



EFFECTIVENESS OF PLANNING LAW
IN LAND-RICH DEVELOPED COUNTRIES

URBAN LEGAL CASE STUDIES | VOLUME 10

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SUMMARY OF FINDINGS



I. PLANNING LAW RESEARCH

Using the Global Sample of Cities (see Annex I) as a statistically representative dataset, UN-Habitat is conducting a global study on the reality of the implementation of planning law. The Land-Rich Developed Countries is the second regional study to be completed after Sub-Saharan Africa. The Global Sample makes it possible to assign individual values to cities after which the variations in these figures can be studied among the world regions, income groups, or population sizes.¹ The Land-Rich Developed Countries regional sample consists of the following eighteen (18) cities: Auckland (New Zealand), Chicago (United States), Cleveland (United States), Gainesville (United States), Houston (United States), Killeen (United States), Los Angeles (United States), Minneapolis-St. Paul (United States), Modesto (United States), Montreal (Canada), New York (United States), Philadelphia (United States), Portland, (United States), Raleigh (United States), Springfield, (United States), Sydney (Australia), Toledo (United States) and Victoria (Canada).

For the data collection process, the Legislation Unit developed a questionnaire (see Annex II), consisting of 17 questions, focussing on four dimensions of planning systems:

¹ Shlomo Angel et al., *Atlas of Urban Expansion Volume 1: Areas and Densities* (Co-published by New York University, UN-Habitat and Lincoln Institute of Land Policy 2016) pages 12. <https://www.lincolninstitute.edu/publications/other/atlas-urban-expansion-2016-edition>

1) Urban Areas; 2) Urban Plans; 3) Land Administration; and 4) Institutional Framework. The questionnaires have been completed by a variety of partners under the guidance of the Legislation Unit. This has ensured the comparability of findings in all instances, except where data was not available.

The data gathered from this research will support an assessment of whether existing planning laws are being applied in urban areas. This is particularly relevant for UN-Habitat's work on urban law; to promote enabling legislation adequate to meet the challenges of rapid urbanization. By providing substantive knowledge on the state of planning law regionally and globally, it is hoped that the study will help city managers to rethink the sustainability of the urbanization model; and create systems that can result in equity, shared prosperity and environmental sustainability. These are the key principles reflected under international commitments such as the New Urban Agenda and the 17 Sustainable Development Goals (SDGs) – in particular SDG 11.

This study considers whether the law is being applied as written, which informs discussion of the effectiveness of legislative design, i.e. are laws being designed to be effective on the ground.

There is no intention to consider the relative merits of the planning outcomes that the laws seek to achieve. That would be a question of

planning policy rather than law. In colloquial terms, we are only asking, 'does the law do what it says on the packet'?



II. THE FINDINGS

A. URBAN AREAS

This section assesses whether the city has a mechanism to separate urban (built up or buildable) from non-urban land (i.e. agrarian, forested, environmentally protected, etc.). It also describes the current density of people in the growth boundary or the closest equivalent to this, which is the current population density in the existing urbanized area. Finally, this section considers how long it would take to reach the UN-Habitat recommended minimum average population density of 15,000 people per km².

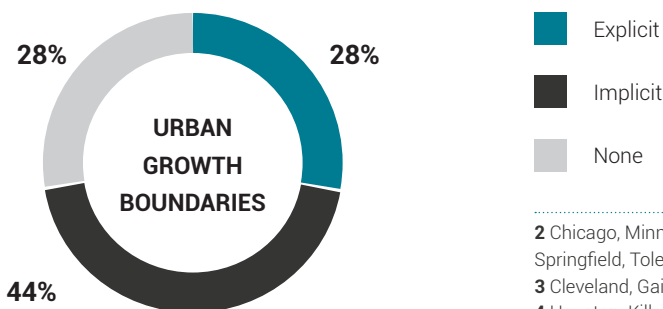
Growth Boundaries

Well planned and managed urbanisation can generate wealth, maximizing the benefits of economies of scale and agglomeration, allowing for integrated territorial development and connecting rural and urban areas. However, indiscriminate growth of cities may result in adverse socio-economic effects such as growth of slums, pollution, urban sprawl etc. To realise the benefits of urbanisation, cities normally adopt policy and regulatory measures that limit disorderly urban expansion.

An urban growth boundary is a regulatory tool designed to limit urban expansion but not necessarily with the intent of densifying the entire urbanized area. As such, it provides an indicator of whether the law reflects a policy of compactness, even if not as a direct proxy. In the Land-Rich Developed Countries region, two types of growth boundaries are in use: explicit boundaries and implicit boundaries.

An explicit boundary line is set by either a spatial plan or regulatory instrument while an implicit boundary line is established by the accumulated boundaries of land use zones in spatial plans. The study reveals that eight (8) cities² (44%) have implicit boundary lines, which are the most common form in Land-Rich Developed Countries. Five cities³ have explicit boundary lines (28%), while five others⁴ did not have any type of boundary (28%). The study could not ascertain which of the two growth boundaries is the most effective.

Figure 1. Types of urban growth boundaries



² Chicago, Minneapolis–St. Paul, Modesto, Philadelphia, Springfield, Toledo, Montreal and Victoria

³ Cleveland, Gainesville, Portland, Sydney and Auckland.

⁴ Houston, Killeen, Los Angeles, Raleigh and New York.

Population Density

Population density is an important metric that assists policymakers to understand how cities function and it is also used to assess the potential success of urban development initiatives such as transit-oriented development and compact growth. Compactness is believed to lower the cost of providing public services and urban infrastructure.⁵ Compact cities require less infrastructure per capita in the form of roads and utilities and the opportunity to operate mass transit systems more effectively, with the planning literature offering assessments of the savings from compactness. The economic literature also argues that sprawl lowers positive density externalities, increases pollution and commuting times, and enhances social isolation.⁶

While functional compactness, linking density to other factors, is an important concept for sustainability, simple density is also an effective indicator. UN-Habitat has proposed a minimum of 15,000 people per km² as a foundation for a sustainable neighbourhood in a compact city.⁷ The density of a city determines how close to urban activities most people can be.

Very high-density city centres mean that most destinations can be reached with a short walk or they can have effective and efficient public transport opportunities due to the concentration of people near stations.⁸ A gross density of 15,000 people per km² is suggested as a public transport sustainability benchmark. However, since densities vary greatly, the metric should be related to the local context and it is key for transit-oriented policies to increase the densities along the corridors relative to the base densities in the area.⁹

In Land-Rich Developed Countries, the mean average population density in the built-up area of cities is 4,050 people per km². Only Los Angeles, with a population density of 21,639 people per km², has surpassed the UN-Habitat target density. Three cities¹⁰ (17%) are registering declining population growth trends so they are unlikely to achieve the target density in the foreseeable future. It would take the remaining fourteen (14) cities (78%), a mean average of 262 years to reach the UN-Habitat target density. Based on current population growth and existing boundaries, Springfield will take the longest time (1,006 years) while New York will reach the target density in 40 years.

⁵ Baruah N, Henderson JV, Peng C, 'Colonial Legacies: Shaping African Cities' (2018) *American Economic Review*

⁶ Trubka R, Newman P, Bilsborough D, 'The costs of urban sprawl-infrastructure and transportation' (2010) *Environmental Design Guide*.

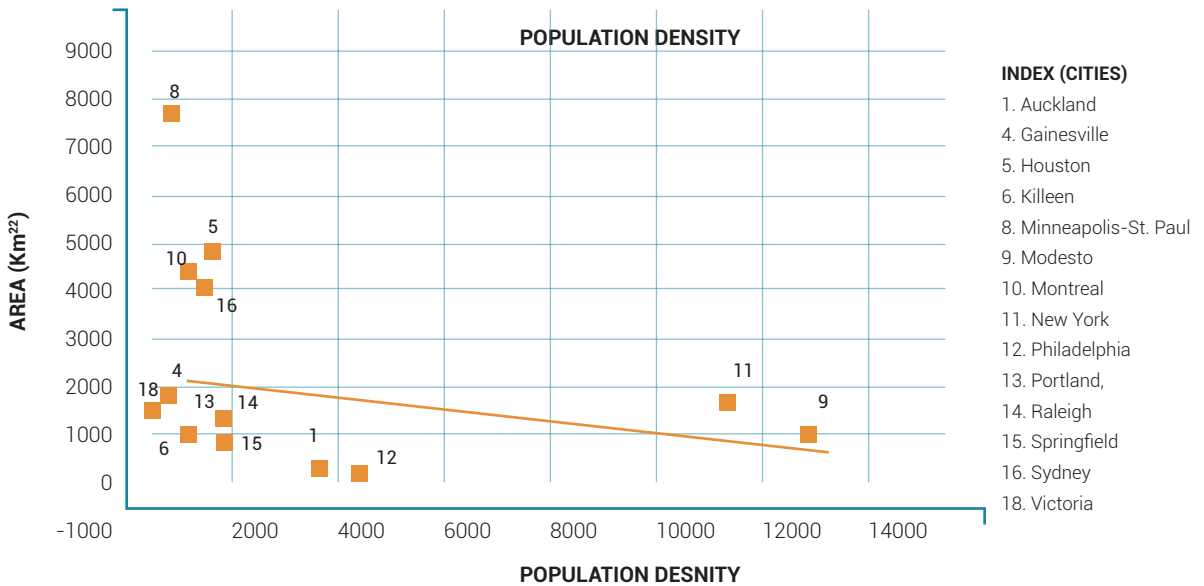
⁷ UN-Habitat, 'A New Strategy of Sustainable Neighbourhood Planning: Five Principles' (2014) *Urban Planning Discussion Note 3*. https://unhabitat.org/wp-content/uploads/2014/05/5-Principles_web.pdf pg. 4.

⁸ UN-Habitat, *Planning Sustainable Cities: Global Report on Human Settlements* (UN-Habitat 2009) pg. 124.

⁹ Institute for Transportation and Development, *TOD Standard v2.1* (Institute for Transportation and Development Policy 2017).

¹⁰ Chicago, Cleveland and Toledo.

Figure 2. Correlation between population density (p/km²) and land area (km²).



If a typical citywide plan has a lifespan of 10 to 15 years, the regional mean average of 261 years to achieve a target density suggests a prevalent trend where growth boundaries are too extensive as compared to need. This encourages sprawl, increases the per capita cost of service provision and indicates that the objective of achieving compactness is not reflected in the planning process and its outcomes.

B. URBAN PLANS

This section seeks to analyse planning law requirements on the adoption of spatial planning instruments, the age range and average age of these plans and compliance with land-use zoning regulations. The analysis covers all the spatial plans that have been approved and are in-force for a given city. This includes the land-use plans covering a specific area of the city i.e. boroughs, divisions, communes etc. normally identified as detailed local plans.

Spatial Instruments

Spatial plans create a path for urban growth that seeks to maximize the positive and minimize the negative effects of urbanization. They are not simply images of what is desired but also include a variety of regulatory tools for the management of the built environment. Their efficacy depends upon the coordination of the planning system hierarchy in place. This implies consistency of land-use planning policy objectives from the national to the local and neighbourhood level, in a system that enables more detailed plans to remain in line with the upper level plans. The drafting of plans should incorporate public participation mechanisms to facilitate negotiations between the state and its citizens around the management of the urban and rural environment. This dialogue legitimizes the local political decision making and enhances rule of law - when people feel included, they are more likely to own a process, as it was made with their contribution.

Of central importance, in all contexts, planning laws and systems should not require more plans and planning tools than can be produced and effectively implemented within the capacity of the implementing authority.

The study reveals that planning laws in Land-Rich Developed Countries have a mean average of 31 years with frequent up-to-date revisions and amendments. The prevalent requirement in these laws is for the preparation of two different types of urban plans (citywide and detailed plans). The analysis on the implementation rate of these planning frameworks could not be undertaken because most of these laws give planning authorities the discretion to decide the volumes of the plans that should be in-force. In some cases, the discretion relates to the preparation of plans themselves. For instance, in Texas, municipalities are not required to prepare and maintain local comprehensive plans but may do so.¹¹ Killeen city in Texas State, has adopted the Killeen Comprehensive Plan, 2010 and the Killeen Downtown Plan, 2010. In another case, the state laws of North Carolina state that cities in the State are not required to prepare a comprehensive land use plan, and so the nature of such a plan is not defined by law. However, the state's zoning-enabling statute, N.C. GEN STAT. § 160A-383, establishes that "zoning regulations shall be made in accordance with a comprehensive plan." Realistically, it becomes necessary to establish one.

The city of Raleigh has adopted the 2030 Comprehensive Plan (2009), which contains 22 specific area plans that provide further guidance to selected geographic areas.

Regarding the age of plans, the mean average age of plans currently in-force is 11 years.¹² This is well within rule of thumb estimates for the renewal of plans and suggests that there is a legal or policy impetus for cities to frequently update their planning frameworks.

Compliance with Land-use zoning

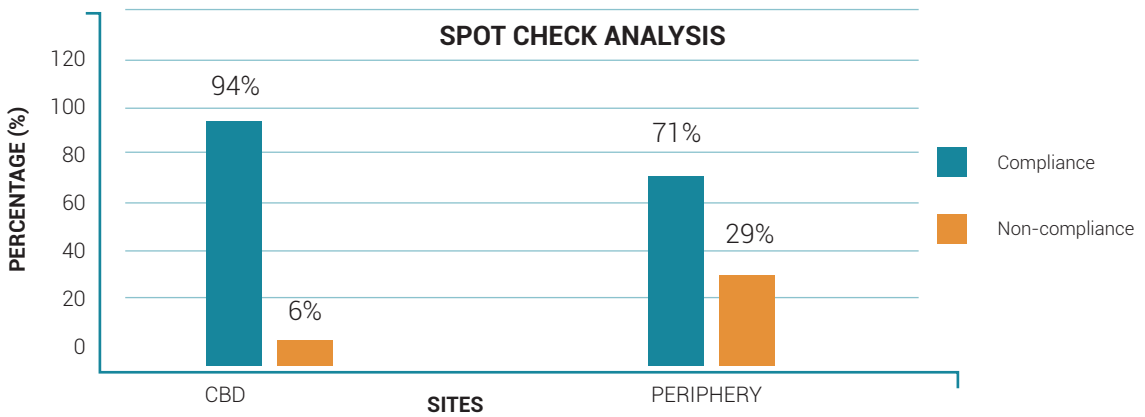
To assess land-use compliance, physical spot checks were conducted in two sites, which are each about one block or equivalent. One site is in or in proximity to a district predominantly commercial in character and the second site closer to the growth boundary or edge of the built-up area. The spot check analysis for this region indicates that land-use compliance is higher (94%) in the urban commercial core (Central Business District) than in the city peripheries (71%). Many of the commercial cores examined have been well established for long periods, while the fringe of built up areas is less established and sometimes still fluid, which likely explains this result.

This quick analysis of land use did not consider other metrics such as building volumes and setbacks, which might be more dynamic than simple land use in an urban core.

¹¹ <http://www.killeentexas.gov/DocumentCenter/View/253/Complete-Comprehensive-Plan-Portfolio-PDF>, pg. 1.4.

¹² Over 100 spatial plans were assessed to make this finding.

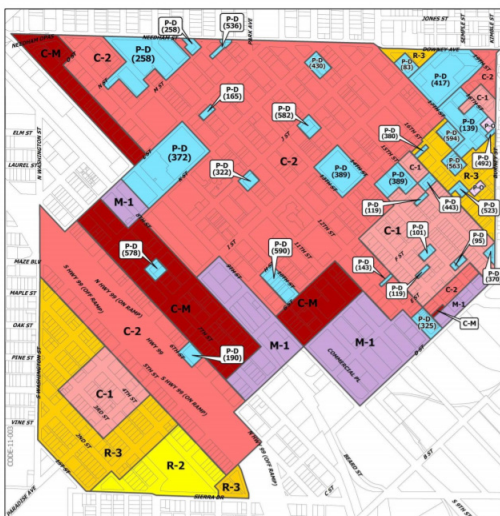
Figure 3. The compliance rate with land-use zoning between commercial areas (CBD) and sites in the city periphery.



Site One (Commercial/CBD)

In Modesto, the spot check was conducted in Site 1, 1010 10 Street, which is zoned as Central Downtown by Title 10 of the Modesto Municipal Code (1954) and it is considered as Neighborhood Commercial (C-1). The Central Downtown zone is intended to foster the most intensive and active urban environment in the Downtown, while ensuring an overall human scale to development.

This is accomplished through a mix of uses including residential, with an interface that promotes a very strong public/private connection and lively streetscape.¹³ Current development evidences compliance with the zoning description.



DOWNTOWN MODESTO HISTORIC ZONING DESIGNATIONS

- Med Density Residential (R-2)
- Med-High Density Residential (R-3)
- Planned Development (P-D)
- Professional Office (P-O)
- Neighborhood Commercial (C-1)
- General Commercial (C-2)
- Highway Commercial (C-3)
- Commercial-Industrial (C-M)
- Light Industrial (I-1)

Source: City of Modesto, CA Official Website: <https://www.modestogov.com/925/Zoning-Code-MMC---Title-10>

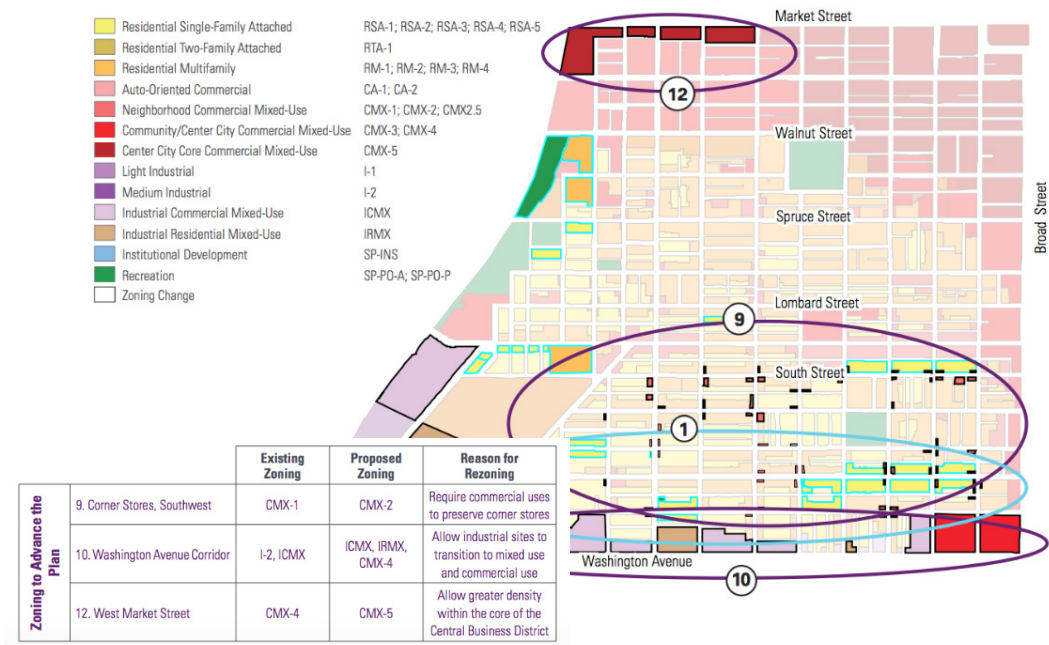
¹³ <https://www.modestogov.com/DocumentCenter/View/1393/Downtown-Form-Based-Code-PDF?bidId=>, pg. 5.



This is the street image of 1010 10th Street Building and J Street (Facing north). Source: © Google Maps <https://www.google.com/maps/@37.6405427,-121.0002471,3a,75y,16.78h,83.44t/data=!3m6!1e1!3m4!1sHoNjz55acA6NpD2qcES08A!2e0!7i1331218i6656>

By contrast, in Philadelphia, the Central District Plan (2013) calls for more density of mixed-use commercial and residential properties along Market Street. At present, it appears that some of the commercial spaces are vacant, precluding the dense commercial corridor envisioned by the plan.

Priority Recommendations — Southwest Quadrant



Source: The Philadelphia City Planning Commission, Central District Plan (2013), https://www.phila.gov/CityPlanning/plans/District%20Plans%20Library/Central_DP_FINAL.pdf.

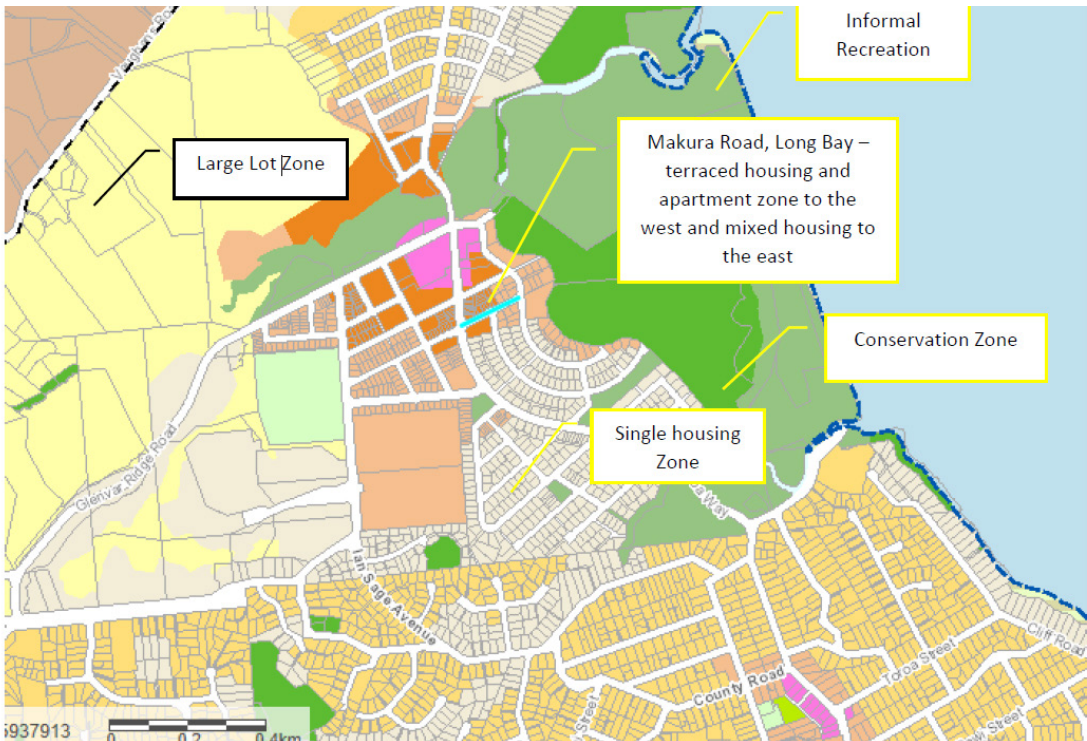


Empty storefronts on Market Street. Source: Google Maps

Site Two (Closer to the growth boundary or edge of the built-up area)

In Auckland, the spot check was conducted in Makura Road which forms part of a wide urban extension on the Hibiscus Coast to the north of the city centre on the north shore.

This site is zoned as a terraced housing and apartment area in the Auckland Unitary Plan (2016). Development started in 2017 and it follows the zoning standard.



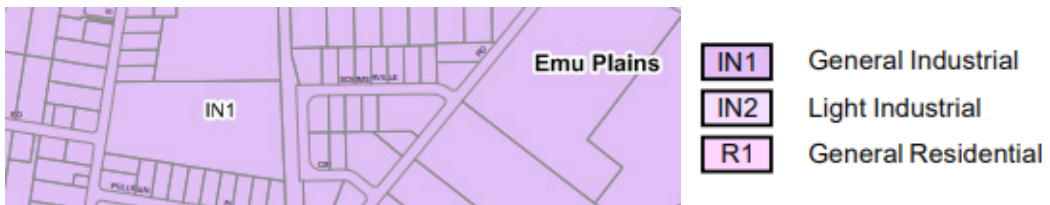
Source: Auckland Unitary Plan (2016)



The images above show the terraced housing apartments in Makura Road. Source: Dory Reeves

On the other hand, in Sydney, the Emu Plains, Penrith is earmarked as “General Industrial” according to the Penrith Local Environmental Plan 2010 (Land Zoning Map – Sheet LZN_005).

Current development shows non-compliance with the plan given the predominant presence of residential developments.



Source: Penrith City Council. https://legislation.nsw.gov.au/maps/fd7f5bed-f8e5-4c76-bec4-f03397c346b9/6350_COM_LZN_005_020_20160829.pdf



The images above show residential developments in Emu Plains which contradicts the industrial zoning requirement. Source: Google Maps

C. LAND ADMINISTRATION AND MANAGEMENT

The aim of this section is to assess whether legal parameters to regulate parceling and land subdivision exist, the volume and nature of plot subdivisions and the records of public

acquisition of land. These are key baseline indicators of an active land management system.

Plots Sizes and Subdivisions

Land administration is a general term for the processes of land rights' recognition, land use planning, land taxation, and developing accurate land information. It is central to the effective management of land and therefore, critical to sustainable urban development. Effective land administration systems provide security of tenure, a basis for land and property valuation and taxation, improved access to credit investments, sustainable land use and minimization of land conflicts.¹⁴ A proper system must be able to produce services to the general public at affordable costs if improved land administration is to contribute to the eradication of poverty.

