. It appears that this is an attempt (common with many commissions) to specifically list all potential uses for each zoning district. **Recommendation:** The Commission may wish to consider grouping similar uses into general use categories and defining those use categories. Along with the creation of general use categories the Commission should add a provision allowing the Commission to make a determination of similar use for potential uses that may not be contemplated at the time of adoption. This will provide the Commission with discretion related to acceptable uses within zones.
- The parking standards also suffer from the excessive detail similar to the list of uses as mentioned above. **Recommendation:** Review, revise, and consolidate where appropriate, the parking standards by use.
- The regulations are very rigid (as most regulations are) and do not provide much flexibility. This is most likely the reason for so many waivers being sought and approved by the Zoning Board of Adjustments. **Recommendation:** The Commission may want to consider creating some flexible provisions within the regulations that will allow the Commission to accommodate better design practices. This could include a provision to allow for Modifications by the Planning and Zoning Commission. Such a provision would allow the Commission to modify some standards based on special and specific circumstances. Also, the Commission may wish to review the past two or three years (pre-Katrina) of Waivers granted by the Zoning Board of Adjustments. If specific provisions of the regulations are continually the subject of waivers, this is often an indication that the regulation is too strict or is not working for some other reason.
- The organization and format of the regulations are cumbersome and do not provide for ease of use by residents and others. **Recommendation:** The Commission may want to

consider a comprehensive reorganization of the regulations to create a more user-friendly document.

- The regulations are lacking in many typical modern standards related to site design. This is evident by recent ordinances passed by the Parish Council for Signs and Landscaping. **Recommendation:** The Commission may wish to consider a comprehensive update to the regulations. This update should include the addition of modern site design standards for parking lots, walkways, signs, landscaping, and lighting.
- The rigid nature of the regulations and lack of comprehensive and modern site design standards are most likely the cause of some of the Planning and Zoning Commissions frustration and dissatisfaction with past site development design and the quality of such site design. **Recommendation:** See the previous recommendation above.

As stated earlier, the Planning and Zoning Commission should consider a comprehensive update to the zoning regulations. Such an update could address all of the items and recommendations above and would most likely address many, if not all, of the concerns of the Commission that have caused the Commission to consider the adoption of the SmartCode.

Recommendations – Consolidated Review Committee

During a meeting, Craig Taffaro, Parish President, expressed that he was very intrigued by and interested in the Consolidated Review Committee (CRC) proposed as part of the SmartCode. After reviewing the SmartCode provisions for the Consolidated Review Committee and Louisiana State Statutes related to Parish land use authority, it appears that the authority given to the Consolidated Review Committee in the SmartCode is in conflict with state land use authority. This is not surprising since most states are very clear about the specific powers and authority of specific land commissions and boards. Delegating authority away from the Planning and Zoning Commission, Parish Council, and Zoning Board of Adjustments (all elected and appointed citizen boards) to the CRC (a professional staff committee) is not typically viewed in a positive light. The land use system and approval process is designed to provide for citizen decision making with technical support and advice from professional staff. Placing approval authority in the control of staff is in opposition with the intent of the system and citizen participation.

The Zoning Board of Adjustments acts in a quasi-judicial capacity and in most states the Planning and Zoning Commission cannot change or limit the authority of the Zoning Board of Adjustments. Therefore, shifting the authority of waivers and variances away from Zoning Board of Adjustments most likely is not legal.

Recommendation: The Planning and Zoning Commission and Parish may want to consider creating what many communities call a Design Review Board or Development Review Board. These review boards are often made up of both professional staff and citizens with planning and design related expertise. For example, the review board may include the Parish planner, zoning official, building official, fire marshal, and engineer and a few members of the public with specific backgrounds and skills in development and land use (architects, engineers, real estate brokers, and preservationists).