UN-Habitat recommends the Fit-For-Purpose approach which calls for land administration systems that meet the needs of people and their relationship to land and supports security of tenure for all. This approach calls for a flexible and pragmatic approach rather than requirements imposed through rigid regulations, demands for spatial accuracy and systems that may be unsustainable for less developed countries.

The advantages of implementing a flexible security of tenure system are vast: it helps to protect the rights of local communities while reducing investment risks as well as integrating residents of informal settlements within the formal system.¹⁵

In the same vein, the size and permitted coverage area of plots, and to a large extent blocks, that may be built upon has a significant impact on the accessibility of land and on street dynamics and service demands. These elements should be effectively regulated and actively managed to fairly balance burdens and benefits. UN-Habitat proposes that regulatory regimes should explicitly advocate for the creation of small serviced plots (20-100 m²) to generate compact building forms as opposed to excessively large plots (>850 m²) that make density difficult to achieve.¹⁶

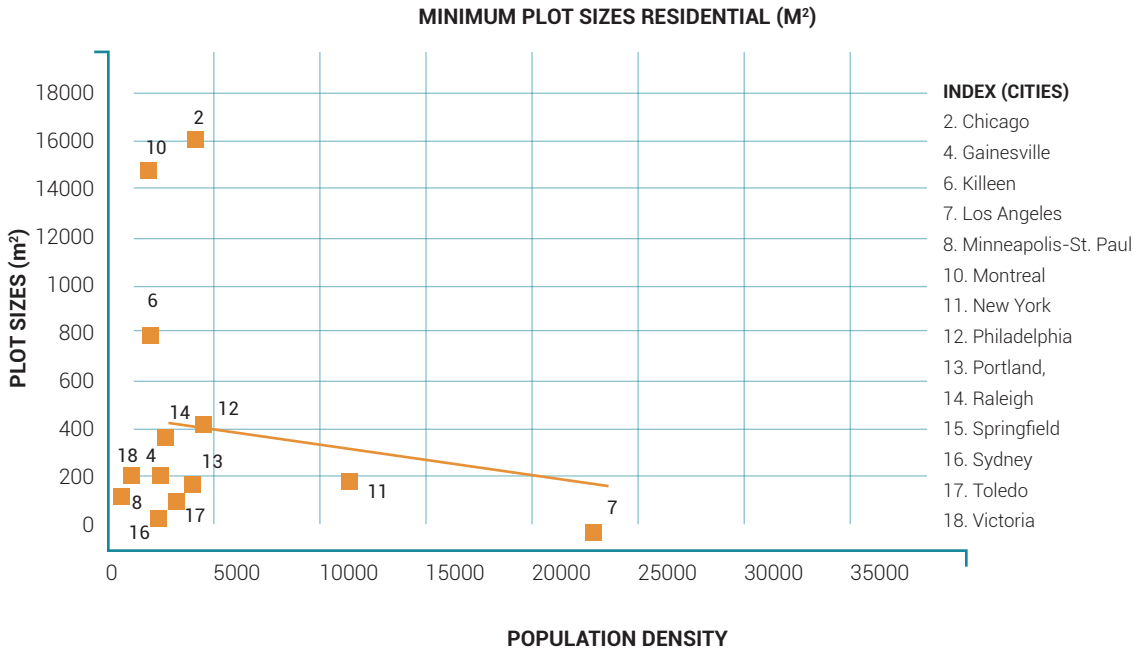
In Land-Rich Developed Countries, the mean average plot size for residential use is 444 m². Los Angeles has the smallest minimum plot size for residential uses (55.74 m²) while Chicago has the largest (1,650 m²). These findings indicate that smaller plots that would support densification and the generation of flexible street networks are being constrained.

¹⁴ Global Land Tool Network 'Land Administration and Information' (2016) <https://gltn.net/land-administration-and-information-2/>. Accessed 20 December 2019.

¹⁵ UN-Habitat, Planning Law Assessment Framework (UN-Habitat 2018).

¹⁶ UN-Habitat, Fundamentals of Urbanization: Evidence Base for Policy Making (UN-Habitat 2016), pp. 16.

Figure 4. Plot sizes for residential use and population density.



Dividing land into two or more plots is referred to as plot sub-division. The process could be a legal one carried out through conveyance, where the resulting plot is described and recorded in a land registry. For land subdivision to be a major lever of land use management and planning at the national and more importantly, city level, clear implementable regulatory frameworks must be enacted. This will require an appraisal of appropriate infrastructure, technology, capacity and a detailed analysis of the local society and economy.¹⁷

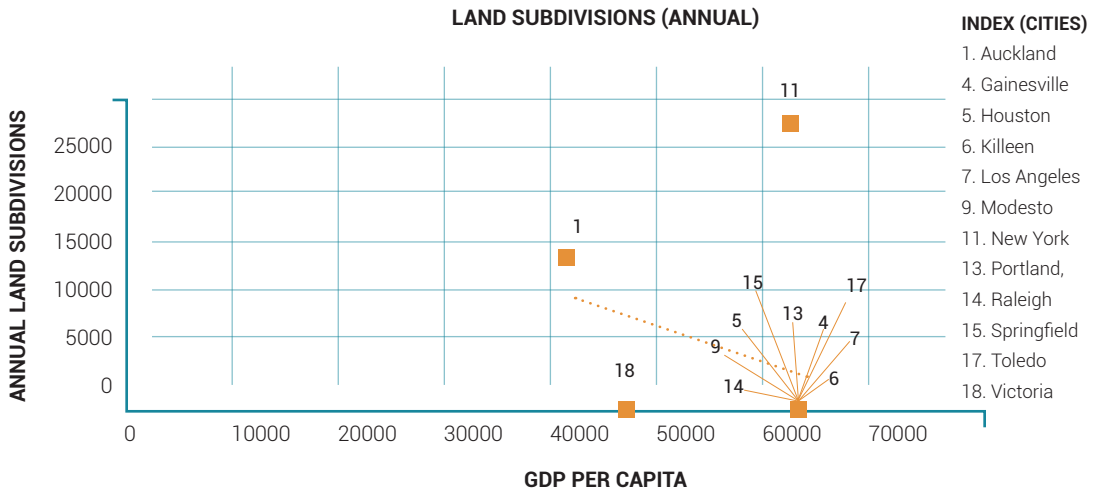
For this region, data was unavailable in five cities¹⁸ (22%). In Sydney, records were present, but the data was unquantifiable. In the remaining 12 cities¹⁹ (67%), Springfield recorded the least number of annual land subdivisions (2) while New York recorded the highest (23,220). Given these wide range of values, the median average, 87 best describes the regional annual volumes.

¹⁷ UN-Habitat, Planning Law Assessment Framework (UN-Habitat 2018).

¹⁸ Chicago, Cleveland, Minneapolis-Saint Paul, Montreal and Philadelphia.

¹⁹ Gainesville, Houston, Killeen, Los Angeles, Modesto, New York, Portland, Raleigh, Springfield, Toledo, Victoria and Auckland.

Figure 5. Land subdivisions and GDP per capita.



Public Acquisition of Land

Public acquisition of land, often through expropriation but sometimes through standard commercial transactions, is the most common way cities acquire land for streets, public spaces and infrastructure. Expropriation relies on the exercise of the eminent domain or compulsory purchase power of the national or sub-national government to acquire land from private owners for a purpose deemed to be in the public interest subject to a fair compensation. This can be a useful indicator of active land management by public agencies. As it involves issues of policy priorities, due process of law and financial compensation, expropriation is usually well documented and the subject of common knowledge.

In Land-Rich Developed Countries, from 2013-2018, five (5) cities²⁰ have no records of public acquisition of land. In the remaining 13 cities (72%) that have records, the numerical figure of land acquired could not be ascertained in six (6) cities; Chicago, Minneapolis-Saint Paul,

Philadelphia, Springfield and Sydney. This suggests that the process of land acquisition for public purposes is either poorly recorded or not available for the public. This may create problems with accountability against planning and public service objectives.

D. INSTITUTIONAL FRAMEWORK

This section aims to assess the human and administrative capacity of planning institutions to respond to local needs and priorities. The other objective is to assess the process of enforcing and monitoring compliance with development planning.

Management of Urban Planning and Development Control

Institutional structures and processes, which are mostly determined or at least shaped by law, are central to the delivery of technical planning standards on the ground.

²⁰ Killeen, Los Angeles, Modesto, Cleveland and Montreal.

Planning law requirements have a higher chance of success if they are designed alongside realistic enforcement strategies that are within the capacity of those responsible for compliance.

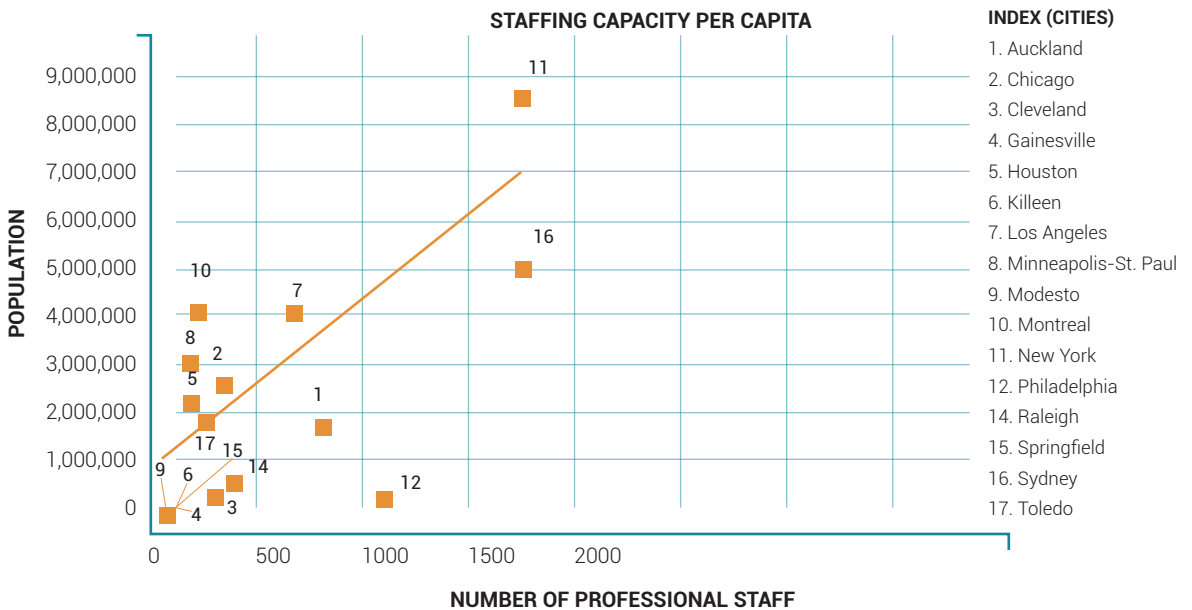
Further, the governmental level at which spatial and administration functions are managed (national, regional or local) affects the ability of citizens to adequately engage in decision-making as well as holding public institutions accountable. In Land-Rich Developed Countries, urban planning is 100% decentralized at the municipal level, but in Sydney, the provincial government is also involved.

Moreover, urban planning and development control functions are integrated in the same institution in most of the cities (67%).²¹

Staffing Capacity within Planning Institutions

The median average number of professional staff in planning institutions is 105. This can be translated to 1.92 planners per 100,000 inhabitants. New York recorded the highest number of professional staff (1,787) while Modesto has the least (8).

Figure 6. Existing professional staff and the city population.



²¹ All cities apart from Cleveland, Los Angeles, New York, Philadelphia, Montreal and Portland.

Given that these staff are expected to cover a range of tasks, it is likely to be difficult for city administrations to respond effectively and urgently to local needs and priorities. For most of these cities to manage staffing capacity constraints, UN-Habitat advocates that, before embarking on a process of legislative reform and drafting, they should carry out an appraisal of their resources using a set of performance indicators, which might include total expenditure, degree of self-sufficiency (i.e., proportion of own revenues to total), budget management performance (i.e., absence of deficits), and service delivery performance (i.e., client surveys). This would allow for the legal and regulatory frameworks to have differential approaches reflecting local capacity and resources. Moreover, the focus should be on managing developments that have significant environmental or social impact on the city as a whole or on priority areas within it.²²

Administrative Actions to Enforce Development Control

Planning laws contain sanction provisions that mandate planning authorities to undertake various administrative actions to penalize development planning breaches such as unauthorized construction. In Land-Rich Developed Countries, no records are publicly available in eight (8) cities (44%).²³ A total of 1,125,459 enforcement actions have been undertaken annually in the region with a mean average of 102,314 per city. Without further comparative data and more local information it is difficult to use the numbers to assess the effectiveness of planning enforcement. However, the high volume of enforcement actions does suggest that there is active institutional life and political will in planning systems.

22 Avis, W. R. 'Urban Governance (Topic Guide)' (2016) GSDRC, University of Birmingham.

23 Chicago, Houston, Minneapolis-Saint Paul, Philadelphia, Springfield, Montreal and Victoria.

III. ANNEX I

The Global Sample of 200 Cities

The Global Sample of Cities (Atlas of Urban Expansion) is a database of indicators for a sample of 200 cities worldwide.²⁴ The city selection is based on a representative sample of all global cities with populations of 100,000 or more in 2010. Cities were defined by their geographic extent (i.e. continuous built-up area) rather than municipal boundaries. Based on this definition, a universe of 4,231 cities was identified, drawing upon population data from the UN Population Division, the website <http://citypopulation.de/> and the Chinese Academy of Social Sciences.²⁵

From the total universe of cities, 200 were selected with a stratified sampling technique designed so that results would be generalizable to the entire universe of cities. The sample drew a random selection of cities from eight world regions in proportion to the urban population in each region. These regions are as follows:

- East Asia and the Pacific;
- Europe and Japan;
- Land-Rich Developed Countries;

- Latin America and the Caribbean;
- South and Central Asia;
- Southeast Asia;
- Sub-Saharan Africa; and
- Western Asia and North Africa.

The sample also drew at random an approximately equal number of cities from four size categories, (each size category contains approximately 25% of the global urban population):

- 100,000 - 427,000;
- 427,001 - 1,570,000;
- 1,570,001 - 5,715,000; and
- 5,715,001 and above.

Lastly, cities were randomly selected from three country groups in proportion to the urban population in each group:

- Countries with 1-9 cities;
- Countries with 10-19 cities; and
- Countries with 20 or more cities

²⁴ For more information, please visit: <http://www.atlasofurbanexpansion.org/>

²⁵ Shlomo Angel et al., Atlas of Urban Expansion Volume 1: Areas and Densities (Co-published by New York University, UN-Habitat and Lincoln Institute of Land Policy 2016) pages 12-13 <https://www.lincolnst.edu/publications/other/atlas-urban-expansion-2016-edition>

IV. ANNEX II

The Planning Law Questionnaire

A. Urban Areas

1. Is there an urban growth boundary delineating the area that may be urbanised from that which may not be?
.....

2. What is the average population density within the growth boundary?
.....

3. Based on current demographic projections and within the current urban boundary, in which year would the city reach a density of 15,000 per km²?
.....

4. Does current development extend beyond the boundary?
.....

B. Urban Plans

5. What percentage of the area within the growth boundary is covered by existing legally approved spatial plans?
.....

6. What is the age range and average age of plans currently in force?
.....

7. Which laws govern the spatial planning for the city?
.....

8. Identify two sites (each about one block or equivalent), one in, or in proximity to, a district predominantly commercial in character and the second closer to the growth boundary or edge of the built-up area, and obtain the following:

- a. Photos from as many angles as possible
- b. Satellite images, or alternatives usable for basic GIS purposes (even if Google Earth)
- c. Any spatial or land use plan content relating to the selected sites

C. Land Administration

9. Does the city have a minimum plot size, which is used to approve land subdivisions?

9.1. What is the number, location and total size of approved land subdivisions in the past 12 months?

.....

10. Is there any record of public purchase or other acquisition of land within the boundary, either voluntary or compulsory, in the last five years?

.....

D. Institutional Framework

11. Is there an institution responsible for planning at the municipal or provincial level?

Yes No

12. If the answer to 11 is yes, how many professional staff does the planning institution have (i.e. engineers, surveyors, planners, architects, building inspectors, GIS experts etc.)?

.....

13. Is the institution identified under 11 also responsible for the enforcement of development control?

Yes No

14. If the answer to 13 is yes, how many staff with regulatory authority does the institution have?

.....

15. Is there an institution, distinct from any institution identified under 11, responsible the enforcement of development control?

Yes No

16. If the answer to 15 is yes, how many staff does the institution have who possess regulatory authority?

.....

17. Is there any record of prosecutions, demolitions, fines or other administrative actions to enforce planning or development control in the last 12 months and, if so, approximately how many instances?

.....

01 AUCKLAND, NEW ZEALAND



Source: © Dory Reeves; Auckland mt Victoria, Devonport

A. URBAN AREAS

On 1 November 2010, a single Auckland council replaced the eight previous councils and the Auckland Region became a unitary authority administered by the Auckland Council.²⁶ Auckland is the largest city in Aotearoa New Zealand, located in the North Island and is the commercial center and home to over one third of the population of New Zealand and 24% of the Māori population.

The metropolitan area is bounded to the west and east by water and covers a volcanic field²⁷ with over 53 volcanic cones or maunga which dominate the landscape. To the west is an extensive area of regional park including the Waitakere Ranges Regional Park. The Park, protected at local, regional, and national levels, is an area of some 17, 000 hectares,

²⁶ Margaret McClure, 'Auckland region - Overview', Te Ara - the Encyclopedia of New Zealand, <http://www.TeAra.govt.nz/en/interactive/16443/auckland> (accessed 16 January 2020).

²⁷ The volcanic field on which Auckland sits is a monogenetic volcanic field consisting of a group of small monogenetic volcanoes, each of which erupts only once.

established over a period of 110 years through gifts, grants, purchases, and vestings.²⁸

Contemporary planning has colonial origins, based on the British planning system. Before colonisation, Māori practiced resource management and planning according to their own customs and methods. Colonisation has led to a systematic reduction in Māori traditional practices of resource management and a loss of jurisdiction over tribal lands.²⁹ The key planning question is whether current urban growth strategies, such as the 2016 Unitary Plan, support the development of Māori land for residential use. In 2017, the Resource Management Act, 1991 was amended to improve Māori involvement and facilitate

²⁸ The Waitākere Ranges Heritage Area Act 2008.

²⁹ For a research account of the impact of colonisation see: Palmer, F. (2016) Building sustainable papakāinga to support Māori aspirations for self-determination, PhD AUT. And Lysnar, P., Tuatagaloa, P. and Joynt, J. (2016). Māori and housing in Tāmaki Makaurau: A stocktake of issues, experiences and initiatives. Auckland Council technical report, TR2016/026. Available at <http://knowledgeauckland.org.nz/assets/publications/TR2016026-Maori-and-housing-in-Tamaki-Makaurau.pdf>

improved working relationships between iwi³⁰ and councils and enhance Māori participation in resource management processes by:

- Enhancing opportunities for iwi input to the plan-making processes in the Resource Management Act, 1991; and
- Introducing a new process for establishing agreements between tangata whenua³¹ (through iwi authorities) and councils, called *Mana Whakahono a Rohe*: Iwi participation arrangements.

The city has an urban development boundary called the Rural Urban Boundary³² designated through the Auckland Unitary Plan. This has been in place since 2016 and is the mechanism for managing future urbanization. In fact, it is the outside edge of the areas where urbanization is expected to occur over the next 30 years. It distinguishes between the areas likely to change from rural to urban and the areas likely to remain rural. The Rural Urban Boundary can be relocated through a plan change (Schedule 1 of the Resource Management Act 1991). Any relocation of the Rural Urban Boundary must give effect to the objectives and policies of the regional policy statement which established it.³³ The Auckland Plan Evidence Report Development Strategy (2018) identifies approximately 15,000 hectares of rural land for future urbanization with the potential

³⁰ Iwi refers to a large group of people descended from a common ancestor and associated with a distinct territory.

³¹ Translated as people of the land.

³² This boundary replaced the Metropolitan Urban Limit which had been in place since the 1990s and was located hard up against the urban development.

³³ <https://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20G%20RUB/G1%20Rural%20Urban%20Boundary.pdf>

to accommodate approximately 137,000 dwellings and 67,000 jobs.³⁴ Auckland has a current population of 1,606,564, increasing at an annual rate of 1.86% since 2001.³⁵ The population density within the growth boundary is 3,290 people per km². Under this growth projection³⁶, the city would take 83 years (2103) to reach a density of 15,000 people per km². According to Auckland Council's monitoring report, 7% of consents were issued for development in rural areas 2018-2019.³⁷

B. URBAN PLANS

The Auckland Council is required to produce a spatial plan under the Local Government (Auckland Council) Act, 2009 (s. 79). This is a high-level strategy. Auckland Council adopted the Auckland Plan, 2012. The Council is also required, under the Resource Management Act, 1991 to produce a Unitary Development Plan setting out the detailed planning rules. The Council adopted the Auckland Unitary Plan in 2016 and it covers 100% of the area available for urbanization. This Plan supersedes/incorporates the plans for the previous councils. The average age of these plans is 6 years.

³⁴ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/Evidence%20reports%20documents/evidence-report-development-strategy.pdf> (page 68).

³⁵ Statistics New Zealand: Auckland's Future Population < <https://www.stats.govt.nz/reports/aucklands-future-population-under-alternative-migration-scenarios>

³⁶ The calculation has been made using the following: the area urbanised in 2014, which was 488.26 (km²), plus the average density of the built-up area of 3,290 persons per km², and the average growth rate since 2001 of 1.86%.

³⁷ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/Documents/ap-ds-monitoring-report.pdf>

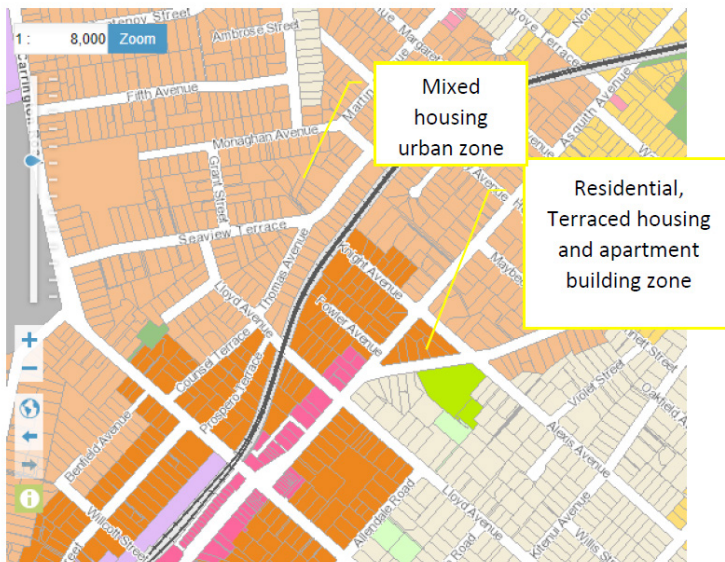
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): New North Road and Asquith Avenue, Mount Albert

This site is located on the junction of Asquith Avenue and New North Road, a main arterial road into Auckland city centre. The site is located on the edge of a local centre called

Mount Albert and is within minutes of a railway station and on a main bus route.

The Unitary Plan (2016) is encouraging densification in this area and current development shows compliance as dwellings being constructed have over 20 units.



Source: © Auckland Unitary Plan (2016)



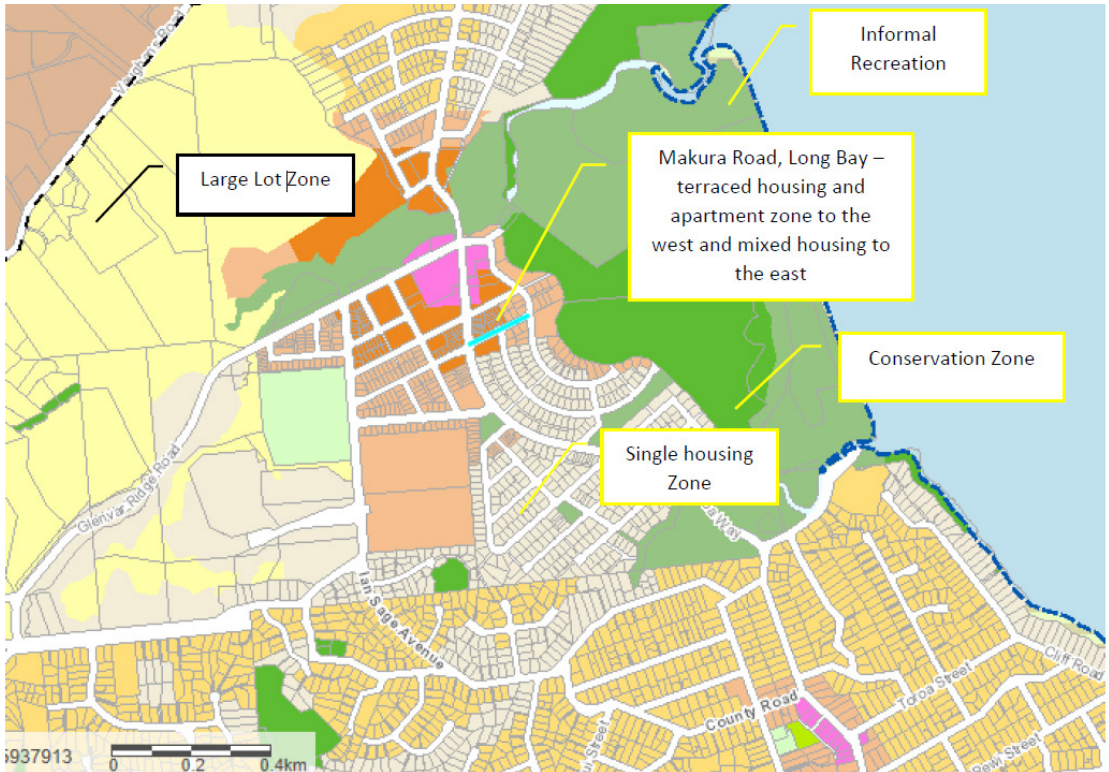
Images above show the development from west and east along New North Road

Source: © Dory Reeves

Site Two (edge of the built-up area): Makura Road, Long Bay, Hibiscus Coast

Makura Road forms part of a wide urban extension on the Hibiscus Coast to the north of the city centre on the north shore. This site is zoned as a terraced housing and apartment

area in the Auckland Unitary Plan (2016). Development started in 2017 and it follows the zoning standard.