Typically the review board meets weekly or bi-weekly, during normal business hours, and reviews land use applications before they are submitted to or reviewed by the Planning and Zoning Commission. The applicant/developer is invited to meet with the Review Board to present the application and to work with the board on addressing site design issues and concerns. Once the application is modified to accommodate the recommendations from the review process, the review board submits an advisory letter to the Planning and Zoning Commission explaining the improvements and recommending approval.

The intent of the review board is to aid and assist the applicant in the design of his proposed development and to advise him on the application process, requirements, and expectations. This process also allows the Commission and Parish to clearly express its wants and desires through both professional staff and citizens in a non-regulatory format. When properly implemented, the design review board can improve the quality of applications and developments, address issues before they become problems, emphasize what the Planning and Zoning Commission is looking for, and make the land use application process smoother and more successful for the applicant.

In some cases, design review boards have become obstacles to the application process by being unrealistic in their role and creating a long approval process. Therefore, it is very important to define the role and responsibilities of the review board and continually manage the process of review. There must be good communication between the Planning and Zoning Commission and the members of the Review Board to ensure that they are working toward the same end.

Recommendations – Encouraging Investment with Land Use Codes

Regardless of how the Planning and Zoning Commission decides to proceed with the proposed SmartCodes and the recommendations in this report, it is important for the Commission to understand the role land use codes can play in encouraging development. *All codes and regulations impact market demands and create a regulatory hurdle for development.* In addition, the land use approval process adds time and money to the cost of development. Therefore, land use codes and the approval process can affect the flow of investment into a community.

The main reason for land use codes is to protect the public health, safety, and general welfare. In addition, land use codes also function as tools that can aid a community in implementing its plan or vision for what the community wants to be. Therefore, land use codes become a balance among market demands and private sector interests and the wants, desires and needs of a community, while protecting the public health, safety, and welfare.

Most planning and zoning commissions have experienced applications and development projects that either did not turn out as expected or were actually misrepresented by a less than honest developer. While these experiences are not the norm, they have a significant effect on land use commissions and often create a sense of distrust. In addition, land use commissions also tend to feel a lack of control as a result of these experiences. This often results in the commissions creating additional or more restrictive regulations. While this reaction by a commission is understandable, it is not often the best means to encourage investment and development and if excessive, can result in a disincentive to development.

St. Bernard Parish is going through a very difficult and challenging time with its recovery and reconstruction efforts from the disastrous flooding that occurred. This has resulted in a number

of issues and problems, many related to the weak real estate market. These circumstances can also create a situation where the Parish and the Planning and Zoning Commission may feel the need to create more restrictive regulations in an attempt to gain control and solve problems. While this is a natural and understandable reaction, it is import for the Commission to recognize that while it may seem like new or more restrictive regulations and increased enforcement activities are the best approach to gain control of an issue or concern, that such an approach may also create a disincentive to development.

The Commission must understand that regulations and enforcement should not be seen as or used as the only solution to problems. While some issues may best initially be addressed through regulations and enforcement activities, these are not often a long-term solution to problems. *Attempting to coerce (regulate or enforce) the market to do something that there is no demand for will most often not solve the problem and in some cases, may exacerbate the problem.*

Recommendation: Since land use codes are created to intentionally manage market forces, the Planning and Zoning Commission, when attempting to address issues and concerns, should first attempt to implement strategies that do not include additional regulations. In cases where regulatory actions are required, the Commission should implement regulations that recognize market forces and provide for flexibility. Enforcement actions should be utilized only to protect the public health, safety, and welfare, and the Commission should not attempt to coerce the market through regulatory and enforcement actions. Creating fair, predictable, and flexible land use codes and land use approval processes will be the best means for the Commission to encourage much desired investment and development.

Recommendations – Sustainability and Green Design

The recovery and reconstruction process creates an opportunity for St. Bernard Parish to be innovative, look toward the future, and consider the implementation of sustainable development and building practices. Implementing sustainable programs would not only be environmentally friendly, but also reduce energy cost and make housing more affordable in terms of monthly expenses. If the Parish and the Planning and Zoning Commission wish to consider sustainable development and building standards, they should be cautious and not create barriers to development and investment as mentioned above.