Source: © Auckland Unitary Plan (2016)



Images above show the terraced housing apartments in Makura Road. Source: © Dory Reeves

D. LAND ADMINISTRATION

The city does not have a minimum plot size per se. Standards for single house zones are set out in section H3 Residential of the Unitary Plan. The purpose of the Residential – Single House Zone is to maintain and enhance the amenity values of established residential neighbourhoods in several locations.³⁸ Apart from the Single House Zone, Auckland Council uses 'bulk and location' standards to manage matters of residential amenity and character, and in particular potential amenity effects on adjoining properties. Assessment by Auckland Council shows that there has been a significant increase in the number of building consents granted within the urban area and within transport corridors since the Unitary Plan was made operative. According to the Auckland Council's 2019 Development Strategy Monitoring Report, in the 12-month period 2018-2019, 14,032 new dwellings and nearly 900,000m² of business floor space was consented.³⁹

Sections 186 and 197 of the Resource Management Act, 1991 set out the provisions for compulsory acquisition powers for network utilities and heritage protection authority while S165W sets out the provisions for preferential rights of iwi. The Auckland has a Council Controlled organisation called Panuku Development Auckland which was set up to, inter alia, make more efficient the use of

³⁸ <https://unitaryplan.aucklandcouncil.govt.nz/Images/Auckland%20Unitary%20Plan%20Operative/Chapter%20H%20Zones/H3%20Residential%20-%20Single%20House%20Zone.pdf>

³⁹ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-plans-strategies/auckland-plan/about-the-auckland-plan/Documents/ap-ds-monitoring-report.pdf>

existing land and property holdings. Between 2018-2019, the Council acquired 29 hectares for the creation of new parks and open space across Auckland.⁴⁰

E. INSTITUTIONAL FRAMEWORK

Spatial planning and development control are a municipal competence carried out by the Auckland Council. In 2017/2018 a total of 392.5 staff were involved in resource consenting, plan preparation and compliance. It is not possible to give a breakdown figure for the number of engineers and architects as well as planners and it is not possible to give a split for Māori and non-Māori staff.

The Regulatory Compliance Unit within the Council is responsible for promoting and monitoring compliance. The Resource Management Act 1991 does not prescribe how councils should carry out this function, so councils have the discretion to determine how to achieve compliance in their respective areas. Councils use compliance promotion (such as education, on-site directions and awareness-raising) as the preferred method for encouraging compliance. When necessary, councils use formal enforcement action to discourage and penalize non-compliance and direct remediation of the damage. As of 2016, the Compliance Unit had 93 professional staff with regulatory authority. According to the National Monitoring Report statistics, Auckland Council conducted 1115 enforcement actions

⁴⁰ <https://www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-annual-reports/documents/fullannualreport20182019/volume-1-overview-service-performance.pdf>

to enforce planning in the period 2017/2018 (see table below).⁴¹ However, the National Monitoring System collects data on rates of non-compliance detected through resource consent monitoring.

This figure does not consider non-compliance detected outside of resource consent monitoring (through permitted activity monitoring, for example). Further, the interpretation of 'non-compliance' varies from council to council.⁴²

Enforcement Action	2017/2018
Infringement notices	456
Abatement notices	648
Enforcement order applications (including interim)	2
Prosecutions	9
TOTAL	1,115

Auckland Council has the power to make by-laws. It is also guided by the following national laws:

- Treaty of Waitangi Act 1975;
- The Resource Management Act, 1991;
- The Local Government Act, 2002;
- Land Transport Management Act, 2003;
- National Environmental Standards such as the National Environmental Standards for Air Quality, 2004;
- National Policy Statement on Urban Development Capacity, 2016;
- Government Policy Statement on Land Transport, 2018; and
- Climate Change Response (Zero Carbon) Amendment Act, 2019

⁴¹ <https://www.mfe.govt.nz/rma/national-monitoring-system/data-explorer/complete-datasets>

⁴² <https://www.mfe.govt.nz/sites/default/files/media/RMA/compliance-monitoring-and-enforcement-report.pdf>

02 CHICAGO, UNITED STATES



Source: © iStock, Chicago Skyline, <https://tinyurl.com/y9oc4dq9>.

A. URBAN AREAS

Chicago, Illinois is the seat of Cook county and it is bordered by Lake Michigan and it is the birthplace of the modern skyscraper. Chicago is one of the largest and most populous cities in the United States⁴³ and it is traversed by the Chicago and Calumet rivers. Chicago's extensive parklands, including 3,000 hectares of city parks attract an estimated 86 million visitors annually. However, unlike other U.S. cities, the city is experiencing a gradual decline in population rather than an increase.⁴⁴ Chicago, Los Angeles, and Detroit fall within the top list of cities that are losing people due to relocation.⁴⁵

⁴³ Jonathan Glancey, *The City that Changed Architecture Forever*, BBC (Oct. 5, 2015), <http://www.bbc.com/culture/story/20150930-chicago-birthplace-of-the-skyscraper>.

⁴⁴ Elvia Malagon, *Chicago Area Loses Population for 3rd Straight Year*, Chi. Trib. <http://www.chicagotribune.com/news/local/breaking/ct-met-chicago-cook-county-population-20180320-story.html>.

⁴⁵ Sommer Brokaw, UPI <https://www.upi.com/Study-Chicago-LA-Detroit-top-list-of-cities-people-are-leaving/3841530807033/>.

In 2016, Chicago reported a population of approximately 2,720,546.⁴⁶ The city's average population density is 4,613.47 people per km², but because the city's population growth rate is negative 0.14 percent, it is not possible to predict when the city may reach a population density of 15,000 people per km². Chicago does not maintain a *de jure* urban growth boundary. Zoning laws govern the boundary of the city.

B. URBAN PLANS

Chicago is known for using zoning to diversify its business and development and for frequent changes to zoning laws to promote such diversification.⁴⁷ Titles 16 and 17 of the Municipal Code of Chicago contain the Chicago Zoning Ordinance and Land Use Ordinance, as well as the Land Use and Zoning Tables, which together govern spatial

⁴⁶ Chicago, Illinois Population 2018, World Population Review, <http://worldpopulationreview.com/us-cities/chicago-population/>.

⁴⁷ Judson Picco, *5 things to know about Chicago's manufacturing districts*, Chicago Architecture Center, <http://www.architecture.org/news/retrofitting-buildings/5-things-to-know-about-chicagos-planned-manufacturing-districts/>.

planning for the city. The Department of Planning and Development (DPD) oversees the implementation of three citywide development plans and fifteen in-force community plans.⁴⁸ The plans vary in age from 32 years to three years old, with an average age of 12.7 years. An example of Chicago using zoning laws to promote diversification, includes the usage of specialized devices such as Planned Manufacturing Districts (PMDs), areas where “zoning laws prohibit residential development and other specific uses,” which were first created in 1988 to encourage the creation of more industrial jobs. Since then, fourteen other PMDs have been created.⁴⁹

Additionally, under Mayor Rahm Emanuel, the city has seen an influx of new urban initiatives. An example of these new plans is the City Industrial Corridor Modernization Initiative. One of the main purposes of this initiative is to update specific “industrial areas for advanced manufacturing and technology-oriented jobs while reinforcing traditional industrial activities in other areas.”⁵⁰ Included within this initiative is the planned re-zoning of the industrial land in the city’s North Branch Industrial Corridor so that portions of the Corridor would no longer be protected as part of the Planned Manufacturing District (PMD).⁵¹

48 Chi. Dep’t. of Planning & Dev., Community Plans https://www.chicago.gov/city/en/depts/dcd/provdrs/planning_and_policydivision/svcs/community-plans.html.

49 Supra, note 50.

50 Mayor Emanuel’s Industrial Corridor Modernization Initiative, Chi. Dep’t. of Planning & Dev., https://www.cityofchicago.org/city/en/depts/dcd/supp_info/repositioning-chicago-s-industrial-corridors-for-today-s-economy.html.

51 See Chi. Dep’t. of Planning & Dev., City Council Passes Modernized North Branch Development Regulations, [https://www.cityofchicago.org/city/en/depts/dcd/provdrs/planning_and_policydivision/news/2017/june/mayor-emanuel-introduces-](https://www.cityofchicago.org/city/en/depts/dcd/provdrs/planning_and_policydivision/news/2017/june/mayor-emanuel-introduces-modernized-development-regulations-to-f.html)

Another planning initiative instituted by the Mayor includes the reformation of the Zoning Code so that developers would be able to make “voluntary financial contributions to a funding system that is designed to support commercial development projects and create jobs in neighborhoods that need investment and growth.” Money received through this initiative would go towards the Neighborhood Opportunity Fund, a fund used to “support development projects within underserved neighborhood commercial corridors,” as well as the Citywide Adopt-A-Landmark Fund, and the Local Impact Fund.⁵²

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): The Chicago Loop

Characterized by a distinctive modernist architectural style, the Chicago Loop (the Loop) is the city’s main business, tourism, and cultural district.⁵³ The neighborhood hosts significant development, including several new residential and commercial high-rise buildings. Development of the Loop and the rise of tall office and residential buildings – one of which will become the third tallest building in the city upon its completion in 2020 – points to continued economic growth in the area.⁵⁴

modernized-development-regulations-to-f.html.

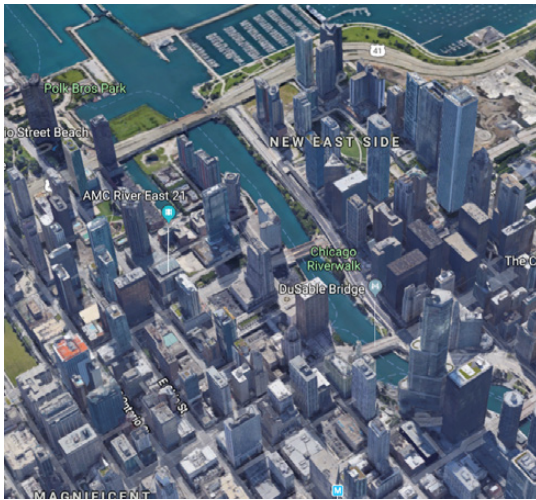
52 Chi. Dep’t. of Planning & Dev., City Council Passes Mayor Emanuel’s Major Initiative to Further Drive Neighborhood Development Throughout Chicago (2016), https://www.chicago.gov/city/en/depts/dcd/provdrs/planning_and_policydivision/news/2016/april/mayor-emanuel-introduces-new-downtown-bonus-system-to-generate-fu.html.

53 <https://www.choosechicago.com/neighborhoods/downtown/loop/>.

54 Blair Kamin, The Growth of Chicago’s Super Loop: So Much

Two active community plans govern the Loop, the Central Area Plan (CAP) adopted in 2003 and the Central Area Action Plan (CAAP) adopted in 2009. The CAAP was a supplement that offered more specific means to achieve the goals of the older proposal.⁵⁵

The CAP sought to maintain and increase the density of residential units in the area, while also developing greenspace along the harbor.⁵⁶ Current development shows compliance with these plans.



Aerial view of the East Side of the Loop, demonstrating new high-density development and water-front greenspace in conformity to the Central Area Action Plan | Source: © Google Maps, Vista Tower Aerial View, <https://tinyurl.com/ydcb8m4r>

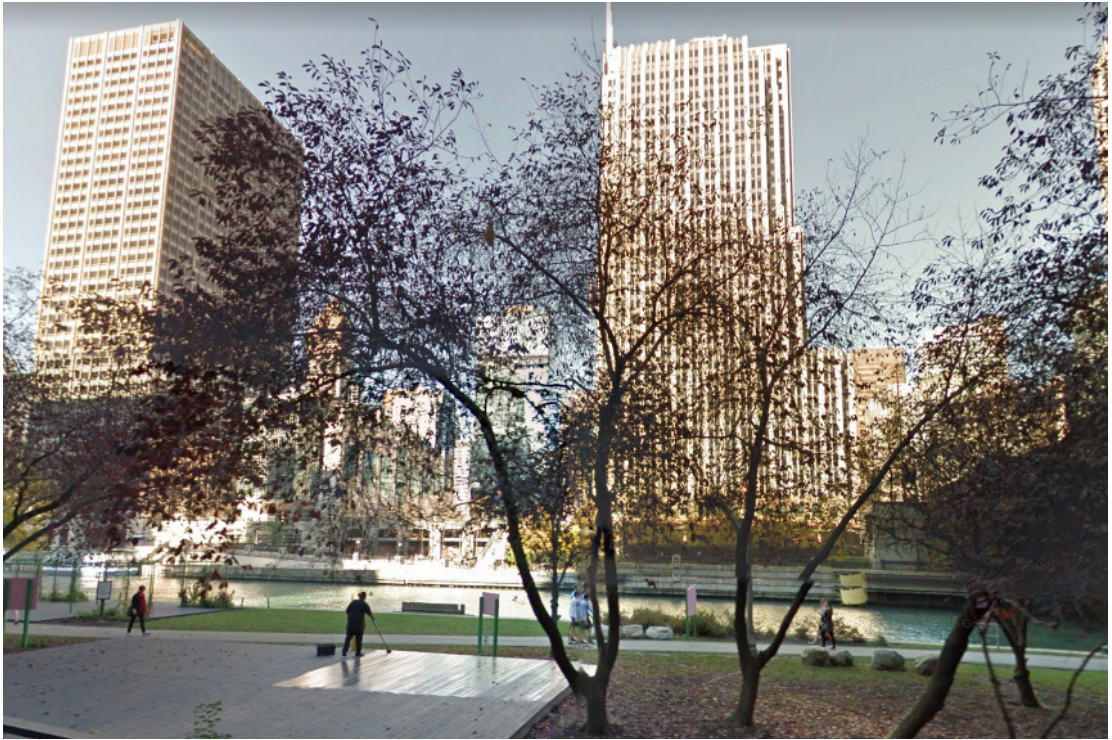


Construction of Vista Tower and other high-rise office and residential buildings, in accordance with the Central Area Action Plan | Source: © Google Maps, Street view of Vista Tower Construction | <https://tinyurl.com/yazbl7ff> Waterfront

Building, So Little Time, Chi. Trib. (Sept. 9, 2017, 3:46 PM), <http://www.chicagotribune.com/news/columnists/kamin/ct-chicago-building-boom-kamin-met-0903-20170908-column.html>

⁵⁵ Chi. Dep't. of Planning & Dev., Central Area Action Plan (2009), https://www.chicago.gov/city/en/depts/dcd/supp_info/central_area_action_plan.html.

⁵⁶ https://www.chicago.gov/content/dam/city/depts/zlup/Planning_and_Policy/Publications/Central_Area_Action_Plan_DRAFT/2_LandUse.pdf



greenspace adjacent to the high-density development, also in concordance with the Central Area Action Plan | Source: © Google Maps, Streetview Harbor Greenspace, | <https://tinyurl.com/yckoa76z>

Site Two (edge of the built-up area): Halstead Triangle

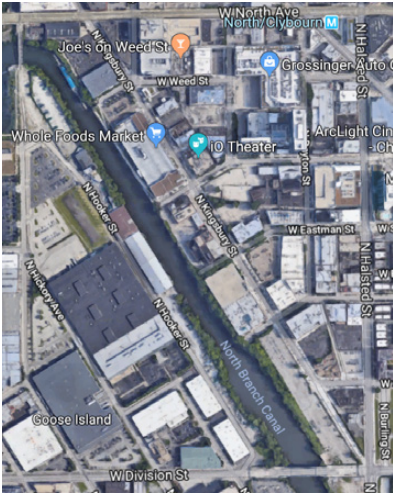
The Halstead Triangle is an industrial neighborhood near Goose Island, a primarily industrial artificial island created in the 1860s. Halstead Triangle's boundaries are defined by Halsted Street to the east, the north branch of the Chicago River to the west, North Street to the north, and Division Street to the south.⁵⁷ The Halstead Triangle Plan was adopted in 2010, and sought to facilitate a more pedestrian-friendly neighborhood with a mix of primary industrial and commercial uses.⁵⁸

⁵⁷ Department of Zoning and Land Use Planning, Halsted Triangle Plan 3 (2010), https://www.chicago.gov/content/dam/city/depts/zlup/Planning_and_Policy/Publications/Halsted%20Triangle%20Plan/HalstedTrianglePlan.pdf.

⁵⁸ *Ibid.*, 23.

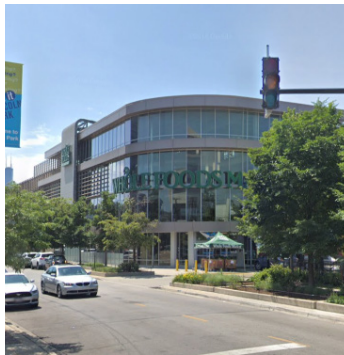
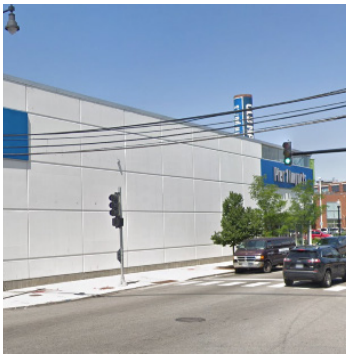
There has been significant commercial development in the area that sits adjacent to more industrial facilities in accordance with the plan, signaling its effectiveness. However, certain specific objectives of the plan – such as the creation of a new pedestrian bridge leading from Weed Street to Goose Island, or the suggestion that parking be kept off streets to maintain pedestrian experience, have not been implemented.⁵⁹ Accordingly, current development shows partial compliance with the plan.

⁵⁹ *Ibid.*, 29-30



Left: Aerial View of Halsted Triangle, Source: © Google Maps, Aerial View of Halsted Triangle, <https://tinyurl.com/y7u566cv>;

Right: Zoning map from the Halsted Triangle Plan, Source: Department of Zoning and Land Use Planning https://www.chicago.gov/content/dam/city/depts/zlup/Planning_and_Policy/Publications/Halsted%20Triangle%20Plan/HalstedTrianglePlan.pdf



Four large retailers at the intersection of Weed Street and North Kingston Street. The commercial uses are consistent with the plan, but there are parked cars near the sidewalks. | Source for the above three images: © Google Maps, Intersection of Weed and N Kingston Streets, <https://tinyurl.com/ycfhtwf9>



Industrial/Office buildings on the Southern side of Kingston Street, consistent with the Zoning map in the plan
Source: © Google Maps, Intersection of Weed and N Kingston Streets, <https://tinyurl.com/ycfw7a2j>

D. LAND ADMINISTRATION

There are various minimum lot sizes for residential districts, represented in the chart

below. Minimum plot sizes used to approve land subdivisions in residential districts:

Zone RS1, Residential Single District	6,250 square meters (m ²)
Zone RS2, Residential-Single District	5,000 m ²
Zone RS3, Residential Single District	2,500 m ²
Zone RS3.5, Residential Single District	2,500 m ²
Zone RT 4, Residential Two Flat District	1,650 m ²
Zone RM 6.5, Residential Multi-unit District	1,650 m ²

There are also minimum lot sizes for commercial districts.⁶⁰

The table below lays out the minimum lot sizes in each of the three commercial districts.

	1	1.5	2	3	4	5
Neighborhood commercial districts	2,500 m ²	1,350 m ²	1,000 m ²	400 m ²	N/A	200 m ²
Motor vehicle-related commercial districts	2,500 m ²	N/A	1,000 m ²	400 m ²	200 m ²	N/A
Commercial, manufacturing, and employment districts	2,500 m ²	N/A	1,000 m ²	400 m ²	200 m ²	N/A

The number of subdivisions Chicago has approved in the past twelve months could not be ascertained.

In October 2017, the city issued approval for the sale of 935 city-owned lots for a dollar each to local property owners on the west and south sides of the city.⁶¹

⁶⁰ Chi. Zoning Ordinance 17-2-0300 (2018), https://chicago.gov/city/en/depts/dcd/supp_info/repositioning-chicago-s-industrial-corridors-for-today-s-economy.html; Zoning Districts, 2nd City Zoning, <https://secondcityzoning.org/zones/>.

⁶¹ Mayor Emanuel's Industrial Corridor Modernization Initiative, Chi. Dep't. of Planning & Dev., https://www.cityofchicago.org/city/en/depts/dcd/supp_info/repositioning-chicago-s-industrial-corridors-for-today-s-economy.html; Chi. Dep't. Of Planning & Dev., Large Lots Program, https://www.chicago.gov/city/en/depts/dcd/supp_info/large-lot-program.html.

The lots were made available to the public through an online application, and were sold "as is" with the expectation that the lots will be used as expanded yards, community gardens, and other open space.⁶²

The Department of Planning and Development maintains a land inventory system (LIS) database of its land acquisitions. In the past five years, the city has acquired at least 11 tracts of land and sold 761 tracts of land.⁶³ The city has leveraged its eminent domain powers to threaten developers to quickly complete

⁶² Ibid.

⁶³ https://www.cityofchicago.org/city/en/depts/dcd/supp_info/city-owned_land_inventory.html.

new projects or to sell blighted properties off, including in 2016 the site of the city's old main post office.⁶⁴

E. INSTITUTIONAL FRAMEWORK

The Department of Planning and Development (DPD) is the primary planning agency for the city at the municipal level. In Chicago, the DPD is in charge of zoning ordinances, land use plans and policies, development of open space, community planning, economic development initiatives, purchase and redevelopment of city-owned property, historic preservation, planning and sustainability, and is also responsible for the overview of a number of commissions. There are over 220 staff members within the DPD;⁶⁵ in the Bureau of Zoning there are 36 staff members and in Bureau Operations, there are 35 members.⁶⁶ The Zoning Ordinance Administration Division is responsible for "*reviewing building permit applications to ensure compliance to the Chicago Zoning Ordinance*".⁶⁷ These plans are reviewed by plan examiners. According to section 17-16-0100 of the Chicago Zoning Ordinance, it is the responsibility of the Zoning Administrator to enforce zoning ordinances.

Also, within DPD, the Chicago Plan Commission is responsible for reviewing proposals that involve "Planned Developments (PDs), the Lakefront Protection Ordinance, Planned Manufacturing Districts (PMDs), Industrial Corridors and Tax Increment Financing (TIF) Districts."⁶⁸ The Chicago Plan Commission "reviews and holds public hearings on certain development projects within proximity of the City's Lake Michigan shoreline in accordance with the Lake Michigan and Chicago Lakefront Protection Ordinance." The Lakefront Protection Review seeks to protect Chicago's Lake Michigan shoreline and its rich cultural and historical attributes.⁶⁹ The Chicago Plan Commission is also in charge of reviewing "proposed sales and acquisitions of public land as well as certain long-range community plans." In total, the Chicago Plan Commission contains 22 members.⁷⁰ The number of administrative actions taken to enforce planning and development control in the past year could not be ascertained.

⁶⁴ Mitch Dudek, 'Emanuel scraps eminent domain, announces deal for Old Post Office', Chicago Sun Times <https://chicago.suntimes.com/business/old-main-post-office-deal/>.

⁶⁵ <https://www.cityofchicago.org/city/en/depts/dcd.html>. https://www.cityofchicago.org/city/en/depts/dcd/auto_generated/dcd_our_structure.html.

⁶⁶ https://www.cityofchicago.org/content/dam/city/depts/dcd/general/Admin/DPD_Org_Chart_July_2018.pdf.