Recommendation: As part of the comprehensive planning process the Parish and Planning and Zoning Commission should explore and study the opportunities for sustainable development and green building standards. The Parish and Commission should consider the following recommendations for implementing sustainable practices:

1. Utilizing the Zoning Regulations to allow energy generation (including specific standards for the location of such facilities on lots) as an accessory use in residential and commercial zoning districts. This will allow homeowners and business to consider and use renewable energy forms such as wind, solar, and hydrogen fuels cells.
2. The Parish should consider LEED for New Construction and LEED for Existing Buildings for the reconstruction of existing community facilities and new facilities. (LEED stands for Leadership in Energy and Environmental Design. The LEED standards

are developed and administered by the U.S. Green Building Council and are the most recognized and utilized standards for green building and development practices.)

3. The Parish and Planning and Zoning Commission should consider working with interested partners (Greater New Orleans Community Foundation, St. Bernard Community Foundation, Institute for Sustainable Communities and others) to hold education workshops focused on developing a better understanding of the economic, environmental, and social benefits of sustainable planning, green building, and green development.
4. The Parish and Planning and Zoning Commission should then work with partners to develop and adopt its own criteria for sustainable development practices. (LEED-Neighborhood Development program and the Sustainable Community Development Code were both reviewed for this report. However, it is evident that no one standard, code, or program will fit the Parish well. Therefore, developing a policy to best suit the Parish is recommended.)
5. Once a sustainable development program is developed, the Planning and Zoning Commission should incorporate the guiding principles and criteria into its plans and codes.

St. Bernard Parish could be a leader in the development of sustainable development program for post-disaster communities.

Recommendations – Comprehensive Planning

Conducting the review of the proposed SmartCode provided an opportunity to review many planning related documents that have been created by various organizations and entities since Katrina and as part of the recovery and reconstruction planning process. These documents included the St. Bernard Parish Recovery and Growth Plan 2008, prepared by Craig P. Taffaro, Jr. Parish President; St. Bernard Housing Demand 2008 & 2009 prepared by Wade R. Ragasb PhD, MAI, SRA of Real Property Associates; St. Bernard Parish Planning prepared by Waggonner & Bell Architects with Tulane Regional Urban Design Center; and the St. Bernard 2007 Land Use and Transportation Vision Plan produced by the Regional Planning Commission. Most notable when reviewing these documents was that the St. Bernard Planning and Zoning Commission were not charged with creating a comprehensive development plan or strategy to guide redevelopment and future development in the Parish.

St. Bernard Parish is faced with many critical issues at this time. Many of these issues are directly related to land use and development. They include, residential resettlement patterns, commercial resettlement patterns, the demolition of housing, dealing with an over-supply of residential/commercial/retail space, locations of community facilities, opportunities for open space and recreation, removal of foundation slabs from demolished homes, neighborhood reinvestment, and historic preservation. If there were ever a time for the Planning and Zoning Commission to develop a Comprehensive Plan of Development, it would be now. Other than the Land Use and Transportation Vision Plan produced by the Regional Planning Commission, the other documents were either specific to recovery efforts or based on ideals that are not very realistic or practical. The Plan produced by the Regional Planning Commission is very good, but

not at the detailed scale that a local plan could be. In addition, the Plan was created for the Parish, not by the Parish. It is very important that the Parish have ownership of plans.

The issues that are facing the Parish do not exist independently of each other. For example, residential resettlement patters and the location of demolished properties directly relate to potential open space, greenways, and the canal/trail system. Planning for one will result in opportunities for the other. The same is true for commercial resettlement patterns, community facilities, and infrastructure. Therefore, it is important that the Parish and Commission initiate comprehensive planning activities to best guide the future development of the parish.