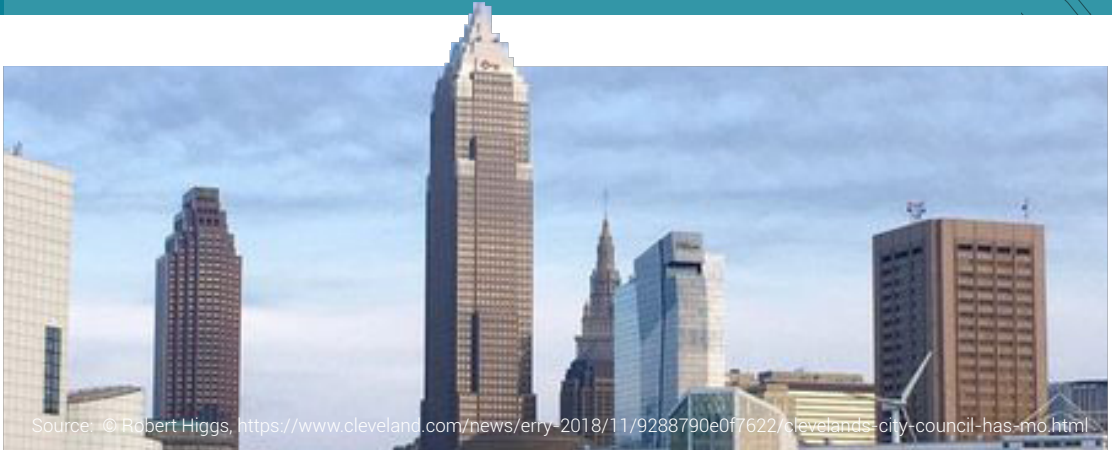
⁶⁷ <https://www.cityofchicago.org/city/en/depts/dcd/provdrs/admin.html>.

⁶⁸ https://www.cityofchicago.org/city/en/depts/dcd/supp_info/chicago_plan_commission.html.

⁶⁹ https://www.cityofchicago.org/city/en/depts/dcd/provdrs/admin/svcs/lakefront_protectionapplication.html.

⁷⁰ https://www.cityofchicago.org/city/en/depts/dcd/supp_info/chicago_plan_commission.html

03 CLEVELAND, UNITED STATES



A. URBAN AREAS

The City of Cleveland is adjacent to Lake Erie and the Cuyahoga River and it is the headquarters of Cuyahoga County. Cleveland was once the nation's fifth largest city and a major manufacturing center, but the loss of manufacturing jobs, decades of population decline, and out migration/sprawl have created challenges for the city such as vacant and contaminated land and poverty. Today, Cleveland is the 51st largest city based on population in the United States and the 27th with regards to population density.⁷¹

The Charter of the City of Cleveland directs the Planning Commission to *"make and adopt a general plan for the development and improvement of the City..."*⁷²

⁷¹ https://www.cleveland.com/datacentral/index.ssf/2018/05/cleveland_is_nations_27th_most.html

⁷² City of Cleveland, Ohio Code of Ordinances, Section 76-2, available at: [http://library.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/cityofclevelandohiocodeofordinances?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:cleveland_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/cleveland_oh/cityofclevelandohiocodeofordinances?f=templates$fn=default.htm$3.0$vid=amlegal:cleveland_oh)

Cleveland is guided by the comprehensive plan, Connecting Cleveland 2020 Citywide Plan adopted in July 2007, which focuses on more than just physical development but on creating connections between people, places and opportunities to *"create communities that are truly viable and sustainable"*.⁷³

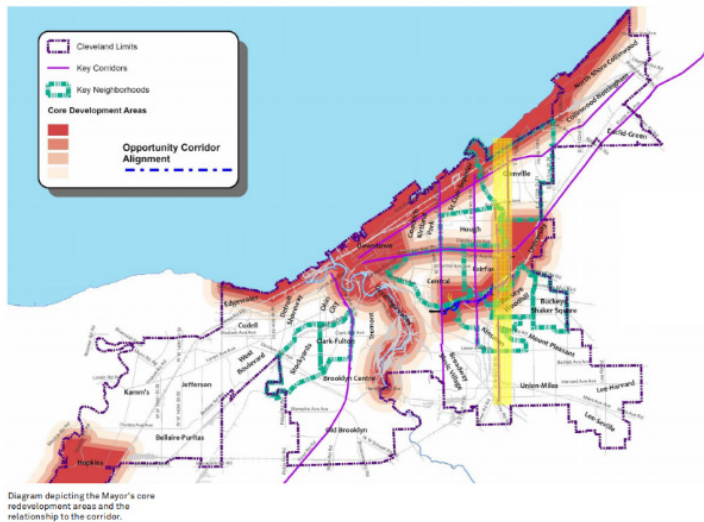
It replaced the Cleveland Civic Vision 2000 plan. The 2020 Citywide Plan organizes the city into 36 neighborhoods, or statistical planning areas (SPAs) grouped together into six districts closely matching the police and community relations districts. The assets, challenges, and a vision for each district is identified in a dedicated chapter in the plan. Additionally, in April 2012 the Planning Commission adopted the Cleveland Downtown Lakefront Plan, which created redevelopment strategies for three areas around the downtown lakefront: Harbor West, North Coast Harbor and Burke Development District.

⁷³ Connecting Cleveland 2020 Citywide Plan, Summary Document, available at <http://planning.city.cleveland.oh.us/cwp/SummaryBase.php>

The Lakefront Plan also helped clarify which parcels are controlled by the city versus the Cleveland-Cuyahoga County Port Authority. The city limits serve as an urban growth boundary for the city of Cleveland as expansion is constrained by the surrounding suburban cities and Lake Erie. However, due to population decline in the city and migration

to the suburbs, Cleveland shifted its planning approach to focus investment and resources in targeted areas in the city. The Mayor's core redevelopment strategy identified the city's economic development assets and the transportation corridors linking them to identify strategic regeneration zones.

Cleveland's Core Redevelopment Strategy



The image shows the Strategic Regeneration Zones. Source: © Cleveland Planning Commission 105-93 Report, http://planning.city.cleveland.oh.us/thrive/assets/Final_Thrive%20105%2093_2017_1013-secured.pdf

Between 1950 and 1990, Cleveland lost nearly half of its population, and it currently has an estimated population of 385,525 living in an area of 201.2 km². The average population density is 1,916 people per km². Cleveland will not reach a population density of 15,000 people per km² in the foreseeable future unless the declining population trends can be reversed.

However, Cleveland's regeneration strategy has increased the downtown population density by 32% between 2012 and 2016 to 14,000 residents⁷⁴ and is on a path to reach 20,000 residents by 2020.⁷⁵

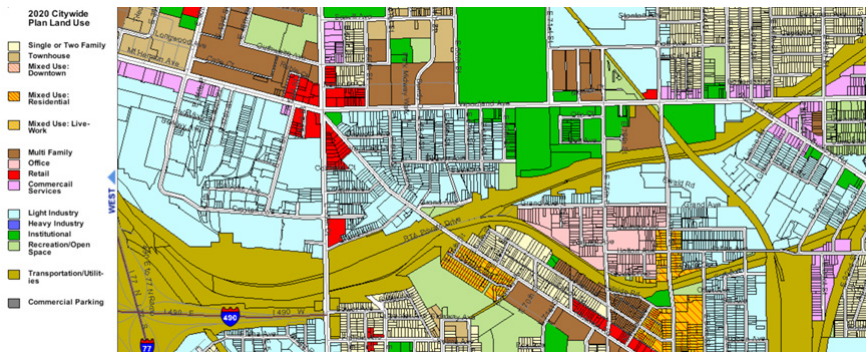
⁷⁴ How Cleveland is Changing By the Numbers, available at: https://www.cleveland.com/datacentral/index.ssf/2016/05/how_downtown_cleveland_is_chan.html

⁷⁵ Downtown Cleveland Alliance, Downtown Cleveland Celebrates Milestone of 15,000 Residents Making it the Largest Downtown in the State of Ohio, <http://www.downtowncleveland.com/news/september-2017/downtown-cleveland-celebrates-milestone-of-15-000>

B. URBAN PLANS

The Connecting Cleveland 2020 Citywide Plan integrates all remaining vacant land into the plan, and therefore 100% of the city is covered by the plan. The age range of the plans in force,

the Connective Cleveland 2020 Citywide Plan (2007) and the Cleveland Downtown Lakefront Plan (2012) is 8-13 years old and the average age is 10.5 years.



The 2020 Citywide Planned Land Use showing area along I490; Source: © <http://planning.city.cleveland.oh.us/gis/cpc/basemap.jsp>

Zoning code updates and new design guidelines such as the Urban Core Overlay district, established in 2015, which improve the walkability and architectural character of urban streets, are critical components to the implementation of the 2020 Citywide Plan as well as the improvement of neighborhood and retail districts.⁷⁶ Through these updates, the city has established its first research district, first live-work district, first pedestrian-oriented retail district, and the first zoning district that mandates mixed-use, multi-story development.⁷⁷

⁷⁶ Cleveland City Planning Commission, Cleveland Zoning Code, available at <http://planning.city.cleveland.oh.us/zoning/index.php> and Recent Updates to Cleveland's Zoning Code, available at: <http://planning.city.cleveland.oh.us/zoning/cpc.php>

⁷⁷ Connecting Cleveland 2020 Citywide Plan, Plan and Implementation <http://planning.city.cleveland.oh.us/cwp/SummaryImp.php>

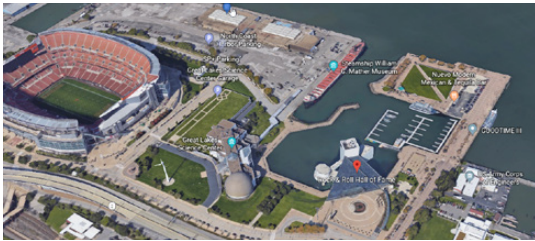
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Harbor Verandas

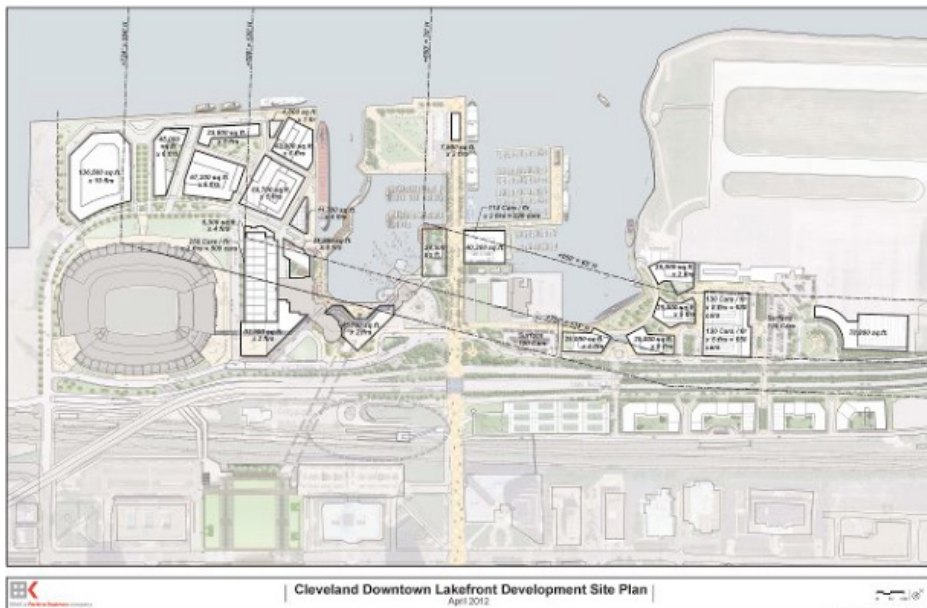
Harbor Verandas is a \$12 million three-story mixed-use development featuring business and retail on the first floor and sixteen apartments above on floors two and three. It is located on the East 9th Street Pier near the Rock and Roll Hall of Fame and the area's first restaurant, Neuvo Modern Mexican & Tequila Bar, on a half-acre site that was formerly a skateboarding park. This development is the beginning phase of a larger master plan, Cleveland Downtown Lakefront Plan approved in April 2012, to bring mixed-use commercial development along Lake Erie between West 3rd and East 18th Streets with the goal of attracting more residents and national tenants.

Residents of Harbor Verandas just moved in, making them the first downtown lake front

residents in 100 years. This mixed-use site is in compliance with the plan.



The image on the left is a Google Earth photo showing the area before development. The image on the right is Harbor Verandas which is currently located between Neuvo Modern Mexican & Tequila Bar and the Rock & Roll Hall of Fame. Source: © Google Earth and Harbor Verandas, <https://www.harborverandas.com/>

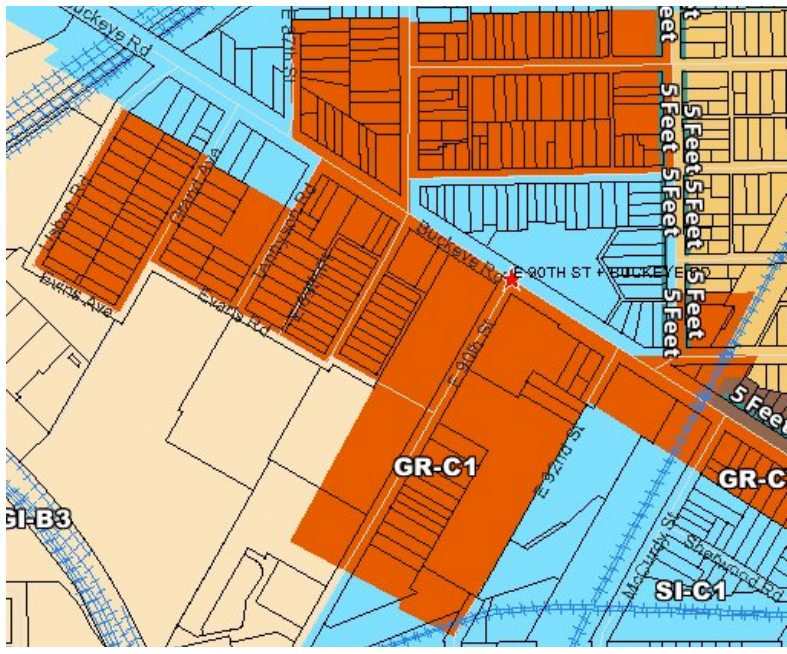


Source: © Cleveland Downtown Lakefront Development Site Plan, April 2012, Development Map, available at: <http://planning.city.cleveland.oh.us/lakefront/viewer/mapViewer.php#zoomify>

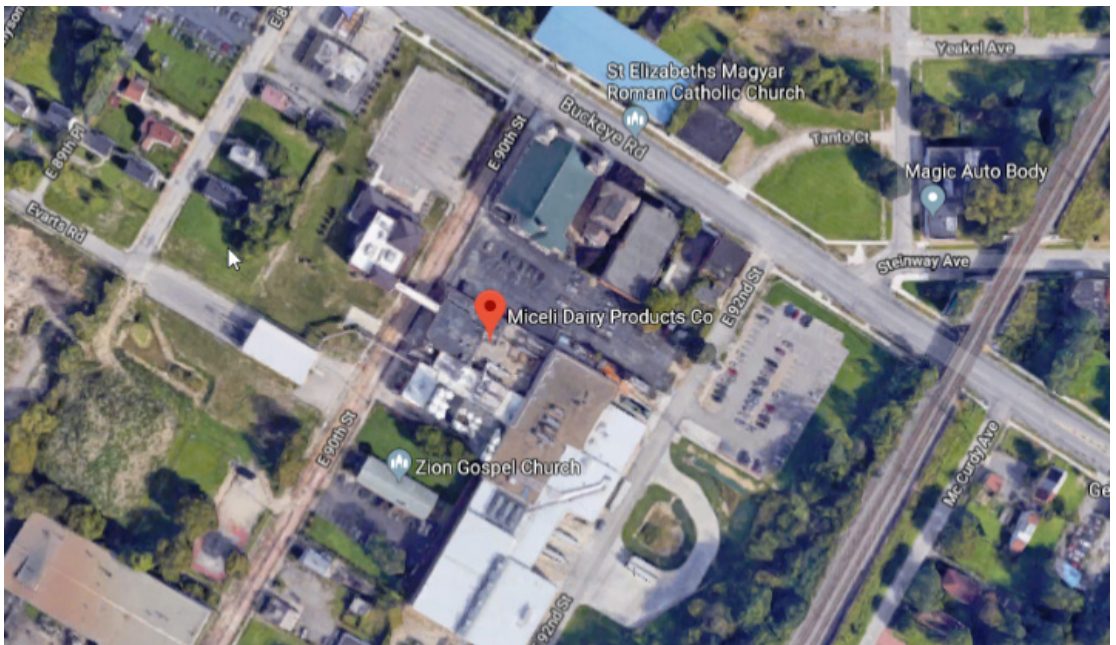
Site Two (edge of built up area): Miceli Dairy Products Company Expansion

Miceli Dairy is the largest producer of ricotta cheese in the U.S. and a leading producer of mozzarella cheese. Since 1949, it has been located on E. 90th Street near Buckeye Road in an area called the Forgotten Triangle, a

no-man's land characterized by vacant land and poverty. This site is zoned as a General Retail Business, and the recent additional development conforms to the comprehensive plan.



Source: © Cleveland GIS maps, <http://planning.city.cleveland.oh.us/gis/cpc/basemap.jsp>



Source: © Google Earth



Before



After



Miceli's Dairy Commits to Large Expansion and to Cleveland. Source: © <http://rethinkcleveland.org/About-Us/Our-Initiatives/Economic-Inclusion/Economic-Inclusion-Plan/Business-Retention/Success-Stories—Miceli-s-Dairy.aspx>

D. LAND ADMINISTRATION

In Cleveland, compulsory land expropriation is not standard policy. Instead, Cleveland's Land Reutilization Program ("Land Bank Program") usually acquires vacant property through tax delinquencies, abandonment or from Cuyahoga County's land bank acquisition program. The Land Bank Program sells the land-banked property to individuals, developers, and non-profit organizations to ensure the restoration of the property to productive use. Transactional data for land acquired by the land bank is not available.

E. INSTITUTIONAL FRAMEWORK

The City of Cleveland separates the responsibility of planning and code enforcement. The City Planning Commission is comprised of seven members, six appointed by the Mayor and one is a member of City Council.

The City Planning Commission is supported by 22 professional staff⁷⁸ that provide zoning and spatial planning services.

The Department of Building and Housing administers the Division of Code Enforcement, which enforces building, housing and zoning codes. The Division of Code Enforcement has a staff of 83.⁷⁹ When a violation notice is issued by the Division of Code Enforcement, a property owner is given time to correct the code violation. If it is not remedied by the property owner, legal action can be taken against the property owner resulting in prosecutions with possible criminal charges and fines.

In the past 12 months, the following administrative actions were taken:

⁷⁸ The planning staff (22) include 9 general planners, 1 architectural planner, 1 transportation planner, 1 bike and pedestrian planner, 3 landmark designation planners, 1 public aft planner, 1 GIS and information technology, 2 zoning board appeal staff, and 3 administrative staff.

⁷⁹ The 83 code enforcement staff includes 3 zoning reviewers, 12 building code reviewers, chief building official, 2 bureau managers, 7 code enforcement chief inspectors, 19 commercial building inspectors, and 30 residential building inspectors.

Chart D: City of Cleveland – Code Enforcement (July 2017 – July 2018)

Administrative Actions	Instances
Violation Notices	4,897
Prosecutions and Fines	841 M1s*; 702 Minor Misdemeanors
Demolitions	1,815
Total	8,255

* M1s are 1st Degree Misdemeanors which carry criminal charges

In terms of a legislative framework, the city is guided by the general plan, *Connecting Cleveland 2020 Citywide Plan* and the land use and zoning code in the Code of Ordinances.

04 GAINESVILLE, UNITED STATES



Source: © University of Florida Health Science Center Website <https://pan.med.ufl.edu/about-us-2/facilities-and-resources/health-science-center/#prettyPhoto>

A. URBAN AREAS

Gainesville is the county seat and largest municipality in Alachua County, Florida. It is the central and principal city of the Gainesville Metropolitan Statistical Area, which includes portions of unincorporated Alachua County. Gainesville is the largest city in the region of North Central Florida and home to the University of Florida, the nation's fifth-largest university campus by enrollment as well as Santa Fe College. East Gainesville is dominated by the University of Florida's main campus, and the area is accessible via the Interstate-75 corridor running between Atlanta and Tampa. Gainesville is situated in an area defined by a humid subtropical climate typical of North Central Florida and the topographical landscape is flat throughout the region. Gainesville is known as a Tree City and has maintained its Tree City USA status for over 35 years by meeting the four core standards of sound urban forestry management.⁸⁰

⁸⁰ <https://www.arborday.org/programs/treecityusa/about.cfm>

The City of Gainesville Comprehensive Plan provides the policy framework upon which the City has built its growth model. The Comprehensive Plan's Future Land Use Element (A-4) provides that the primary goal of this framework is to *"improve the quality of life and achieve a superior, sustainable development pattern in the City by creating and maintaining choices in housing, offices, retail, and workplaces, and ensuring that a percentage of land uses are mixed, and within walking distance of important destinations."*⁸¹

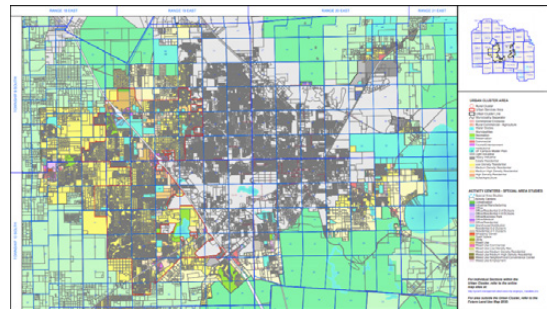
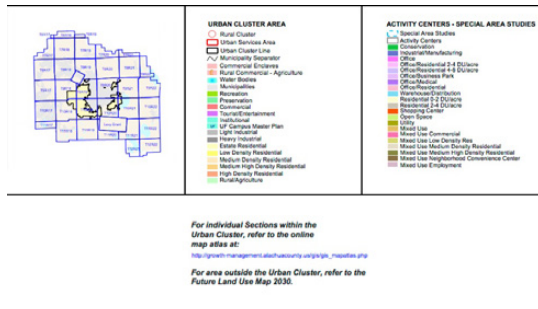
Objective 1.5 of Alachua County's Growth Management policies, titled *"Discourage the proliferation of urban sprawl,"* contains Policy provision 1.5.5, which states that *"[t]he City recognizes Alachua County's use of the Urban Cluster, as adopted on their Future Land Use Map, as an urban growth boundary."*⁸²

⁸¹ https://www.cityofgainesville.org/Portals/0/plan/FUTURE%20LAND%20USE%20ELEMENT_Printable_140826.pdf

⁸² https://growth-management.alachuacounty.us/maps/Flu_2030_Urban_Cluster.pdf

This urban growth boundary was established in 2001 and first appeared in the Comprehensive

Plan, 2000-2010. The Comprehensive Plan's latest revision took place in 2017.



Source: © Urban Cluster Area - Future Land Use Map 2030
Alachua County, Florida https://growth-management.alachuacounty.us/maps/Flu_2030_Urban_Cluster.pdf

The area of the city's urban growth boundary is 433.4 km² which holds a population of 189,454 with an average population density of 437 people/km². Based on the current estimated annual growth rate (0.9131%) within this area, it would take the city until 2399 to reach a population density of 15,000 people/km². The City's total population at that time would be 6.5 million.⁸³ At present, however, development extends beyond the City's defined urban growth boundary. This has contributed to a growing Gainesville Metropolitan Statistical Area's population into the broader unincorporated Alachua County area.

B. URBAN PLANS

In 1975, the State of Florida adopted the Local Government Comprehensive Planning Act, which required that all local governments have comprehensive land use plans. Gainesville is currently subject to the City of Gainesville

⁸³ <http://www.metamorphosisalpha.com/ias/population.php>

Comprehensive Plan and City of Gainesville Land Development Code both originally adopted in 1980 but revised in 2017. Therefore, the age of both spatial plans is three years.

Accordingly, 100% of the land within the urban growth boundary is covered by legally approved spatial plans.

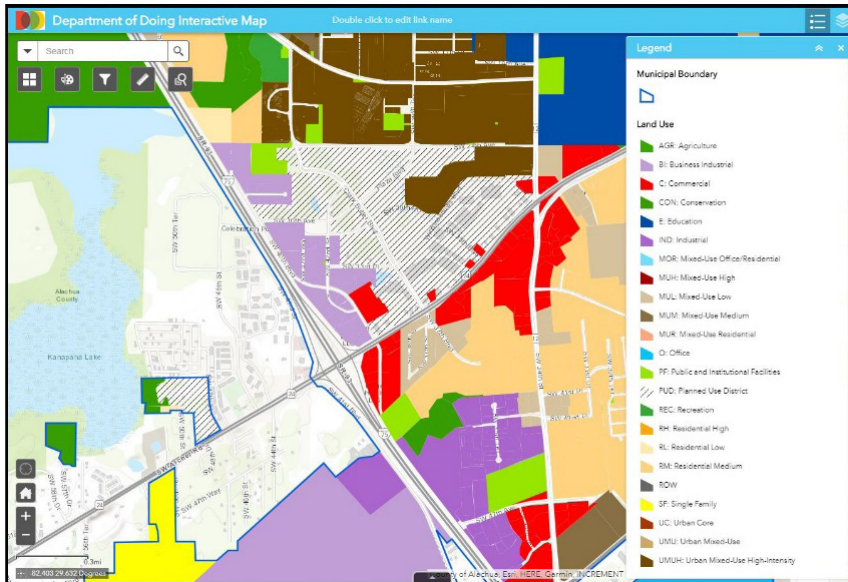
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Butler Plaza (Planned Use District)

Butler Plaza is a commercial district located within the urban growth boundary in the southwest quadrant of the City of Gainesville on the northeastern block of the Interstate-75-SW Archer Road junction. According to the Land Use map of the City of Gainesville Comprehensive Plan, much of Butler Plaza is part of a planned use district (PUD) which according to Chapter 30 of the City's Code of Ordinances (Land Development Code) allows "integration of different land uses and densities

in one development that would not otherwise be provided for in other zoning districts." Current state shows grouping of shopping

districts surrounded by residential units which complies with the planning provision of a planned use district.



Source: © Gainesville' Department of Doing Interactive Map: Land Use

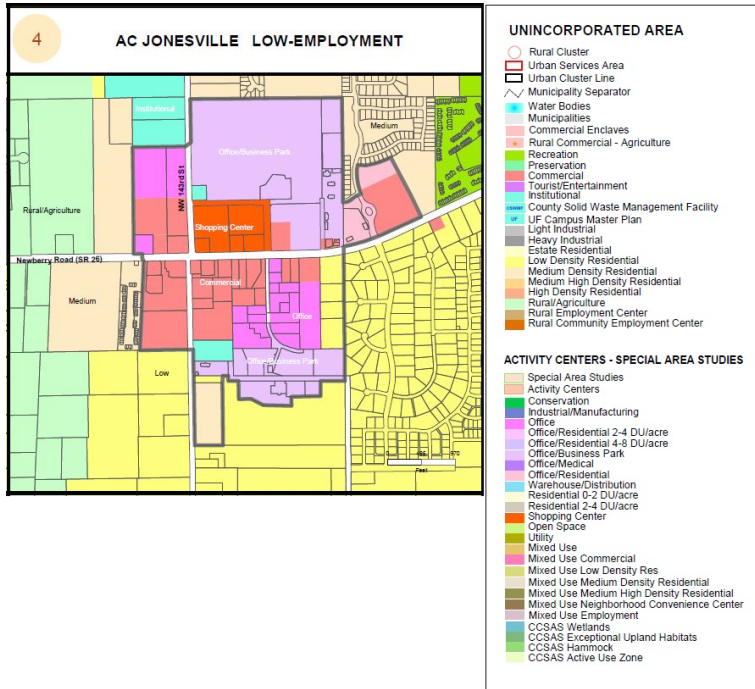
<http://gainesvillefl.maps.arcgis.com/apps/webappviewer/index.html?id=4e5bf13c90bf406da07444ecbbd58cb2>



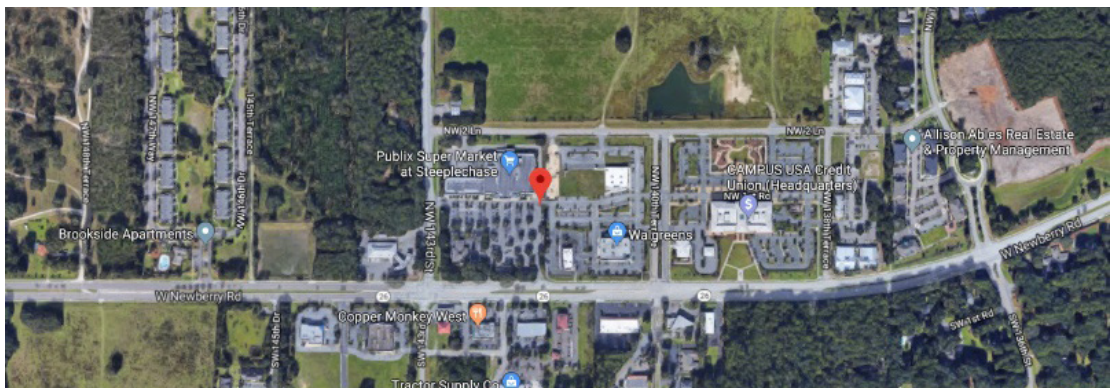
This image shows a cluster of shopping districts surrounded by residential units Source: © Google Maps

Site Two (edge of the built-up area): Jonesville Steeplechase (Shopping Center)

Jonesville Steeplechase shopping plaza is located on the western edge of the urban growth boundary, tracking along W Newberry Road, a thoroughfare connecting Gainesville to Newberry. The subject property is currently compliant with the Comprehensive Plan.



Source: © Alachua County Comprehensive Plan Interactive Map, available at: https://growth-management.alachuacounty.us/maps/Flu_2030_AC_SAS.pdf



The image above shows the shopping plaza. Source: © Google Maps

D. LAND ADMINISTRATION

The City has a minimum plot size of 150.5 m² that it uses to approve land subdivisions.⁸⁴ From January -November 2018, the City has issued eight land subdivisions permits within the city limits of Gainesville.⁸⁵ In the last five years, the City of Gainesville has acquired land, approximately 387 acres, for parks and conservation purposes.

E. INSTITUTIONAL FRAMEWORK

Planning and development control in Gainesville is managed at the municipal level by the City of Gainesville Planning Department which derives its legal mandate from the City of Gainesville Comprehensive Plan Code of Ordinances. Article IV, Division 2, Section 2-211 of the Code provides that “[t]he department of planning and development services shall be the administrative arm of city government combining all functions related to zoning, planning, building, inspections and such other duties and responsibilities as may be from time to time determined by the city manager.”⁸⁶ Gainesville’s planning department operates under the moniker “The Department of Doing” and it operates within the parameters set under the Gainesville Comprehensive Plan and Land Development Code.

The Planning Department has 32 professional staff.⁸⁷

It is divided into four divisions: administrative, building, planning, and strategic customer experience and it also carries out the enforcement of development control. 46% of the professional staff (15) have regulatory authority.⁸⁸

Aside from the Planning Department, the Gainesville Department of Code Enforcement, Gainesville Department of Public Works, Gainesville Environmental Officer, Gainesville Regional Utility, Florida Department of Environmental Protection, Alachua County Department of Growth Management, Alachua County Environmental Protection Department, and the Suwanee and St. Johns Water Management Districts, all exercise some general supervisory authority over the City of Gainesville. In some cases, these entities, notably the Alachua County Departments of Growth Management and Environment Protection, undertake development control within the urban growth boundary.

The City of Gainesville Department of Code Enforcement has 14 employees, the Suwanee River Management District has 63 staff,⁸⁹ and the St. Johns River Management District has 515 personnel.⁹⁰

From January- December 2017, 134 administrative actions were carried out to enforce development control.⁹¹

⁸⁴ https://www.cityofgainesville.org/Portals/0/plan/Land%20Dev%20Update/T-5_140225.pdf

⁸⁵ One was commercial and seven were residential low density.

⁸⁶ https://library.municode.com/fl/gainesville/codes/code_of_ordinances?nodeId=%20PTIICOOR_CH2AD_ARTIVDE_DIV2DEPLDESE_S2-211CRAPDI

⁸⁷ These include: one Building Official, four Plans Examiners, two Fire Protection Specialists, and twelve Inspectors, seven Planners,

one Urban Forestry Inspector, four Permit Expeditors and one GIS Analyst.

⁸⁸ These include: twelve Inspectors, two Fire Protection Specialists, and one Urban Forestry Inspector.

⁸⁹ <http://www.mysuwanneeriver.com/Directory.aspx>

⁹⁰ <https://www.sjrwm.com/contact/#staff-directory>

⁹¹ These include 128 instances of prosecutions and fines and 6 demolitions.

05 HOUSTON, UNITED STATES



A. URBAN AREAS

Houston, Texas, lies near the Gulf of Mexico and sprawls westward from the shores of Galveston Bay on the coastal prairie of eastern Texas. Major waterways in and around the city include the San Jacinto River, part of which is encompassed by the man-made Houston Ship Channel, and an intricate network of meandering creeks and bayous, the largest of which are Buffalo Bayou and Bray's Bayou.⁹²

Houston is the fourth largest city in the United States. The city is unique compared to other large United States cities for its lack of formal zoning laws,⁹³ and regulations that allow for *"businesses and houses [to] coexist on the same streets."*⁹⁴

⁹² Houston: Geography and Climate, City-Data.com, <http://www.city-data.com/us-cities/The-South/Houston-Geography-and-Climate.html> (last visited Nov. 12, 2018).

⁹³ Letter from Patrick Walsh, P.E. Director, Plan. And Dev. Dep't., to Whom It May Concern, dated Jan. 1, 2018, Hous., Plan. & Dev. Dep't., http://www.houstontx.gov/planning/Forms/devregs/2018_no_zoning_letter.pdf (last visited Nov. 12, 2018).

⁹⁴ Fernando Ramirez, The weirdest images to come from Houston's lack of zoning laws, Hous. Chron., (Aug. 17, 2018, 8:09

AM), <https://www.chron.com/news/houston-texas/houston/article/Weirdest-images-from-Houston-s-lack-of-zoning-laws-9171688.php>.

The ability for businesses to suddenly appear in a residential neighborhood has not limited Houston's ability to grow as a city. In fact, according to data from the U.S. Census Bureau and the 2016 Annual Population Estimates, from 2010 to 2016, Houston experienced the largest population gain of the five largest metros in the United States.⁹⁵

In 2018, Houston reported a population density of 1,414 people per km² within the boundary of the city itself.⁹⁶

AM), <https://www.chron.com/news/houston-texas/houston/article/Weirdest-images-from-Houston-s-lack-of-zoning-laws-9171688.php>.

⁹⁵ 2010-2016 Population Gain Five Largest Metros in the U.S., Hous., Plan. & Dev. Dep't., http://www.houstontx.gov/planning/Demographics/docs_pdfs/updates/2010-2016_Five_Largest_Metros.pdf (last visited Nov. 12, 2018).

⁹⁶ John D. Harden, Houston's Population Growth Hits a Wall, Adding Only 8,000 Residents in 2017, Hous. Chron. (May 30, 2018, 7:41 PM), <https://www.houstonchronicle.com/news/houston-texas/houston/article/Houston-s-population-growth-hits-a-wall-adding-12942493.php>; Population Update, Greater Hous. Partnership, <https://www.houston.org/pdf/research/narratives/population/population-update.pdf> (last visited Nov. 12, 2018). The census data indicates that the greater-Houston area has a population of 6,892,427.

At current population growth rate (1.4%), it would take the city until 2189 to reach a population density of 15,000 people per km².

B. URBAN PLANS

Article VII-b, Section 13 of the Houston, Texas Code of Ordinances requires that any efforts to establish formal zoning be made through a binding referendum.⁹⁷ Referendums to create zoning have taken place but have been unsuccessful. Despite the absence of formal zoning or an urban growth boundary in the city, many of Houston's codes that govern land use operate and function much like zoning laws.⁹⁸ Therefore, it can be argued that although Houston does not explicitly regulate land use, spatial planning is regulated implicitly through de facto zoning.⁹⁹ Houston's Code of Ordinances does not address specified categories of land use, but contains provisions related to issues such as deed restrictions, density, lot sizes, buffering ordinances, tax increment reinvestment zones, airports and historic districts.¹⁰⁰ Moreover, Houston, the county seat of Harris County, has a five-mile band around the city known as its extraterritorial jurisdiction (ETJ), for which city departments have "limited regulatory authority", which include aspects of land use.

⁹⁷ Hous., Tex., Mun. Code (2018), <https://library.municode.com/tx/houston>.

⁹⁸ Wendell Cox & Tory Gattis, *A Layman's Guide to Houston After Harvey: Don't Throw the Opportunity Baby Out with the Storm Water*, Ctr. for Opportunity Urbanism, https://opportunityurbanism.org/wp-content/uploads/2017/10/HurricaneHarvey_Whitepaper.pdf.

⁹⁹ Ryan Holeywell, *Forget What You've Heard, Houston Does Have Zoning (Sort Of)*, Rice Kinder Inst. for Urban Res. (Sept. 9, 2015), <https://kinder.rice.edu/2015/09/08/forget-what-youve-heard-houston-really-does-have-zoning-sort-of>.

¹⁰⁰ Hous., Tex., Mun. Code chs. 33, 39, 40, 41 (2018), <https://library.municode.com/tx/houston>.

In 2015, Houston's Planning and Development Department adopted the city's first general plan, Plan Houston, which lays a foundation for the city to ensure continued development, quality infrastructure and civic investments through twelve core strategies.¹⁰¹

While Plan Houston does allude to urban and spatial planning – one of the Plan's goals, for example, is to "preserve open space for recreation, habitat, and other uses"– it is considered a "starting point" rather than a comprehensive run-down of all steps, legal action and urban planning necessary to achieve its goals.¹⁰²

Other planning frameworks implemented by the Houston Planning and Development Department include: a) the 2018 Southeast Houston Mobility Plan, a twelve-month plan aimed at improving the mobility and access in the city's southeast sub-area adopted in 2018;¹⁰³ b) the Plan Downtown: Converging Culture, Lifestyle, and Commerce, a twenty-year vision plan adopted in 2017, aimed at bolstering residential infrastructure, transportation, parks and recreational centers and commercial property in the Downton district; and c) the Major Thoroughfare and Freeway Plan, originally adopted in 1942, which addresses traffic and congestion issues and identifies roadways in need of expansion and maintenance.¹⁰⁴

¹⁰¹ plan Houston, http://www.houstontx.gov/planhouston/sites/default/files/plans/Final_Plan_Houston.pdf (last visited Nov. 12, 2018).

¹⁰² Ibid.

¹⁰³ Southeast Mobility Plan, Hous., Plan. & Dev. Dep't., <http://www.houstontx.gov/planning/transportation/CMP/Southeast-Mobility-Plan/index.html> (last visited Nov. 12, 2018).

¹⁰⁴ Major Thoroughfare and Freeway Plan, Hous., Plan. & Dev. Dep't., <https://www.houstontx.gov/planning/transportation/>

The oldest plan currently in force is 78 years old, while the most recent is two years old. The average age of all in-force plans is 22 years.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Given that Houston does not have specific formalized plans for conformity nor formal zoning, the sites discussed below are assessed to provide a general sense of the city's land use development. They are paradigmatic examples of downtown development as well as more peripheral development in the city. The following is a summary of key findings:

Site One (commercial district): Downtown Houston

Houston's Downtown area is the largest business and commercial district in the city and is currently home to new construction projects totaling \$1.39 billion and development and design totaling \$2.58 billion.¹⁰⁵ A significant portion of Houston's downtown development budget has been allocated to residential construction in the wake of Hurricane Harvey, as well as to "accompanying transportation, commercial, and park infrastructure."¹⁰⁶ In regards to Plan Downtown, it is currently unclear whether any of the initiatives or measures have been implemented.

For example, Plan Downtown 2017 proposes a five-mile "Green Loop" to connect neighborhoods and a park along the city's downtown periphery.¹⁰⁷

The Plan's main goals suggest that this once primarily business-oriented district is slated to have a greater mix of density and uses, given the strategies on walkability and the creation of residential housing.¹⁰⁸ It is unclear to what extent Plan Houston, Plan Downtown, and the 2018 Southeast Houston Mobility Plan have been implemented, partially due to their nascent nature.



The proposed Green Loop would encircle the city's downtown, and connect it with Buffalo Bayou Park.

Source: © Plan Downtown, Houston 2017 http://www.downtowndistrict.org/static/media/uploads/attachments/plan_downtown_report_final_spreads_sm.pdf

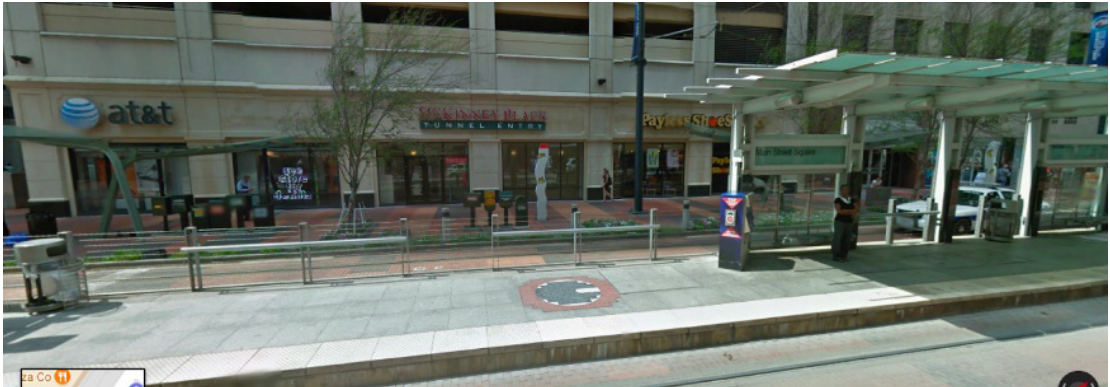
docs_pdfs/2015_PolicyStatement.pdf (last visited Nov. 12, 2018).

¹⁰⁵ Something Big is Up, Downtown District, <http://www.downtowndistrict.org/> (last visited Nov. 12, 2018).

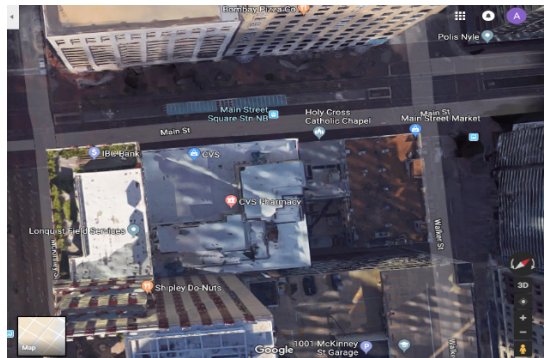
¹⁰⁶ Patrick Sisson, After Harvey, Houston has a New Plan for its Downtown, Curbed (Nov. 13, 2017, 10:29 AM), <https://www.curbed.com/2017/11/13/16643166/houston-plan-downtown-green-loop-urban-planning>.

¹⁰⁷ Houston Chronicle, "Green Loop" is the center of a downtown plan, <https://www.houstonchronicle.com/business/real-estate/article/Plan-Downtown-imagines-Houston-s-core-in-20-years-12327856.php>.

¹⁰⁸ Projects & Initiatives: Plan Downtown, Downtown District, <http://www.downtowndistrict.org/projects-initiatives/plan-downtown/> (last visited Dec. 5, 2018).



Block 919 on Houston's Main Street. The downtown area is Houston's commercial and business hub. Source: © Google Maps



The image on the left shows the street view of Block 919 on Main Street, Houston TX, featuring a METRO trolley stop. The image on the right is the aerial view of the same street. Source: © Google Maps

Site Two (edge of the built-up area): Almeda-Genoa Road

The South Acres/Crestmont Park neighborhood lies on the southern border of the city and has been described as an “overgrown garden.”¹⁰⁹ As with Site 1, there is no information available as to what degree the spatial plans have been implemented to this neighborhood. Given Houston’s lack of zoning and formal land use planning, it is not possible to assess whether the lack of development

here is evidence of failure to comply with an enforceable plan. Considering the existence of definitive plans for other neighborhoods within the city, such as Plan Downtown, it is possible that the South Acres/Crestmont Park neighborhood has been made less of a priority by Houston city government for reasons which cannot be ascertained.

¹⁰⁹ Katharine Shilcutt, Still Standing, Hous. Press (Jan. 12, 2011, 4:00 AM), <https://www.houstonpress.com/news/still-standing-6587672>.



The image on the left is Block 4198 on Almeda-Genoa Road in Houston's South Acres/Crestmont Park neighborhood. There is only one store, the Happy Donut, currently operating within this strip-mall complex. The image on the right is the aerial view of the same street which shows several single-story dwellings. Source: © Google Maps

D. LAND ADMINISTRATION

The city does not have a standardized minimum plot size per se. However, to preserve the lot size character of a single-family residential neighborhood, the city implements a special minimum plot size requirement, and there is a detailed, technical criteria for eligibility.¹¹⁰ In 2017, a total of 824 subdivision plats (11,271 single family lots) were approved by Houston in both the boundaries of the city itself and within its ETJ.¹¹¹ The minimum plat size varies depending on whether the plat is within the city proper or in Houston's ETJ.¹¹²

In 2016, the University of Texas System, Texas' public university system, closed on 100.27 acres of land in southwest Houston.¹¹³

110 Hous. Tex., Mun. Code sec. 42-197, sub. B (2015), https://www.houstontx.gov/planning/Neighborhood/docs_pdfs/SMLS_Ord.pdf.

111 Subdivision Plats 2015-2017, City of Houston & ETJ: Quarters 1 & 2, Hous., Plan. & Dev. Dept., https://www.houstontx.gov/planning/Demographics/docs_pdfs/updates/Plat-Trends-2Qtrs_2015-2017.pdf (last visited Nov. 12, 2018).

112 Hous. Tex., Mun. Code sec. 42-181(a) (2018), https://library.municode.com/tx/houston/codes/code_of_ordinances?nodeId=COOR_CH42SUDEPL_ARTIIIPLST_DIV4LORE_SDAGERELORE_S42-181SIMIRELOSI.

113 UT System Closes on 100-Acre Land Purchase in Houston,

While the University had further planned to turn a purchase of over 300 acres into a data research campus, as of April 2018, the University is now seeking to sell off this entire package.¹¹⁴ The city of Houston has not taken any steps to acquire land for roads, economic development, or other public purposes in the last five years.¹¹⁵

E. INSTITUTIONAL FRAMEWORK

Planning and development control is managed at the municipal level by the City of Houston's Planning and Development Department. The Department is comprised of approximately sixty-five (65) professional staff but data is not available on how many have regulatory authority to enforce development control.

University of Texas, (Jan. 15, 2016), <https://www.utsystem.edu/news/2016/01/15/ut-system-closes-100-acre-land-purchase-houston>.

114 Alejandra Matos, UT Ready to Sell 300 Acres of Houston Land, Hous. Chron., (Apr. 23, 2018, 9:49 PM), <https://www.chron.com/news/politics/texas/article/UT-ready-to-sell-300-acres-of-Houston-land-12858442.php>.

115 Information obtained by correspondence between Urban Law Centre, Fordham University Student Fellows and a Senior Planner at the City of Houston Planning and Development Department.

The Development Services Division, which is functionally integrated within the Planning and Development Department, reviews subdivision plats submitted for consideration.¹¹⁶ It also reviews development applications for hotels and motels, hazardous material storage facilities as well as telephone and cellular towers.

The Houston Planning Commission, also integrated within the Planning and Development Department, reviews and considers plans for future development and bears the responsibility for investigating all matters for the development and advancement of the city's physical layout and appearance in accordance with Chapter 33, Article II of the Houston, Texas Code of Ordinances.¹¹⁷

Other institutions that are responsible for the enforcement and regulation of development and construction in Houston include:

The Houston Permitting Center (HPC), which is a multi-agency collaboration that oversees pre-development, plan review, inspection and enforcement of Houston's building and development codes.¹¹⁸ The HPC opened in 2011 in an effort to provide permitting and licensing in one convenient location for its customers.

- Houston Public Works is responsible for the administration and enforcement of the city's Construction Code and related laws pursuant to Chapter 2, Article VIII, Section 2-278 of the Houston, Texas Code of Ordinances.¹¹⁹ The department has about 3,800 employees. Enforcement and development occurs under the Houston Permitting Center's service line. There are about 600 employees in the Houston Permitting Center.¹²⁰
- The Land Assemblage Redevelopment Authority also aids, assists, and acts on behalf of the City in acquiring and managing properties.¹²¹

The City of Houston's Planning and Development Department has no record of prosecutions, demolitions, fines, or other administrative actions to enforce planning or development control in the past 12 months.

In terms of the legislative framework, the City of Houston is guided by the following regulatory instruments:

- Houston, Texas, Code of Ordinances, 1985; and
- Floodplain Regulations, 2018

¹¹⁶ Department Directory, Hous., Plan. & Dev. Dep't., <http://www.houstontx.gov/planning/AboutPD/directory.html> (last visited Nov. 12, 2018).

¹¹⁷ Hous. Tex., Mun. Code ch. 33 (2018), https://library.municode.com/tx/houston/codes/code_of_ordinances?nodeId=COOR_CH33PLDE_ARTIIPLCO.

¹¹⁸ Houston Permitting Center, The City of Hous., <https://www.publicworks.houstontx.gov/building-development>. (last visited Nov. 12, 2018).

¹¹⁹ Hous. Tex., Mun. Code art. VIII (2018), https://library.municode.com/tx/houston/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTVIIIHOPUWO.

¹²⁰ Houston Permitting Center, The City of Hous., <https://www.publicworks.houstontx.gov/building-development>. (last visited Nov. 12, 2018).

¹²¹ Houston Land Bank, Hous., Plan. & Dev. Dep't., <http://www.houstontx.gov/lara/>. (last visited Nov. 12, 2018).

06 KILLEEN, UNITED STATES



A. URBAN AREAS

The city of Killeen, which is located within Bell County, Texas covers 140 km² of land. It is bound to the north and west by Fort Hood, one of the largest military installations in the world, and to the east by the City of Harker Heights. Based on these physical constraints, the main area for suburban expansion is to the south, where the varied and scenic terrains create opportunities for “green” development. Texas A&M University System is planning a central Texas campus in the southern area in the southwest corner of State Highways 195 and 201, which will create significant economic development opportunities.

In Texas, municipalities are not required to prepare and maintain local comprehensive plans but may do so.¹²² Killeen is guided by the Killeen Comprehensive Plan, 2010 and the Killeen Downtown Plan, 2010.

¹²² <http://www.killeentexas.gov/DocumentCenter/View/253/Complete-Comprehensive-Plan-Portfolio-PDF>, pg. 1.4.