Recommendation: The Parish and Planning and Zoning Commission should implement a comprehensive planning program to develop a local Plan of Development. To reduce costs, the Land Use and Transportation Vision Plan produced by the Regional Planning Commission should be utilized as a foundation to the process. The Parish could then create a local planning document based on the regional plan. (This recommendation is consistent with the recommendations in the RPC Plan.) This process should include detailed strategies for each of the Planning Districts and comprehensive strategies to re-position these areas to compete in the local and regional market. The process should also include a comprehensive review of the existing zoning and subdivision regulations. Most important, a comprehensive implementation strategy must be developed to guide the Parish and Commission in the implementation of the plan and specific strategies.

While it is understood that the Parish has limited resources and many pressing issues to address, the Parish should consider the creation of a Comprehensive Plan of Development for the Parish as a priority. During this time of recovery and reconstruction it may be difficult to realize the need for planning and expending resources on additional planning activities. However, time, effort, and money invested today into comprehensive planning and implementation strategies will benefit the community greatly in future. The Planning and Zoning Commission, along with the Parish Planning Department and Parish President's Office, should lead this charge and process.

Respectfully Submitted,



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[This Planning Report was prepared by Donald J. Poland, AICP of Connecticut Planning and Development, LLC. The findings and recommendations presented here are based on sound planning principles and the professional expertise of Mr. Poland. The information and opinions provided in this report are specific to circumstances in ST. Bernard Parish and should not be interpreted to apply to any other projects, locations, and/or reports.]

St. Bernard Parish Recommendations

Supplemental Narrative

SN-I. St. Bernard Parish Geography and Development Pattern

St. Bernard Parish is located within the Greater New Orleans Metropolitan Area. The Parish is mostly east and somewhat south of New Orleans and is located along the east bank of the Mississippi River. *The most notable factor of the geography of the Parish is its long, narrow, and linear shape. From a land use planning perspective this elongated geography creates a greater challenge in planning for compact smart growth style of development.* Therefore, the use of smart growth policies, including form-based codes, must be realistic and implemented in locations within the Parish best suited for this approach.

SN-II. Understanding Smart Growth and SmartCodes

SmartCodes are a product of the smart growth and new urbanist movements. The smart growth movement is founded in the belief that suburbanization (most often referred to by smart growth advocates as sprawl) is a result of poor planning and land use regulations, and is not sustainable. Based on this belief, smart growth advocates promote a number of policies to change the way that communities plan and grow. Smart growth policies often include:

- higher density development in areas with existing infrastructure,
- mixed-use zoning, developments, and neighborhoods,
- alternative modes of transportation (walking, biking, and transit),
- reinvestment in older urban areas and neighborhoods,
- reuse of existing structures, historic buildings, and brownfields,
- preservation of open space.

Similar to the smart growth movement, the new urbanist movement focuses on policies and strategies to create traditional urban style development and neighborhoods. This most often includes high density mixed-use developments that are pedestrian friendly and encourage many modes of transportation.

Smart growth and new urbanist advocates also promote an alternative means of regulating land use and development. This alternative is known as form-based zoning and is a reaction to conventional zoning (known as Euclidian Zoning) that is based on the regulation of use. Smart growth and new urbanist advocates believe that regulating use is wrong and that the regulation of use limited to single use zones has created sprawl (suburbanization) style of development. Therefore, the alternative form-based codes shift the regulatory focus from regulating use to regulating design.

The following statement is taken from a document that describes form-based codes:

“The old adage “form follows function” describes the common approach behind land use regulation as it has been practiced in the past. Form-based codes turn that relationship on its head. Since the primary basis for regulation is the buildings, not the uses, “function follows form.” These codes concentrate first on the visual aspect of development: building height and bulk, façade treatments, the location of parking, and the relationship of the buildings to the street and to one another. Simply put, form-based codes emphasize the appearance and qualities of the public realm, the places created by buildings.” (Form-Based Codes: Implementing Smart Growth, Local Government Commission, CA)

So does “form follow function” or does “function follow form?” If only the answer were as simple as one or the other. However, in most real application of land use regulations and development practices, both perspectives are right. Form and function are of equal importance and land use codes (Euclidian or Form-Based) should recognize this.

The proposed St. Bernard SmartCode is based on the most widely known and utilized model for form-based codes. It has been developed specifically to promote form-based codes and to provide communities a simple out-of-the-box approach to implementing form-based codes. The SmartCode is based on the concept of Transects:

“Andres Duany, one of the Ahwahnee Principles’ authors and a founder of the Congress for New Urbanism, has taken the idea of the “transect” from natural science and applied it to land use planning. The transect, as used in ecological studies, draws a crosssection through different habitats to better understand their interrelationships along a continuum.

Applied to an urban/rural continuum, the transect helps us better understand where different uses and building types fit well or where they are inappropriate. Seen from this perspective, we learn that a controversial use or development project is not inherently bad, but may simply have been proposed for the wrong location.” (Form-Based Codes: Implementing Smart Growth, Local Government Commission, CA)

The “Transect Theory” provides an interesting model for how we view urban and rural development patterns. (However, it is just one of many theories and models developed in the 20th and 21st centuries to describe, explain, and plan for urban development patterns.) This model can be a useful guide and approach to assisting communities in planning exercises and planning for the development of the community and its development patterns. However, as with any theory or model, it may be well suited for some locations and not so well suited for other locations. *In addition, implementing the model SmartCode developed by Duany is not the only means for a community to plan for and encourage higher density, mixed-use, and traditional neighborhood style developments.* The SmartCode can be utilized in whole or in part or other approaches can be implemented to achieve the same or similar outcomes. Other approaches include maintaining and utilizing conventional Euclidian zoning regulations.

The form-based codes are based on the belief that the regulation of use is wrong and the undesirable outcome of regulating use is sprawl. This also is one of many opinions and perspectives on the topic of sprawl versus suburbanization. One thing that is clear, based on the history of urban geography is that cities began to segregate uses into specific geographic areas

(now called zoning districts in Euclidian Zoning) hundreds of years before the invention and implementation of zoning, zoning regulations, and the regulation of use.

Conventional Euclidian Zoning is based on the separation of uses by districts. However, there is nothing that prevents conventional zoning codes from allowing, encouraging, and even requiring mixed-use developments. Nor do conventional zoning regulations prevent the creation of high density neighborhoods. What the smart growth and SmartCode proponents often leave out of the discussion is that conventional zoning regulations have been developed and implemented by the citizens of communities and these regulations (providing specific development standards and separate use districts) are a reflection their wants, needs, and desires for their communities. In most cases, this has been the creation of lower density suburban style communities that provide single family residential neighborhoods separate, yet most often near, to variety of types of retail, office, and industrial areas/uses. In addition, smart growth advocates don't often mention that these suburban communities have resulted in providing a very high quality of life, increasing property values that create personal wealth and expanding the middle class. *Most important, suburban communities are where most Americans choose to live.*

Communities like St. Bernard Parish succeeded and thrived (pre-Katrina) based on suburban style development. In addition, St. Bernard Parish developed in a suburban style yet maintained a very high density of single family style development compared to many suburban communities in America. Therefore, one could say that St. Bernard Parish development patterns are “smarter” than many suburbs.

With this suburban development pattern in mind, and more specifically considering the existing physical geography, structure, and existing development pattern of St. Bernard Parish, an extensive review of the proposed St. Bernard SmartCode (based on the Duany SmartCode) was conducted. As a result of this review a number of observations were made and classified into three categories: General Application, SmartCode Document Format, and General Concerns and Outcomes.