The latter supplements the former.¹²³ The Comprehensive Plan does not include an urban growth boundary or any de facto growth boundary. Despite the Comprehensive Plan identifying growth planning areas within Killeen, this delineation is simply a long-range planning tool and is not intended to regulate land development activity.¹²⁴ The city of Killeen also has an extraterritorial jurisdiction (ETJ) within five miles of its city boundary, giving it some planning powers beyond the city limits.

According to the 2010 census, the population of Killeen was 127,921.¹²⁵ Because an urban growth boundary or *de facto* growth boundary does not exist, data on population density is only available citywide which is 914 people/km².

¹²³ Killeen Comprehensive Plan and Downtown Plan available at: <http://www.killeentexas.gov/220/Comprehensive-Plan>

¹²⁴ Killeen Comprehensive Plan, Chapter 3, p. 3.23, available at: <http://www.killeentexas.gov/DocumentCenter/View/248/Chapter-3-Growth-Management-and-Capacity-PDF?bidId=>

¹²⁵ United State Census Bureau population estimate for April 1, 2010 census available at: <https://www.census.gov/quickfacts/fact/table/killeencytexas/POP010210#viewtop>

The population growth estimates in the city of Killeen vary from 1.26% to 2.06% per year through 2040,¹²⁶ therefore, the city will reach the targeted population density of 15,000/km² in 2232.¹²⁷

B. URBAN PLANS

The Killeen Comprehensive Plan and Killeen Downtown Plan cover 100% of the area in Killeen and they are both 10 years old.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Downtown Killeen

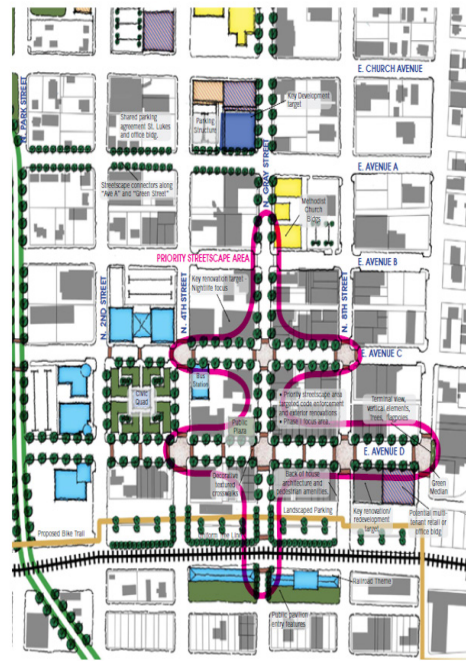
Despite the buildings and streets in the historic core of Downtown Killeen being in good condition, the overall aesthetics of the area is considered wanting. Therefore, the priority of Killeen Downtown Plan 2010, is the continued renovation and reinvestment in the historic downtown core bounded by 8th and 6th Streets, Santa Fe Plaza, and Avenue "B".

"Specific actions include investments in streetscape, public space, and public buildings with aggressive outreach to property and business owners to improve the appearance of their properties and to support business investment and entrepreneurship. Current development shows partial implementation of the plan.

¹²⁶ Killeen Comprehensive Plan, Chapter 1 Introduction, p. 1.19 available at: <http://www.killeentexas.gov/DocumentCenter/View/262/Chapter-1-Introduction-PDF>

¹²⁷ Population projections are challenging in Killeen because of the growth and changing populations due to Fort Hood and the future plan for a Texas A&M University Central Texas campus in southern Killeen planned to accommodate 15,000 students.

Priority Focus Area # 1 Re-Storing the Historic District



Source: © Killeen Downtown Plan, 2010 <http://www.killeentexas.gov/220/Comprehensive-Plan>



The image on the left is the corner of Avenue C and N. Gray Street while the image on the right is the corner of Avenue D and N. Gray Streets. They both demonstrate partial implementation of the Killeen Downtown Plan's investment in public space and streetscapes. Source: © Google Maps



Site Two (edge of the built-up area): Spanish Oaks Subdivision

This site focuses on subdivision within Killeen’s southern growth which is centered roughly between Stagecoach Road on the north, Stillhouse Hollow Road (FM 3481) on the east, FM 2484 (and the Lampasas River corridor) on the south, and SH 195 on the west, as well as the SH 195 corridor itself. The southern growth and development focuses on a more creative design which includes more conservation design approaches that preserve

permanent open space, capitalize on scenic vistas, and incorporate environmental features on sites as development amenities.¹²⁸ Spanish Oaks falls within this southern growth area and complies with the Comprehensive Plan’s growth strategy because Spanish Oaks is a rural landscape on Killeen’s southern fringe, capitalizes on scenic vistas, and incorporates mature trees on home lots.¹²⁹



Source: © City of Killeen Official Website: <http://www.killeentexas.gov/DocumentCenter/View/248/Chapter-3-Growth-Management-and-Capacity-PDF?bidId=>

¹²⁸ <http://www.killeentexas.gov/DocumentCenter/View/248/Chapter-3-Growth-Management-and-Capacity-PDF?bidId=>, pg. 3.5. and pg.3.6

¹²⁹ <http://www.killeentexas.gov/DocumentCenter/View/248/Chapter-3-Growth-Management-and-Capacity-PDF?bidId=>, pg. 3.7.



This image is the aerial view of Spanish Oaks Subdivision. Source: © Google Maps <https://www.google.com/maps/@31.0510761,-97.6987256,646m/data=!3m1!1e3>.



The image on the left shows the nature of residential homes in Spanish Oaks while the image on the right shows the scenic landscape. Source: © City of Killeen Official Website: <http://www.killeentexas.gov/DocumentCenter/View/248/Chapter-3-Growth-Management-and-Capacity-PDF?bidId=>

D. LAND ADMINISTRATION

Since 2017, there have been 89 land subdivisions approved throughout the city, totalling 753 acres. Killeen does not have a minimum plot size required for land subdivisions; however, lots must conform to the width, depth and area established in adjacent areas and must meet the minimum width measurements, front, rear and side yard and area requirements in Chapter 31 Art. IV of the Killeen Code of Ordinances.¹³⁰ For example, in zoning district SR-1 suburban residential single family, no building or structure shall be erected on any lot having less than 780.38 m²,

¹³⁰ https://library.municode.com/tx/killeen/codes/code_of_ordinances?nodeId=PTIICOOR_CH31ZO_ARTIIIIZODIESZOMA.

but in zoning district SR-2 suburban residential single family, the minimum lot size is 1393.54 m². There is no record of public purchases or other acquisitions of land within the city limits, either voluntary or compulsory, in the last five years.

E. INSTITUTIONAL FRAMEWORK

Planning and development control is managed at the municipal level by the Planning and Development Services Department of Killeen. Currently, the Department has 19 professional staff; 4 land use planners and 15 enforcement officers. The Department has issued 568 administrative actions (140 citations and 428 warrants) to enforce development control

between September 2017 to August 2018. A "citation" is a notice to appear in municipal court for failing to abate a violation after receiving a notice of violation and may result in a class C misdemeanour and fines. A "warrant" may also be issued to allow the city or contractors access to the property for abatement of the violation and the costs of abatement are billed to the property owner.¹³¹

In terms of legislative framework, the Planning and Development Services Department relies on the Killeen Comprehensive Plan and the Killeen Code of Ordinances, which has provisions on zoning requirements.

131 See City of Killeen Code Enforcement process flow map, available at: <http://www.killeentexas.gov/DocumentCenter/View/231/Flowchart---Violation-Abatement-PDF>

07 LOS ANGELES, UNITED STATES



A. URBAN AREAS

The city of Los Angeles is situated in the Los Angeles Basin, a sedimentary basin in the southwestern portion of California state, in a region known as the Peninsular Ranges. The basin is bordered by the Pacific Ocean on the west and Angeles National Forest to the east. Los Angeles is the second-most populous city in the United States¹³², the city proper is the seat of Los Angeles County and the principal city of the Los Angeles Metropolitan area.

B. URBAN PLANS

The California Government Code requires that every city and county prepare and adopt a long-term, comprehensive General Plan for its future development.¹³³ It also authorizes jurisdictions to adopt specific plans by resolution as policy or by ordinance as regulation.¹³⁴

¹³² The city has approximately four million people. <https://www.census.gov/quickfacts/fact/table/losangelescitycalifornia/PST045217>

¹³³ Section 65300.

¹³⁴ Section 65451-65457.

The city of Los Angeles is guided by the Los Angeles County General Plan (2015-2035), 3 Community, Neighborhood and Area Plans¹³⁵ and one Airport Land Use Plan.¹³⁶ The average population density within the urbanized area is 21,639 people per km² which is higher than UN-Habitat's recommended average density of 15,000 people per km². The city has no urban growth boundary to separate buildable from non-buildable areas. Current development extends beyond the formalized city administrative boundary. 100% of the area available for urbanization is covered by the Los Angeles County General Plan (2015-2035) and the 4 specific plans. The oldest plan currently in force is 42 years old,¹³⁷ while the most recently approved is five years old.¹³⁸ The average age of these plans is 15 years.

¹³⁵ These include: East Los Angeles Community Plan (1978), East Los Angeles 3rd Street Plan (2014) and the East Los Angeles Form Based Specific Plan (2014). <http://planning.lacounty.gov/plans/adopted>

¹³⁶ The Los Angeles County Airport Land Use Plan (1991) includes the Los Angeles International Airport Master Plan (2003). <http://planning.lacounty.gov/plans/adopted>

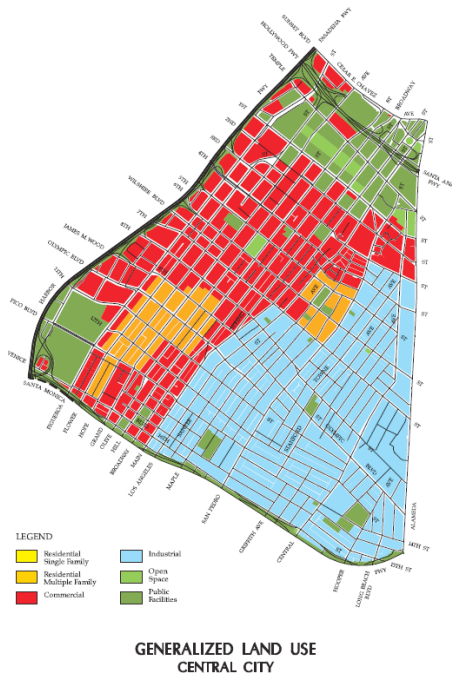
¹³⁷ East Los Angeles Community Plan (1978).

¹³⁸ Los Angeles County General Plan (2015-2035).

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Los Angeles' Downtown

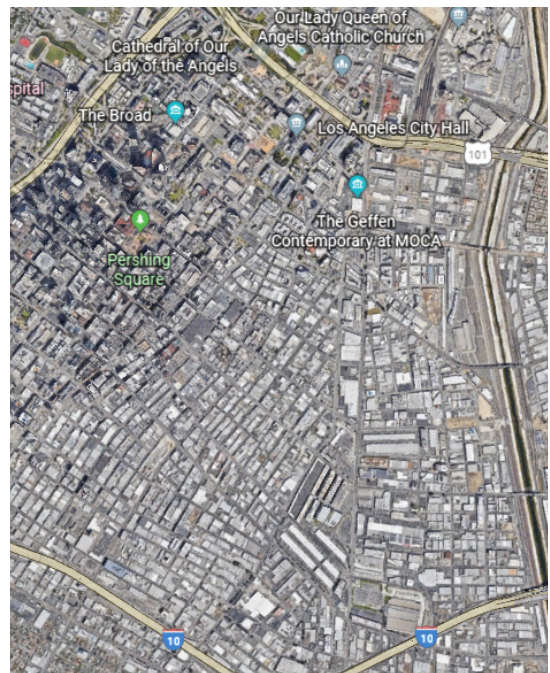
Los Angeles' downtown is a commercial hub and is earmarked as a Central City area according to the Central City Community Plan 2003 which forms part of the Los Angeles County General Plan (2015-2035).¹³⁹ According to the Central City Community Plan, the Central City area contains a substantial amount of commercial development.



Source: © The Central City Community Plan 2003. <https://planning.lacity.org/complan/central/PDF/genlumap.ccy.pdf>

¹³⁹ <http://planning.lacity.org/complan/pdf/CCYCPTXT.PDF>

Existing planned commercial land use is 827 acres. Commercial uses exist to some degree throughout the plan area, but the primary concentration is in the financial core (bounded by Fifth Street, Eighth Street, Hill Street, and the Harbor Freeway), and retail on Broadway from Second Street to approximately Ninth Street, and west along Seventh Street near Hill Street and the Harbor Freeway.¹⁴⁰ Current development complies with the Central City Community Plan, 2003.



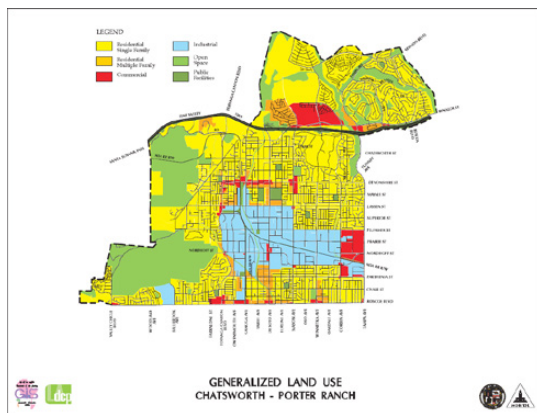
The image is the aerial view of Los Angeles Central City/Downtown which shows the density and commercial nature of the downtown district. Source: © Google Earth, <https://earth.google.com/web/@34.04321205,118.2499534,102.50246238a,9631.41726319d,35y,0h,0t,0r>

¹⁴⁰ <http://planning.lacity.org/complan/pdf/CCYCPTXT.PDF>

Site Two (edge of the built-up area): Porter Ranch

This area is referred to as Porter Ranch which is located at the northwest edge of the city, bordering the Santa Susana Mountains and Ventura County. Porter Ranch is guided by the Chatsworth-Porter Ranch Community Plan 2014¹⁴¹ which is part of the General Plan of the City of Los Angeles (2015-2035).

141 <https://planning.lacity.org/complan/valley/PDF/chtplanmap.pdf>



Source: ©: Chatsworth-Porter Ranch Community Plan 2014, <https://planning.lacity.org/complan/valley/pdf/genlumap.cht.pdf>

D. LAND ADMINISTRATION

The size of land subdivisions that are legal in Los Angeles is contingent on the land use. For instance, the small lot subdivision ordinance allows lot sizes of 55.74 m². 112 land subdivisions have been approved by the city administration in the past 12 months.¹⁴²

142 60 were in the central and east planning area, 29 within the north and south valley, 4 in south, and 19 in west.

The Chatsworth-Porter Ranch Community Plan provides approximately 620 acres of commercial land and related parking uses. Current development demonstrates that this site is consistent with the Plan.



Aerial Photo of Porter Ranch. Source: © Google Earth, <https://earth.google.com/web/@34.27811395,118.55509578,381.39772775a,9894.25436534d,35y,0h,0t,0r>

While the city has no record of compulsory acquisition of land for public purposes, municipal and regional public agencies have engaged in voluntary purchase of land within the city boundary in the past five years.¹⁴³

143 This type of transactional information is not maintained within the Department of City Planning of Los Angeles.

E. INSTITUTIONAL FRAMEWORK

Planning and development control in Los Angeles is managed at the municipal level by two independent agencies, the Los Angeles Department of City Planning (LADCP) and the Department of Building and Safety (LADBS). The LADCP does the city's spatial planning and de facto zoning, while LADBS carries out planning permission and enforcement. Currently, the total professional staff strength for LADCP is 400 and 271 for the LADBS.

From July 2017 to June 2018, LADBS carried out 1,085,669 administrative actions to enforce development control as follows:

- 76,316 building plan checks,
- 985,330 construction inspections; and
- Processed 24,023 code enforcement complaints.¹⁴⁴

In terms of the legislative framework, the Los Angeles Department of City Planning relies on the California State Law (Government Code), the city's General Plan and the Municipal Zoning Code.

¹⁴⁴ When a complaint is filed with the Department of Building and Safety, an inspector investigates the violation. If a violation is deemed to have occurred, the inspector issues the developer with an Order to Comply. If the violation is not remedied, the City Attorney for the City of Los Angeles institutes criminal proceedings against the offending developer.

08 MINNEAPOLIS-ST. PAUL, USA



Source: © Pixabay, <https://pixabay.com/en/st-paul-minneapolis-minnesota-dusk-868421/>

A. URBAN AREAS

Minneapolis is the largest city in the state of Minnesota, and St. Paul is the state's capital. The two cities, separated by the Mississippi river, together comprise the Minneapolis-St. Paul metropolitan area. The Minneapolis-St. Paul metropolitan area, known as the "Twin Cities region," has a population of over 3 million people, contains 7 counties and covers about 7,700 square kilometers.¹⁴⁵ While Minneapolis and St. Paul are two distinct cities with their own governments and characteristics, long-term urban planning for the Twin Cities region is a function of a centralized Metropolitan Council.¹⁴⁶

The Twin Cities region does not have a *de jure* urban growth boundary. However, all cities, counties, and townships must submit a comprehensive plan for approval by the

Metropolitan Council.¹⁴⁷ These comprehensive plans, which include those of nearly two hundred local jurisdictions, must be submitted at least every ten years for approval and amendment.¹⁴⁸ Only three jurisdictions are exempt from the plan approval requirement. Additionally, these reports allow the Metropolitan Council to establish Metropolitan Urban Service Areas (MUSAs), which designate where the Metropolitan Council will provide or plan certain services and facilities, particularly major highways and sewer systems.¹⁴⁹

Each comprehensive plan must include a depiction of current and future boundaries of the MUSA. MUSAs are less rigid than urban growth boundaries in that they do not restrict urban development itself, and there

¹⁴⁵ Metropolitan Council, Community Profile for Twin Cities Region (7-county). Retrieved from <https://stats.metroc.state.mn.us/profile/detail.aspx?c=R11000#featuresaffectdev>

¹⁴⁶ History of the Metropolitan Council, <https://metro council.org/About-Us/What-We-Do/Metropolitan-Council-History.aspx>.

¹⁴⁷ Metropolitan Council, Comprehensive Plan Updates (2017), <https://metro council.org/handbook/Review-Process/Comprehensive-Plan-Updates.aspx>.

¹⁴⁸ Minn. Stat. § 473.864, <https://www.revisor.mn.gov/statutes/cite/473.864>.

¹⁴⁹ Metropolitan Council, Metropolitan Urban Service Area Fact Sheet (2006), <https://www.streamlineworkspace.com/documents/20080603-13:42:35-musafacts.pdf>.

are other smaller entities that can provide the services delivered by the Metropolitan Council therein. Furthermore, communities can designate “staged growth areas” which allow expansion beyond the MUSA boundary in five-year intervals.¹⁵⁰ The Metropolitan Council considers about 3,136 km² within the Twin Cities region “developed,” and about 2,191 km² (or about 70%) of those acres fall within the MUSA boundaries. Much development extends beyond the MUSA boundary as well.¹⁵¹

Although there is no public information available to calculate the average population density within the MUSA boundaries, the metropolitan area currently has an average population density of 399 people per km². Using the current population growth rate (6.5%),¹⁵² the Twin Cities region would reach the average population density of 15,000 people per km² in the year 2247 within the MUSA boundaries.¹⁵³

B. URBAN PLANS

Since approved spatial plans define the MUSA boundaries, 100% of the area within the growth boundary is covered by existing approved spatial plans.

The plans vary in age, but because of the decennial planning process most of the plans, including Minneapolis 2030,¹⁵⁴ Ramsey County 2030,¹⁵⁵ and Columbus 2030,¹⁵⁶ were adopted in 2009, making the average age about 11 years old. However, each of these jurisdictions is working on a regional plan to supplement Thrive 2040 which must be submitted by the end of 2018. The most recent update to the comprehensive region-wide plan, Thrive MSP 2040, was adopted by the Metropolitan Council in May 2014.¹⁵⁷ The Metropolitan Land Planning Act of 1995 and the Municipal Planning and Development Act of 1965 are the two laws that govern the actions of the Metropolitan Council.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial area): East Minneapolis Industrial Zone

The Minneapolis 2030 Comprehensive Plan earmarks this site as an industrial zone, expanding this use in the easternmost part of the city and around the 35W highway (see the red circle in Map 1.2b). Current development shows compliance with the plan.

¹⁵⁰ For an example of “staging areas,” see the Lakeville MUSA land use plan, <https://lakevillemn.gov/DocumentCenter/View/574/Metropolitan-Urban-Service-Area-MUSA-Map-PDF?bidId=>.

¹⁵¹ Myron Orfield & Thomas F. Luce, *Region: Planning the Future of the Twin Cities* (2010) 61.

¹⁵² <https://metro council.org/News-Events/Communities/News-Articles/Population-growth-in-the-7-county-metro-remains-st.aspx>.

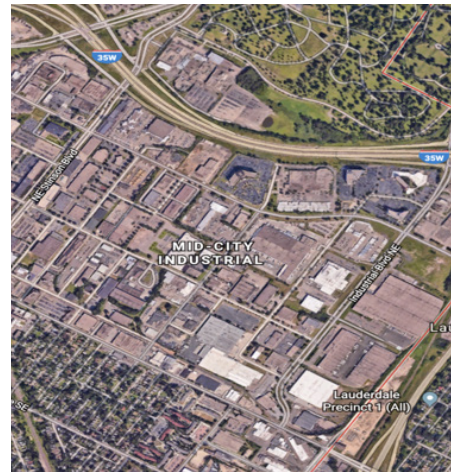
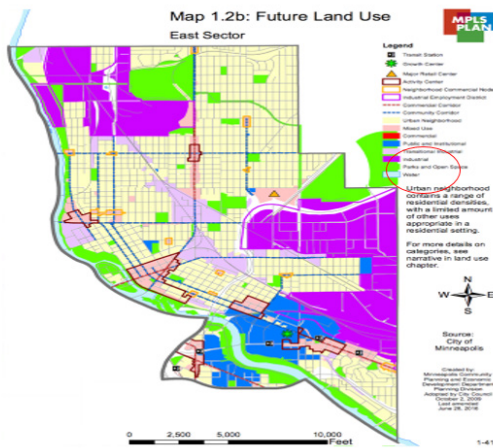
¹⁵³ To reach a density of 15,000 persons/km² the Twin Cities region would need a population of 115,590,000 (15,000 * 7706km). 115,590,000 = 3075000e (0.16 growth rate) (229 years).

¹⁵⁴ Minneapolis 2030, Comprehensive Plan 41 (2009), <http://www.ci.minneapolis.mn.us/www/groups/public/@cped/documents/webcontent/wcms1p-084730.pdf>

¹⁵⁵ Ramsey 2030 Plan (2009), <https://www.ramseycounty.us/sites/default/files/Open%20Government/Ramsey%20County%202030%20Comprehensive%20Plan%20%28Nov.%202009%29.pdf>

¹⁵⁶ Columbus 2030 Plan (2009), https://www.ci.columbus.mn.us/vertical/sites/%7B3E6BBFCC-1CDD-4B18-AFB1-2CB97872D422%7D/uploads/2030_FINAL_Comp_Plan_Small_Size.pdf

¹⁵⁷ Metropolitan Council, Thrive MSP2040 (2017), <https://metro council.org/planning/projects/thrive-2040.aspx>



Source: © Minneapolis 2030, Comprehensive Plan 41 (2009), <http://www.ci.minneapolis.mn.us/www/groups/public/@cped/documents/webcontent/wcms1p-084730.pdf>

Source: © Google Maps

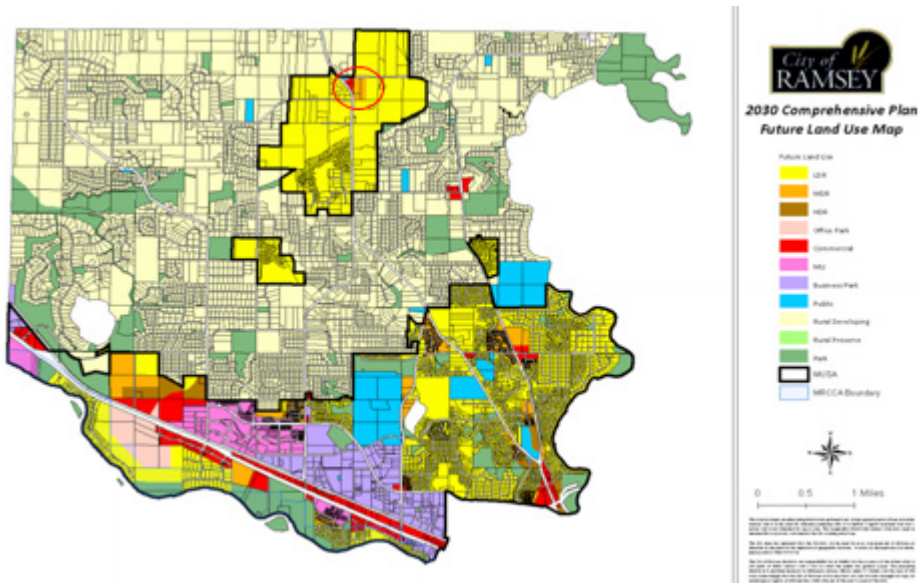


Industrial Co-Packer at 2800 Broadway (left) and Hub Manufacturing at 2700 Broadway (right). The images above show the presence of active industrial sites. Source: © Fordham University and UN-Habitat

Site Two (edge of the built-up area): City of Ramsey – Highway Development

The second site is a plot near a major intersection in the suburb of Ramsey. The city's Comprehensive Plan 2030 intends to increase commercial development along the highway. There is also a new plot of land earmarked

for commercial development adjacent to an existing post office. However, the area remains undeveloped which is incompatible with the plan's provisions.