SmartCode General Application:

- It appears that the SmartCode is being proposed for adoption as an overlay code to the existing zoning regulations and zoning districts. Based on this approach, the existing zoning and subdivision regulations would remain in effect. However, the design criteria and standards associated with each of the Transects would supersede the standards within the existing zoning districts and subdivision regulations.
- This overlay approach would allow the zoning regulations to continue to regulate use, while the SmartCode would regulate form and design. Since subdivision regulations primarily regulate the creation of lots and the design standards for public infrastructure, it appears that the majority of the subdivision regulations related to public infrastructure will be superseded by the proposed SmartCode.
- It appears that the authority of the Consolidated Review Committee (CRC) proposed in the SmartCode is in conflict with State land use authority. Approval of developments and waivers are removed from the Planning Board, Parish Council, and Zoning Board of Adjustments and given to the CRC. Appeals of decisions by the CRC are made to the Planning Board and then the Parish Council. While some of general approval authority

for developments (administrative approvals such as zoning permits) may be designated by the Planning Board and Parish Council to an administrative agency, it does not appear that all development approvals can be assigned to a Consolidated Review Committee made up of professional staff. In most states, state law provides land use commissions the authority to review and approve developments. These decisions are carried out by citizens, not professional staff. Most concerning about this change to CRC is removing the authority of the Zoning Board of Adjustments to hear appeals and to grant waivers. Zoning Boards of Adjustment act in a quasi-judicial capacity and in most states, the Planning and Zoning Commission cannot change or limit the authority of Zoning Board of Adjustments.

- The SmartCode model document is based in an ideology that specific types of development patterns and specific types of design are better than others. In addition, these beliefs are often supported by vast general assumptions. For example, the Purpose (Section 1.2) is very subjective and based on a value judgment and belief that “new urbanism” development patterns are better than other development patterns. Comments such as, “neighborhood and regional centers should be the preferred pattern of development and that districts specializing in single-use should be the exception” raise concerns based on the existing development pattern and physical structure of St. Bernard Parish. Also, the sections states, “that ordinary activities of daily lives should occur within walkable distance of most dwellings, allowing independence to those who do not drive.” Once again, while this ideal may be nice something a community desires to achieve, is it realistic? The linear geography of St. Bernard Parish does not lend itself well to this.

SmartCode Document Format:

- The proposed SmartCode is very cumbersome and is not formatted or written in a user friendly way. (It should be noted that many of the tables and diagrams are well designed and user friendly, providing an ease of use.)
- Duplicate language appears in almost every section, creating a bulky and cumbersome document. Elimination of this duplication could greatly reduce the size of the document, making it more manageable and user friendly.
- Cross references to other sections (often multiple sections) in a provision or sentence make the document very difficult to read, understand, and administer. For example, section 3.3.3(c) reads, “An RCD shall be limited to one Long Pedestrian Shed (1/2 mile radius) including T4, T5, and T6 Zones as specified in Table 14A, and may be adjoined without buffers by one or several partial or entire Standard Pedestrian Sheds, each with the individual Transect Zone requirements of an RCD as specified in Tables 2 and 14A.” To understand this one provision of the code the reader must know what an “RCD” is, what a “Long Pedestrian Shed” is, what each of the T4, T5, and T6 Zones are, and reference table 2 and table 14A. This language is not user friendly and occurs throughout the document.

- Article 5. Building Scale Plans are essentially site and building design standards. This section is very rigid and restrictive. This may become a disincentive to investment and development. In addition, this section is also very cumbersome and repetitive.

SmartCode General Concerns and Desired Outcomes:

- What is the problem or issue that the Planning and Zoning Commission is trying to address or resolve with the proposed SmartCode?
- What is the Planning Board trying to accomplish through the adoption of this proposed SmartCode?
- Will the proposed SmartCode encourage redevelopment and investment?

SN-III. Planning and Zoning Commission Meeting Notes

This section documents the discussion of a meeting on May 1, 2008 that included members of the Planning and Zoning Commission, St. Bernard staff, and the consulting team. It was an interesting discussion about the proposed SmartCode, issues facing St. Bernard Parish, and planning related concerns. During that meeting I intentionally did not say much because I felt it was important to listen closely to what others in the meeting were saying in order to determine what the Planning and Zoning Commission is trying to achieve with the proposed SmartCode.

The following are four themes I identified of interest and concerns expressed by Commission members and staff present at the meeting:

1. Existing Euclidian Zoning versus a New Approach (SmartCodes)

It appeared that the Planning and Zoning Commission felt that it was behind the curve on modern trends in land use planning. They felt that a new and modern approach (adopting the SmartCode) could move the Parish ahead and encourage the redevelopment of the Parish. Real or perceived, the feeling seemed to be an underlying foundation to the desire to adopt the SmartCode.

There appeared to be two possible causes to this feeling:

1. The lack of interest the American Planning Association had in assisting the Parish with post Katrina planning issues. This was further confirmed by the State Chapter of the APA and the general feeling that St. Bernard Parish was not sophisticated enough to implement a SmartCode.
2. Duany's utopian ideal that new urbanism and form-based codes is the answer to solving community planning and redevelopment issues.

Regardless of the perspectives of others (real or perceived) the Parish and Planning and Zoning Commission need to do what is best for their community. The role of planners (employed by the parish or contracted consultants) should be to provide the Parish and Commission with professional expertise and perspective to assist them, in making the best possible decisions. The role should not be to judge the Parish or impose one ideal or another. St. Bernard Parish developed a successful community with little resources and planning expertise. With guidance

and professional assistance, the Parish and Planning and Zoning Commission are capable of planning its future.

2. Concern about Design (site and building) and Scale of Development

Concerns were also expressed related to the design and the scale of development. This is not unique to St. Bernard Parish, but is experienced by most communities. I often feel this is a result of past design, most often poorly designed 1960's and 1970's commercial and retail buildings. These designs are most often associated with commercial strip developments and have resulted in a backlash against commercial/retail strip developments and modern big box retail stores. Smart growth strategies and new urbanist designs are promoted as the alternative to these past designs and practices. *However, these alternate approaches often do not fully recognize the economic, market, land use, and locational realities that created these developments.* Nor do they fully recognize that these developments, in most cases, continue to function very well and meet the needs of residents and consumers. While older and outdated architecture may not be attractive (a value judgment), the form and function of these developments work well. Concerns about site design and scale of development can be addressed in the existing land use codes without converting to form-based codes.

3. Quality of Life Issues

When the question was asked, “what is the Planning and Zoning Commission trying to achieve with the implementation of the proposed SmartCode?” the discussion went straight to and remained focused on quality of life issue. The concerns included the need for recreational facilities, not having a golf course, lack of open space and parks, and the need for a community-based hospital. What was most interesting about this conversation is that it had little to do with the proposed SmartCodes. In addition, even if the SmartCodes are adopted, they would not bring the community any closer to improving quality of life, as defined by the discussion topics above.

4. Vision and Planning

Most evident in the discussion were the concerns raised about the Parish's limited planning capacity and community plans. Even with all of the planning activities that have taken place in the Parish since Katrina, it was very evident that the Commission and staff did not feel any significant connection to or ownership of the many planning documents created for the Parish. However, it was also evident that Planning and Zoning Commission and staff are very committed to the community and planning for the future of the community. More important, the Planning and Zoning Commission and staff are very capable of planning for the future of the community, provided they have skilled professionals to aid them in the process.

In most communities, comprehensive changes (like adopting a SmartCode) are implemented after a comprehensive planning process and the implementation of the local Plan of Development. The desire and decision to adopt the SmartCode is evidence of the Commission's strong desire to implement planning policies to aid the community. However, it is also evident that the Parish and Planning and Zoning Commission are in great need of completing a comprehensive planning program administered by the Parish and Commission and reflecting the needs of the community.