Source: © City of Ramsey, Ramsey 2030 Comprehensive Plan: Chapter 5 Land Use 13 (2009), https://www.ci.ramsey.mn.us/DocumentCenter/View/682/Chapter-5_-Land-Use-PDF



Source: © Google Maps

D. LAND ADMINISTRATION

In 2018, 46 participating municipalities reported to the Metropolitan Council a total of 131 plats with a combined 3,889 gross acres of land.¹⁵⁸ Minimum lot sizes vary between communities and are primarily influenced by the number of units built and their purpose. For instance, in Minneapolis, the minimum lot area for single-family dwelling is 557.41 m² while it is 371.6 m² for commercial uses.¹⁵⁹ In St. Paul, the minimum lot size is 325 m² for 1-family dwelling and 357 m² for multifamily dwellings.¹⁶⁰

There have been several instances of land expropriation for public purposes in the last five years, both voluntary and involuntary. For example, in 2016, the city of Minneapolis authorized acquisition of property owned by an out-of-state corporation to build part of a new public works campus. The city obtained this property through eminent domain proceedings in 2017.¹⁶¹

E. INSTITUTIONAL FRAMEWORK

Pursuant to the Metropolitan Land Planning Act of 1995, the Metropolitan Council must assist communities in the development of their decennial comprehensive plan updates,

¹⁵⁸ <https://metro council.org/Communities/Publications-And-Resources/ANNUAL-REPORTS/2018-Plat-Monitoring-Report.aspx>

¹⁵⁹ Minneapolis Municipal Code, Title 20, Chapter 546, https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=MIC00R_TIT20ZOCO_CH546REDL_ARTIIR1SIMIDI_546.230LODIRE.

¹⁶⁰ St. Paul Municipal Code, § 66.331, https://library.municode.com/mn/st_paul/codes/code_of_ordinances?nodeId=PTIILECO_TITVIII_ZOCO_CH66ZOCOONDIUSDEDIST_ARTIII66.300.TRNEDI_DIV366.330.TRNEDIDEDIST_S66.331DEDISTTA.

¹⁶¹ <https://mn.gov/law-library-stat/archive/ctapun/2018/opa170988-032618.pdf>.

ensure the plan's compliance with the Council's regulations, and then use these plans to coordinate the demarcation of MUSA boundaries. The Metropolitan Council has 17 members, each from a corresponding district, who are appointed by the Governor and are prohibited from holding elected office. The Council has approximately 4,250 employees, including clerical and transportation employees, but does not have a public listing of all staff enabling a breakdown of roles.¹⁶²

While the Council does have enforcement powers in other realms, such as for environmental violations, the Council is not tasked with enforcing the approved versions of the comprehensive plans. Enforcement of MUSAs only requires that the Metropolitan Council does not provide services outside of its own established boundaries. Instead, enforcement of other zoning law falls on the municipalities themselves. For instance, in St. Paul, there are three offices that split enforcement of land-user rules: The Department of Safety and Inspections, the Planning and Economic Development Department, and the Planning Commission. Data on the number and types of administrative actions to enforce planning could not be ascertained. However, these offices contain committees, such as the Zoning Committee within the Planning and Economic Development Department which, specifically, is comprised of 8 members, to determine whether permits, variances, or amendments to zoning regulations should be approved in individual circumstances.¹⁶³

¹⁶² <https://metro council.org/about-us/What-We-Do/Departments.aspx>.

¹⁶³ The City of St. Paul, Planning and Economic Development Department, Zoning Committee (2018), <https://www.stpaul.gov/departments/planning-economic-development/planning/planning-commission/zoning-committee>.

09 MODESTO, UNITED STATES

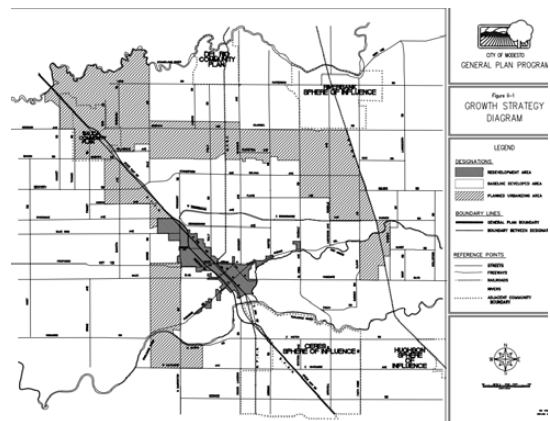


A. URBAN AREAS

The city of Modesto is the largest city of Stanislaus County, California, with a population of 214,221.¹⁶⁴ The city has a large agricultural industry that is based on the fertile farmland surrounding the city. Featuring a classic one-square-mile downtown center, Modesto encompasses a total incorporated area of 95.8 km² and a total General Plan area of 172.8 km².¹⁶⁵ The Modesto Urban Area General Plan (2008-2025) guides the planning and development for future growth in the city.¹⁶⁶

The General Plan does not include an Urban Growth Boundary, but it does have a “Community Growth Strategy.” The Community Growth Strategy contains policies and a diagram to help define the quality, quantity, and direction of future urban growth for the City of Modesto.¹⁶⁷

The Community Growth Strategy divides the General Plan into three categories: The Development Area, the Baseline Development Area, and the Planned Urbanizing Area. The Planned Urbanizing Area (“PUA”) establishes a de facto urban growth boundary through land use zoning.



Source: © Modesto General Plan, Chapter 2 Community Growth Strategy, <https://www.modestogov.com/DocumentCenter/View/6626/Chapter-II-Community-Growth-Strategy?bidId=>

¹⁶⁴ <http://www.modestogov.com/DocumentCenter/View/12056/facts-and-figures-201808>.

¹⁶⁵ <http://www.modestogov.com/1248/Demographics>.

¹⁶⁶ <https://www.modestogov.com/2069/General-Plan>.

¹⁶⁷ <https://www.modestogov.com/DocumentCenter/View/6626/Chapter-II-Community-Growth-Strategy> (pg. 1).

The PUA forms the outer perimeter of the General Plan area which encompasses future development of over 20,042 acres of land that is predominantly flat, vacant or agricultural, and rarely served with urban services and infrastructure, including roads. Approximately 12,640 acres of the PUA are located within the Sphere of Influence¹⁶⁸, excluding the Redevelopment Area and Baseline Developed Area. The remaining areas of the PUA, approximately 7,402 acres, are located outside the Sphere of Influence. However, no development has occurred outside the PUA. Since there is no data for the population density within the PUA, the average population density is approximately 12,787 people/km² within the existing administrative boundary of Modesto.¹⁶⁹ With the current annual population growth rate (0.8%)¹⁷⁰, it would take the city until 2164¹⁷¹ to achieve an average population density of 15,000/km² within the administrative boundary.

B. URBAN PLANS

As previously mentioned, the Modesto Urban Area General Plan was approved in 2008 and it is intended to guide the physical development of the Modesto community to 2025.

¹⁶⁸ The Sphere of Influence is defined by Section 56076 of the Government Code as a "plan for the probable physical boundaries and service area of a local agency."

¹⁶⁹ <http://worldpopulationreview.com/us-cities/modesto-population/>.

¹⁷⁰ Growth Rate = [(2018 Population – 2010 Population) / (2010 Population)]/8 years x 100%

¹⁷¹ The population of Modesto will be 251,295 when the population density reaches 15,000/km² (15,000/km² = x/16.8km²; therefore, population = 251,295). With a growth rate of 0.8%/year and a current population of 214,221, the number of years to reach a population density of 15,000 km² can be calculated as follows: 214,221(.008x) = 251,295; therefore, the number of years = 146 years.

It contains a set of policies, charts, maps, and other graphics which collectively respond to California State Law requirements (Section 65300 et. seq. of the Government Code). The City of Modesto has 23 Comprehensive Planning Districts ("CPD") within the PUA. The amount of development that occurs within each CPD is dependent on where the Sphere of Influence boundary lines are located.

Specific Plans are used by Modesto to implement the CPDs. Ideally, a Specific Plan directs all facets of future development such as: the distribution of land uses, the location and sizing of supporting infrastructure, methods of financing public improvements and standards of development. Specific Plans are authorized under Section 65450 of the California Government Code for "the systematic implementation of the general plan for all of the area covered by the general plan." Each CPD must consist of one or more Specific Plans (as defined by Section 65450 of the State Government Code) and shall include a text narrative and a map or diagram conforming to the requirements of the relevant CPD.¹⁷² There are currently 10 Specific Plans operative in Modesto functioning concurrently with the General Plan. The oldest plan currently in force is 30 years old, while the most recently approved is 8 years old. These plans have an average age of 20.3 years.¹⁷³

¹⁷² <https://www.modestogov.com/DocumentCenter/View/6632/Chapter-VIII-General-Plan-Implementation> (Section E. Specific Plans).

¹⁷³ <https://www.modestogov.com/812/Specific-Plans>. These Plans include: a) Carver-Bangs, 1997; b) Coffee Claratina, 1998; c) Empire North, 1997; d) Fairview Village, 1995; e) Kiernan Business Park, 1997; f) North Beyer, 1996; g) Pelandale Snyder, 1999; h) Tivoli, 2008; i) Village One, 1990; and j) Woodglen, 2012. These plans are not limited to the Planned Urbanizing Area ("PUA") that establishes the de facto urban growth boundary. The calculation

Title 10 of the Modesto Municipal Code (1954) governs all the zoning requirements for development in the city.¹⁷⁴ The Zoning Code sets forth the allowed land uses, site development standards, parking requirements, signage, and other regulatory provisions associated with each zoning district. The purpose of the Zoning Code is to guide development throughout the City, to help ensure quality of the built environment and compatibility with neighboring areas.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Modesto's Central Downtown

The main building in Site 1, 1010 10 Street, was purchased by the city of Modesto in 2001.¹⁷⁵

This site is zoned as Central Downtown ("CD") by Title 10 of the Modesto Municipal Code (1954) and it is considered as Neighborhood Commercial (C-1).¹⁷⁶ The Central Downtown zone is intended to foster the most intensive and active urban environment in the Downtown, while ensuring an overall human scale to development.

This is accomplished with large, but unobtrusive building envelopes that accommodate a mixture of uses, including residential, with an interface that promotes a very strong public/private connection and lively streetscape.¹⁷⁷ Current development evidences compliance with the zoning description.



This is the street image of 1010 10th Street Building and J Street (Facing north). Source: © Google Maps <https://www.google.com/maps/@37.6405427,-121.0002471,3a,75y,16.78h,83.44t/data=!3m6!1e1!3m4!1sHoNjz55acA6NpD2qcES08A!2e0!7i13312!8i6656>

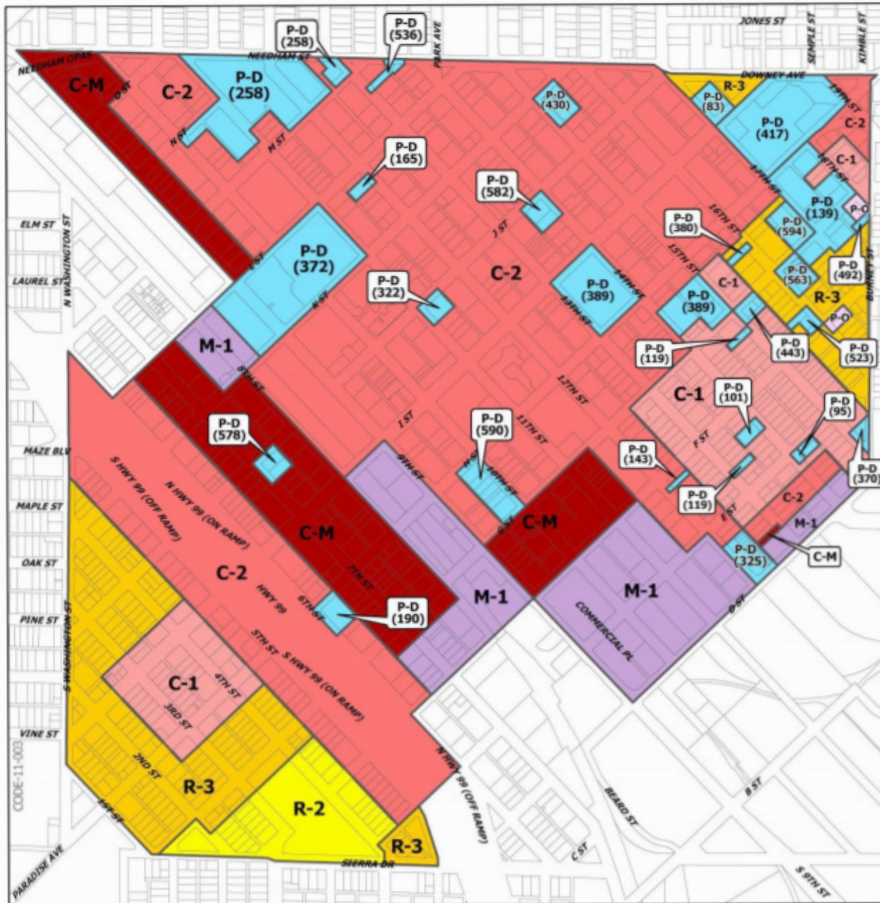
also factored in the Modesto Urban Area General Plan, 2008.

¹⁷⁴ https://library.municode.com/ca/modesto/codes/code_of_ordinances?nodeId=TIT10ZORE.

¹⁷⁵ <https://www.modestogov.com/DocumentCenter/View/1493/Long-Range-Property-Management-Plan-PDF?bidId=>, pg. 9.

¹⁷⁶ <https://www.modestogov.com/DocumentCenter/View/1393/Downtown-Form-Based-Code-PDF?bidId=>, pg. 5.

¹⁷⁷ <https://www.modestogov.com/DocumentCenter/View/1393/Downtown-Form-Based-Code-PDF?bidId=> 10-7.505(a).



DOWNTOWN MODESTO HISTORIC ZONING DESIGNATIONS



1:9,000

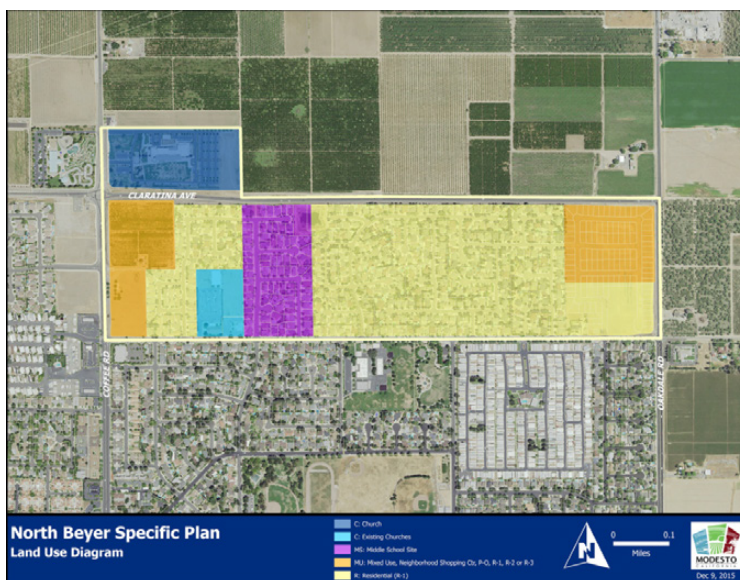
- Med Density Residential (R-2)
- Med-High Density Residential (R-3)
- Planned Development (P-D)
- Professional Office (P-O)
- Neighborhood Commercial (C-1)
- General Commercial (C-2)
- Highway Commercial (C-3)
- Commercial-Industrial (C-M)
- Light Industrial (M-1)

Source: © City of Modesto, CA Official Website: <https://www.modestogov.com/925/Zoning-Code-MMC---Title-10>

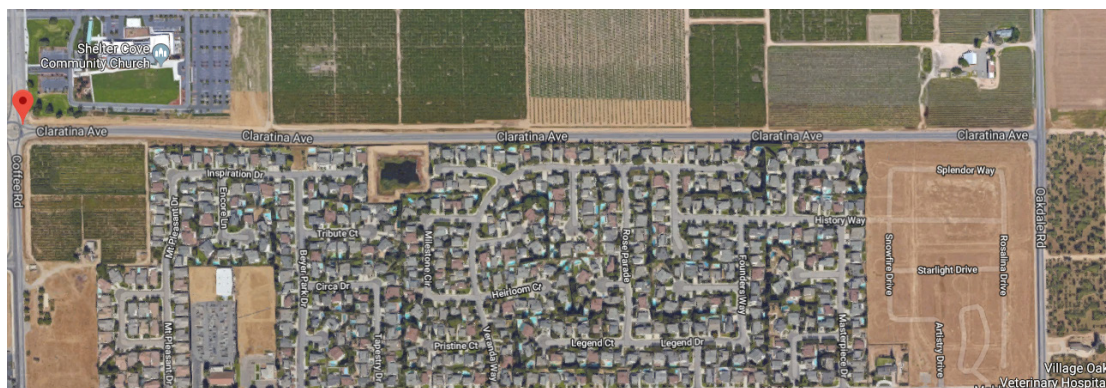
Site Two (edge of the built-up area): Coffee Road & Mable Avenue (North Beyer)

According to the 2008 General Plan, North Beyer is approximately a 180-acre Comprehensive Planning District. The Mixed-Use areas are located along Coffee Road between Pelandale Expressway and Mable Avenue and on

the southwest corner of the Oakdale Road Pelandale Expressway intersection as shown by current development. This is consistent with the land uses specified under the North Beyer Specific Plan, 1996.



Source: © City of Modesto, CA Official Website: <https://www.modestogov.com/818/North-Beyer>



Source: © Google Maps, <https://www.google.com/maps/place/Claratina+Ave,+Modesto,+CA,+USA/@37.6975444,-120.9663312,1205m/data=!3m1!1e3!4m5!3m4!1s0x809056d0cb1c78b3:0xd6dfbe285001137918m2!3d37.6999074!4d-120.9761887>

D. LAND ADMINISTRATION

In the past 12 months, there have been 22 approved residential land subdivision lots in Modesto with a total size of 5.93 acres. The lots are located at Kodiak at Millbrook.¹⁷⁸

There is no minimum plot size in Modesto. There is no record of public purchase or other acquisition of land within the PUA, either voluntary or compulsory, in the last five years.

¹⁷⁸ Modesto Subdivision Status Report 2018 (5.29.18). Obtained from Brad Wall on August 29, 2018.

E. INSTITUTIONAL FRAMEWORK

Planning and development control is managed at the municipal level by the City of Modesto Planning Division. It is responsible for administering the city's land use planning and serves the Planning Commission, Board of Zoning Adjustment, Landmark Preservation Commission and often engages the Council's Healthy Economy Committee on policy direction.¹⁷⁹ The City of Modesto has 8 professional staff who are city planners.

The Planning Division is also in charge of enforcement of development control. When a project is approved by the city and meets all the zoning standards under the Municipal Zoning Code (Title 10), the city imposes conditions to each stage of the project.

During development, if these conditions are not met, the city freezes construction as well as the project. In the last 12 months, there have been no instances of administrative actions to enforce planning or development control. However, there have been few instances of illegal construction.

In terms of the legislative framework, the City of Modesto Planning Division relies on the Constitution of California (1879), California State Law (Government Code) and Title 10 of the Modesto Municipal Code (1954).

¹⁷⁹ <https://www.modestogov.com/662/Planning-Division>.

10 MONTREAL, CANADA



Source: © Andrea Schaffer | <https://www.flickr.com/photos/aschaf/275139525/>

A. URBAN AREAS

With a population of over 1.7 million inhabitants, Montréal is the largest city in the province of Québec.¹⁸⁰ While the city has no officially designated urban growth boundary, urbanization is not permitted in certain areas pursuant to the Act to Preserve Agricultural Land and Agricultural Activities. This Act sets aside agricultural land to guarantee *“a lasting territorial base for agricultural purposes and to foster the preservation and development of farming activities and farm enterprises in the established agricultural zones, in keeping with sustainable development imperatives.”*¹⁸¹ 4% of the island of Montreal, roughly 2,000 hectares, is designated as agricultural land, and thus falls under the jurisdiction of this Act.

¹⁸⁰ Census Profile, 2016 Census, Montreal <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CSD&Code1=2466023&Geo2=C-D&Code2=2466&Data=Count&SearchText=Montreal&Search-Type=Begins&SearchPR=01&B1=All&TABID=1>

¹⁸¹ Commission de Protection du Territoire Agricole du Québec, The Act to Preserve Agricultural Land and Agricultural Activities <http://www.cptaq.gouv.qc.ca/fileadmin/en/publications/guides/Summary.pdf>

The province also has designated Protected Areas as barriers to urbanization, which make up 10.03% of the province.¹⁸²

Montreal's Census Metropolitan Area (CMA) has a land mass of 4,258.31 km². It is formed by one or more adjacent municipalities centred on a population centre, referred to as the core.¹⁸³ Per the 2016 census, the CMA has a population of 4,098,927 people, hence, the average population density is 962.57 people per km². At its current annual population growth rate of 1.9%, the CMA will take 142 years (2162) to reach the target population density of 15,000 people per km².¹⁸⁴

¹⁸² Environnement et Lutte contre les Changements Climatiques Québec, Protected Areas in Quebec,

http://www.environnement.gouv.qc.ca/biodiversite/aires_protegees/aires_quebec-en.htm#network

¹⁸³ Government of Canada, CMA and CA: Detailed Definition <https://www150.statcan.gc.ca/n1/pub/92-195-x/2011001/geo/cma-rmr/def-eng.htm>

¹⁸⁴ Statistics Canada, Census Profile, 2016 Census <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/details/page.cfm?Lang=E&Geo1=CMACA&Code1=462&Geo2=PR&Code2=24&SearchText=Montreal&Search-Type=Begins&SearchPR=01&B1=All&GeoLevel=PR&Geo-Code=462&TABID=1&type=0>

Given the lack of a formal growth boundary and the decentralized nature of the measures in place to limit urban expansion, there is widespread urban expansion on the outskirts of the Island of Montreal. This is supplemented by a 21.1% growth in population in the off-island areas of the CMA between 2011 and 2016, compared to 4.7% increase on-island in that same timeframe.¹⁸⁵

B. URBAN PLANS

The Plan *métropolitain d'aménagement et de développement* (PMAD), 2015 defines policy directions, objectives and criteria to ensure the competitiveness and attractiveness of the Greater Montréal region in keeping with sustainable land use and development.¹⁸⁶ For the Island of Montreal, most of the island is already urbanized, with only 6% of its area scheduled for transformation or construction.¹⁸⁷

100% of the island is covered by existing, legally approved spatial plans. The average age of these urban use plans is 19 years. Borough-specific zoning bylaws are the primary laws which govern spatial planning in CMA. Other urban planning bylaws grant discretionary power to disregard these by laws.

¹⁸⁵ Montreal's Sprawl is Shocking Urban Planners, The Globe and Mail, <https://www.theglobeandmail.com/real-estate/article-montreals-sprawl-is-shocking-urban-planners/>

¹⁸⁶ Plan métropolitain d'aménagement et de développement, <https://cmm.qc.ca/planification/plan-metropolitain-damenagement-et-de-developpement-pmad/>

¹⁸⁷ Montréal Urban Agglomeration Land Use and Development Plan http://ville.montreal.qc.ca/pls/portal/docs/PAGE/PROJ_URBAINS_FR/MEDIA/DOCUMENTS/SCHEMARESUMEAN.PDF

These include Site Planning and Architectural and Integration Programs, Comprehensive Development Programs, conditional uses and specific projects.¹⁸⁸ Thus, the zoning and use of land in the Montreal CMA is flexible and developers are at liberty to appeal zoning by laws, including the "Zones Agricoles" which serve as a functional urban boundary for the Montreal CMA.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Place Des Festivals, Montréal

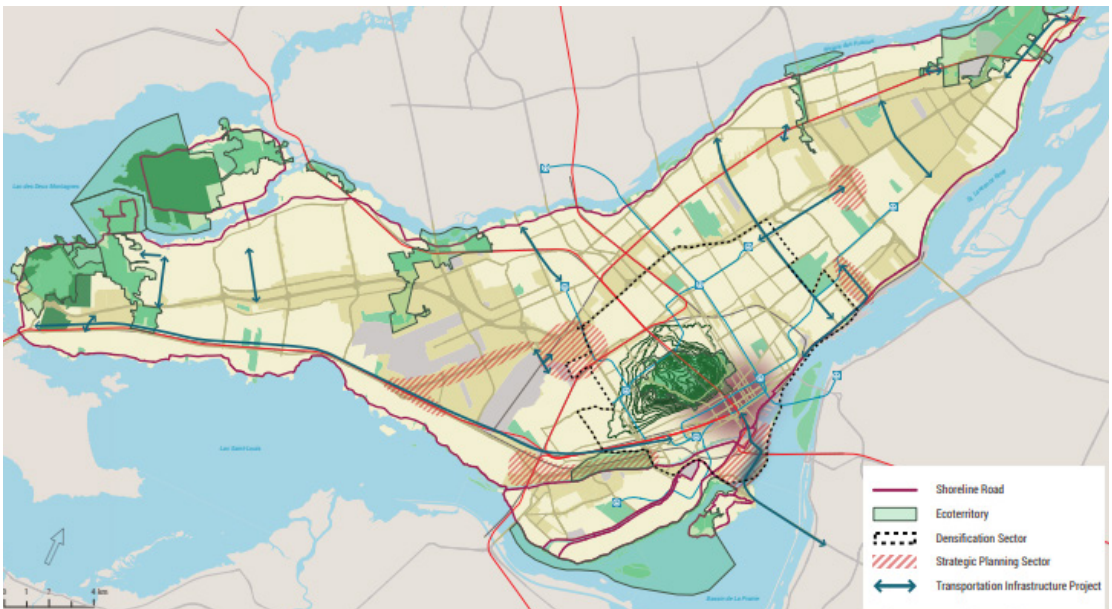
Place des Festival is situated in the central core of the city of Montréal, which is defined by its predominant makeup of business and finance operations, historical and tourist attractions, and high density housing. Current development is compliant with the Plan given the presence of high-density land usage and commercial activities.



¹⁸⁸ Parameters Related to Land Use Designation and Building Density, http://ville.montreal.qc.ca/portal/page?_pageid=2762,3100875&_dad=portal&_schema=PORTAL



Images above show the high-density housing around Place des Festival. Source: © Liam Ragam



Source: © Montréal Urban Agglomeration Land Use and Development Plan (2015)

Site Two (edge of the built-up area): Zone Agricole Boundary

This site is located on the Western side of the island at the intersection of Anse a l'Orme Road and Elkas Boulevard. On the east side of Anse a l'Orme is the suburb of Kirkland, while

the Western side is designated as a Zone Agricole. Current development demonstrates the limited success of agricultural and conservation zoning in the West island.



Map of agricultural zoning on the Western Island of Montréal. Source: © Données Québec, <https://www.donneesquebec.ca/recherche/fr/dataset/zone-agricole-du-quebec/resource/6a68b8c1-cefa-40bf-8400-370c6cf2c>



Image above shows the developments on zoned agricultural land. Source: © Liam Ragan

D. LAND ADMINISTRATION

Minimum plot size is determined by the subdivision regulations for the given area. Each borough has its own subdivision regulation, so the minimum dimensions of a plot size may vary. A 'fundamental' minimum size is decided by the Layout and Development Plan, to which the boroughs and linked cities must conform. Minimum plot size also varies based on zoning designation. Building heights and sizes are also restricted in Montreal. A land coverage ratio expresses the ratio between the coverage of a building and the area of the lot on which that building stands. For the city of Montreal, constructions having a land coverage ratio greater than 85% and designed for residential use, whose erection was duly authorized by the city on or after August 17, 1994, must be provided with clearances.¹⁸⁹

¹⁸⁹ Ville de Montréal, Schéma d'Aménagement et de

The total area of required clearances must be equal to 10% of the total floor area of each dwelling unit, without exceeding 10 m².

Unlike other major cities in Canada, Montreal does not have a publicly accessible online map to search and review approved development projects. There is no centralized data for subdivisions, as the 19 boroughs have independent control over their respective areas.

E. INSTITUTIONAL FRAMEWORK

Each borough oversees its own planning, within the constraints provided by the municipal government (City of Montreal), and sometimes in support of recommendations

Développement de l'Agglomération de Montréal, http://ville.montreal.qc.ca/pls/portal/docs/PAGE/PROJ_URBAINS_FR/MEDIA/DOCUMENTS/Schema20170301.pdf

made by the borough's Urban Planning Advisory Committee.¹⁹⁰ Recommendations made by the Committee are forwarded to and approved by the Borough Council of the relevant borough. Each borough has a team dedicated to its urbanism that handles local planning activities.¹⁹¹ The size of these teams differs across boroughs. There is on average 3-4 planning consultants per borough. The City of Montreal also has an urban planning direction team that handles the planning of the territory and it is made up of around 80 people, the majority of which are planning consultants.

The Committee consists of borough residents, some of them have training or expertise in urban planning, urban development, architecture, heritage or simply a good knowledge of the borough.

Elected borough officials take part in the work carried out by this Committee, which are made up of seven official members. Committee members are not employees of the municipality. The government of Québec mandates that every metropolitan community maintain and enforce a land use and development plan for its territory.¹⁹²

Hence, the *Commissariat Municipal du Québec* is responsible for receiving development plan applications and responding within 45 days on whether they comply with municipal by-laws.¹⁹³ This Commission is therefore responsible for the enforcement of development control. The number of administrative actions to enforce planning or development control in the past year could not be ascertained.

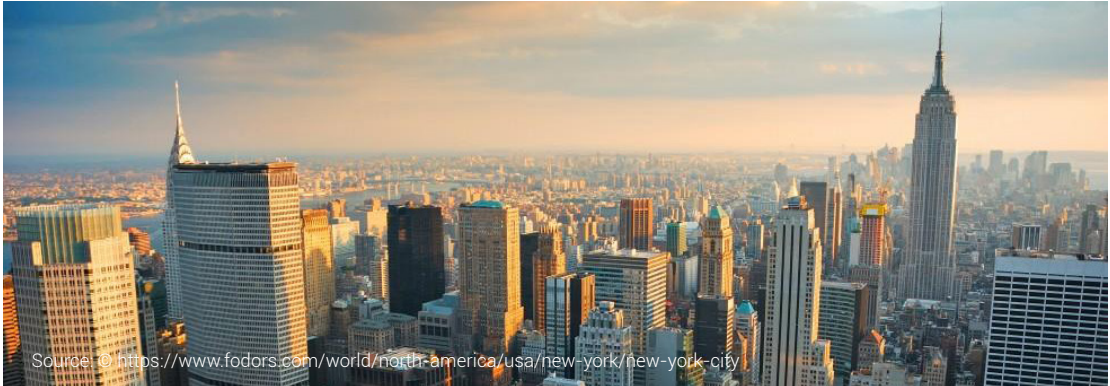
190 Urban Planning Advisory Committee, Ville de Montréal, http://ville.montreal.qc.ca/portal/page?_pageid=7657,82951642&_dad=portal&_schema=PORTAL

191 Council, Ville de Montréal <https://montreal.ca/en/borough-councils>

192 Légis Québec, A-19.1 Act Respecting Land Use Planning and Development, <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-19.1>

193 Ibid.

11 NEW YORK, UNITED STATES



Source: © <https://www.fodors.com/world/north-america/usa/new-york/new-york-city>

A. URBAN AREAS

New York City (NYC) lies at the confluence of the Hudson and East Rivers, along the eastern seaboard of the United States.¹⁹⁴ NYC is the most populated city in the United States, and is comprised of the following boroughs; Brooklyn, the Bronx, Manhattan, Queens, and Staten Island. The Bronx is the only borough that is adjacent to upstate New York.

NYC does not have an urban growth boundary (UGB), nor does one exist de facto. Instead, urban build-up exists throughout NYC, except in certain protected areas such as parts of Staten Island. In 2011, NYC's urban extent was approximately 9,511 km². This represented an increase of almost 2,650 km² since 1991.¹⁹⁵

NYC has the highest population density of any major city in the United States.

¹⁹⁴ <http://www.city-data.com/us-cities/The-Northeast/New-York-Geography-and-Climate.html>.

¹⁹⁵ See New York, Atlas of Urban Expansion (2016), http://www.atlasofurbanexpansion.org/cities/view/New_York (Urban Extent Map).

The city has a population of about 8,622,698 and a land area of about 777.93 km². This amounts to an average population density of 11,084 people per km².¹⁹⁶ Since 2010, the population of New York City has grown 5.24% and given this rate, the city's population will reach an average population density of 15,000 people per km² in the year 2059.¹⁹⁷ There are many suburban communities to the east and north of the city's boundaries. To the west is the state of New Jersey and its northeastern urban areas. To the south are estuarial waters that lead into the Atlantic Ocean.

B. URBAN PLANS

Pursuant to New York State General City Law, cities hold the authority to zone, approve subdivision and site plans, and issue special use permits.

¹⁹⁶ <http://worldpopulationreview.com/us-cities/new-york-city-population/>.

¹⁹⁷ To reach a density of 15,000 persons/km² NYC would need a population of 11,668,950 (15,000 * 777.93km). 11,668,950 = 8,622,698e (5.6% growth rate) (40 years).

In NYC, these functions are carried out by local agencies, including the Department of City Planning. However, authority may be preempted and limited by federal and New York State laws in areas such as environmental protection, use of land for religious purposes, and utility planning.

100% of NYC is covered by zoning regulations.¹⁹⁸ NYC's current Zoning Resolution, which governs spatial planning citywide, was adopted in 1961 and has been amended frequently in the intervening decades. NYC's zoning regulations are generally based on three categories: residence, commercial, and industrial, with each category broken into subcategories. Residence districts, for example, include designations ranging from R1 (single-family detached residences) through R10 (high-density towers). In many zones, mixed-use development is allowed. The Zoning Resolution also designates "Special Purpose Districts" with restrictions and incentives customized to specific areas. For example, one aim of the Special City Island District, a Special Purpose District, is to protect the nautical character of that Bronx neighborhood.¹⁹⁹

As land use patterns in the city change, updates to the Zoning Resolution are accordingly made.²⁰⁰ For example, between 2003 and 2007, some lower-income areas with a greater percentage of non-white populations were

up-zoned.²⁰¹ The push to increase housing capacity in lower-income areas has continued in recent years.²⁰²

Changes to zoning designations must go through a public review process involving hearings by the relevant Community Board and Borough President, and the City Planning Commission and City Council.²⁰³ The New York City Council has the ultimate authority on zoning changes. Although New York State urges cities to adopt a comprehensive zoning plan, NYC does not have one.²⁰⁴ However, the Zoning Resolution is extensive, its most recent updates by the City Council has resulted in a document totaling 4,334 pages, which includes a significant number of plans for different areas of the city.²⁰⁵ There are also numerous development projects and plans currently operating in different areas of NYC. Among these plans are a 10-point Industrial Action Plan aimed to strengthen NYC's most active industrial areas and a Resilient Neighborhood Plan designed to insulate NYC from the effects of flooding.²⁰⁶

¹⁹⁸ NYC Planning, *The Zoning Resolution*, <https://www1.nyc.gov/site/planning/zoning/access-text.page>.

¹⁹⁹ NYC Planning, *Zoning Resolution, Article XI: Special Purpose Districts* (2018), <https://www1.nyc.gov/assets/planning/download/pdf/zoning/zoning-text/art11c02.pdf?r=032216>.

²⁰⁰ NYC Planning, *City Planning History*, <https://www1.nyc.gov/site/planning/about/city-planning-history.page>.

²⁰¹ Amy Armstrong et al., *How Have Recent Rezoning Affected the City's Ability to Grow?* at 9-10, Furman Center (2010), http://furmancenter.org/files/publications/Rezoning_Furman_Center_Policy_Brief_March_2010.pdf.

²⁰² NYC Press Office, *Breaking Records: Mayor de Blasio's Affordable Housing Plan Has Financed 40,000 Apartments So Far* (2016), <https://www1.nyc.gov/office-of-the-mayor/news/040-16/breaking-records-mayor-de-blasio-s-affordable-housing-plan-has-financed-40-000-apartments-so-far->;

²⁰³ New York City Council, *Land Use*, <https://council.nyc.gov/land-use/>.

²⁰⁴ Ben Max & Gabriel Slaughter, *New York City Doesn't Have a Comprehensive Plan; Does It Need One?*, *Gotham Gazette* (2018), <http://www.gothamgazette.com/city/7674-new-york-city-doesn-t-have-a-comprehensive-plan-does-it-need-one>.

²⁰⁵ <https://www1.nyc.gov/assets/planning/download/pdf/zoning/zoning-text/allarticles.pdf?v=1120>.

²⁰⁶ <https://www1.nyc.gov/site/planning/plans/self-storage-special-permit-ibz/self-storage-special-permit-ibz>.

NYC's current development plans range in age from two years (NYC Waterfront Revitalization Program) to 14 years (Community Facilities Zoning Project). The average age of these plans is approximately 10 years.

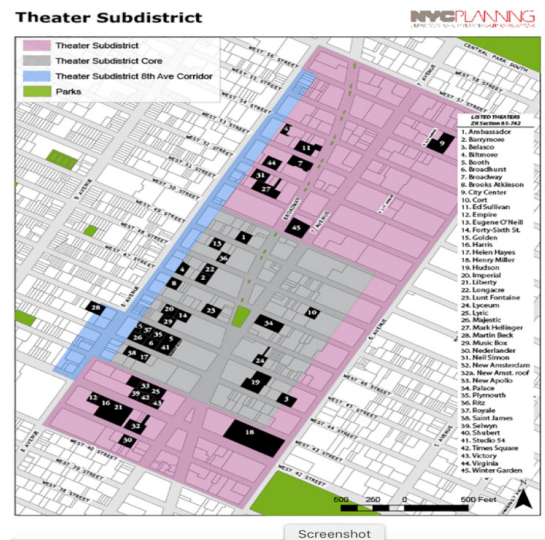
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Theatre Subdistrict Core in Manhattan

The Special Midtown District "has three goals: growth, stabilization and preservation pursuant to the Zoning Resolution."²⁰⁷ Within this District, is the Theatre Subdistrict Core. Commonly referred to as "Times Square," one of the busiest pedestrian neighborhoods in the world, the Theatre Sub-district Core runs from West 43rd Street to West 50th Street, between 8th and 6th Avenues.

The Theatre Sub-district Core is distinctive for being both a major commercial area and tourist destination. It is also known as a center for the entertainment industry, with brightly adorned billboards and skyscrapers.²⁰⁸ Pursuant to Article VII of the Zoning Resolution, development in this area must comply with requirements promoting entertainment, such as illuminated signs, to preserve and protect the particular scale and character of the area.²⁰⁹

Pursuant to the below images, current development shows compliance with the goals for the Special Midtown District and the requirements for the Theatre Sub-district Core.



Source: © NYC.gov, <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/theater-subdistrict/theater-subdistrict-theaters-maps.pdf>

page; <https://www1.nyc.gov/site/planning/plans/resilient-neighborhoods.page>.

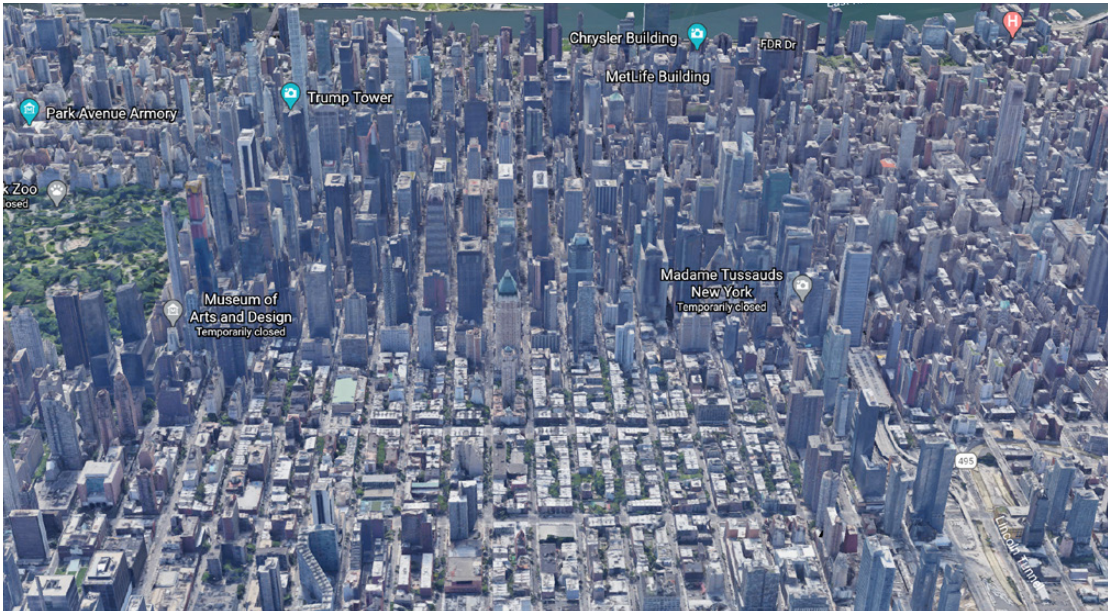
²⁰⁷ NYC Planning, *Special Purpose Districts: Manhattan*, <https://www1.nyc.gov/site/planning/zoning/districts-tools/special-purpose-districts-manhattan.page>.

²⁰⁸ A View on Cities, *Times Square*, <http://www.aviewoncities.com/nyc/timessquare.htm>.

²⁰⁹ NYC Planning, *Zoning Resolution, Article XI: Special Purpose Districts (2018)*, <https://www1.nyc.gov/assets/planning/download/pdf/zoning/zoning-text/art08c01.pdf?r=0613>.



Photograph of Times Square that displays heavy foot traffic, bright billboards and high-rise buildings. Source: © Wikipedia, https://en.wikipedia.org/wiki/Times_Square.



Spatial view of Midtown Manhattan, Source: © Google Earth. Midtown Manhattan. GOOGLE EARTH. <https://earth.google.com/web/@40.76100956,-73.98516736,15.09737923a,2989.97595637d,35y,120.31521966h,60.00284194t,0r>.

Site Two (edge of the built-up area): Bell Boulevard in Queens

Bell Boulevard is a “commercial corridor” in Bayside, Queens.²¹⁰ Pursuant to the NYC Zoning Resolution, there are no special regulations for this area.²¹¹ However, pursuant to the Bayside Rezoning Project, which was approved by the NYC Planning Commission on March 14, 2005, Bell Boulevard is one of the

“commercial overlays,” which are districts “along Bayside’s commercial corridors [where a] ... range of local retail and service establishments typically needed in residential neighborhoods” are permitted.”²¹² Current development shows compliance with the project.



Photograph of Bell Boulevard – Retail and commercial establishment presence indicated., Source: © Google Maps.



This intersection of Bell Boulevard and 39th Street shows Noah's Ark Progressive Learning, a day care center. Bell Boulevard is the vertical street in this photograph. Source: © Google Earth

²¹⁰ Projects & Proposals, Queens, Bayside, Bayside Rezoning-Approved, <https://www1.nyc.gov/assets/planning/download/pdf/plans/bayside/bayside.pdf>, at pgs. 4, 12.

²¹¹ NYC Planning, *The Zoning Resolution*, (2018), <https://www1.nyc.gov/site/planning/zoning/access-text.page>.

²¹² Cityland, New Zoning District Approved for Bayside, <https://www.citylandnyc.org/new-zoning-district-approved-for-bayside/>.

D. LAND ADMINISTRATION

There are two types of subdivisions recognized in New York City, zoning lot subdivisions and tax-lot subdivisions.²¹³ Zoning lot subdivisions directly implicate building use or size regulations, but tax lots can also impact

permitted development as part of the city's regime of transferrable development rights.²¹⁴ There are minimum lot sizes residential areas which are listed as follows:²¹⁵

Type of Residence	Minimum Lot Area (in m ²)
Single-Family (R1-1)	882.56
Single-Family (R1-2)	529.55
Single-Family (R2X)	353.03
Single-Family (R2X)	264.77
Single-Family or Single and Two-Family or Multi-family. (R3-1,2, R4-R10)	353.03
Single-Family or Single and Two-Family (R3X)	308.90
Single-Family or Single and Two-Family (R4A, R5A)	264.77
Single-Family or Single and Two-Family or Multi-family. (R3A, R4-1, R4B, R5B, R5D)	220.64
Single-Family or Single and Two-Family or Multi-family. (R6-R10)	157.94

From August 2017 to July 2018 there were 83,494 real estate transactions in NYC. The Department of Finance has records of all real estate transactions, including ones where NYC was a party. NYC is known for its strong eminent domain power, which the city views as necessary to keep pace with its infrastructure and economic development needs.

In 2016, for example, NYC exercised its eminent domain powers to acquire 48.4 acres for the Department of Environmental Protection (DEP)'s Bluebelt Program in Staten Island. The DEP Bluebelt Program is a multi-purpose program that provides storm water management and reduces street and property flooding while preserving and enhancing wetlands.²¹⁶

²¹³ NYC Department of Buildings, *Subdivision*, Code Notes (2015), https://www1.nyc.gov/assets/buildings/pdf/code_notes_subdivision.pdf.

²¹⁴ NYC Planning, *A Survey of Transferable Development Rights Mechanisms in New York City*, <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/transferable-development-rights/research.pdf>.

²¹⁵ NYC Planning, Zoning Tables, <https://www1.nyc.gov/assets/planning/download/pdf/zoning/zoning-text/art02c03.pdf?r=0717>.

²¹⁶ <https://a836-acris.nyc.gov/DS/DocumentSearch/PartyNameResult>.

E. INSTITUTIONAL FRAMEWORK

The Department of City Planning (DCP) is NYC's primary land use agency, with responsibility for planning at the municipal level. DCP sets forth plans for urban development, pursuant to the city's Zoning Resolution.

DCP also works with government agencies and the public by providing policy analysis, technical assistance and data on housing, zoning, and urban design to inform strategic and capital planning decisions.

DCP employs 187 professional staff members, as follows:²¹⁷

Professional	Number of Staff
Borough Planners	75
Urban Designers	10
Geo Support	17
Technical Specialists	34
Strategic Planning Specialists	43
Counsel	8
Total	187

The Department of Buildings (DOB) is responsible for the enforcement of the Zoning Resolution as well as the city's Construction Codes. To enforce such compliance, DOB issues Environmental Control Board (ECB) violations. These violations are adjudicated by the Office of Administrative Trials and Hearings (OATH). DOB has approximately 1,600 employees. About 600 of these employees are DOB inspectors, who issue enforcement actions on behalf of the Department.

The remainder are comprised of plan examiners who review construction plans for code-compliance, as well as architects, engineers, attorneys, and administrative staff.

In the past 12 months, DOB has imposed approximately 552 prosecutions and fines to enforce planning or development control.²¹⁸

²¹⁷ Information obtained through a FOIL request from DCP (FOIL-2018-030-00326).

²¹⁸ NYC Open Data, DOB ECB Violations (2018), <https://data.cityofnewyork.us/Housing-Development/DOB-ECB-Violations/6bgk-3dad>.

12 PHILADELPHIA, UNITED STATES



Source: @Lee.Cannon, FLICKR

A. URBAN AREAS

Philadelphia is the largest city in the state of Pennsylvania, and the sixth-most populous city in the United States.²¹⁹ Located along the Delaware and Schuylkill Rivers, the city of Philadelphia shares its borders with Philadelphia County.²²⁰ It has a population of approximately 1,580,800 people spread across 367 km².²²¹ It is the population center of the Delaware Valley Metropolitan area²²², which includes other counties in four states and a total population of about 6,000,000 people.²²³

²¹⁹ <https://why.org/articles/phoenix-replaces-philly-as-nations-5th-largest-city/> (last visited Dec 10, 2018).

²²⁰ Steve Currall, *How Philly Got Its Shape*, (2018), <https://hiddencityphila.org/2013/09/how-philly-got-its-shape/>.

²²¹ US Census Bureau, *Philadelphia City, Pennsylvania*, Bureau QuickFacts (2018), <https://www.census.gov/quickfacts/philadelphiacitypennsylvania> (last visited Dec 11, 2018).

²²² This means that Philadelphia is both the largest city, in terms of population, in the Delaware Valley, and that it is literally in the middle of the Delaware Valley.

²²³ John Fischer, *Delaware Valley Population and Demographics*, TripSavvy (2018), <https://www.tripsavvy.com/delaware-valley-population-and-demographics-2664621> (last visited Dec 11, 2018).

Philadelphia has no *de jure* urban growth boundary; however, land use control is established by city zoning law creating *de facto* urban growth boundaries pursuant to the zoning laws in place. The city still contains vacant land to be developed.²²⁴ Zoning approval is required for all new construction, and many types of modifications to a property or lot. The average population density in Philadelphia is 4272.47 people per km².²²⁵ The city has a near zero growth rate, so it is projected to reach an average population density of 15,000 people per km² in 2359.²²⁶

²²⁴ See Philadelphia City Planning Commission, *Philadelphia 2035 Citywide Vision: Summary 9* (2018), https://docs.wixstatic.com/ugd/32cb1b_e695bf0dda42479b9dbb07f7d61a98c3.pdf. On the map on page 9, the city and the county have contiguous borders, and in that map the zoning code covers the whole city (and therefore the county).

²²⁵ The average population density was calculated by dividing 1.568 million people (population of City/County) by 367km² (Area of City/County).

²²⁶ Philadelphia has a 0.37% growth rate. To reach a density of 15,000 persons/km² Philadelphia would require a population of 5,505,000 (15,000 * 367km). Therefore, it would take until 2359, 341 years, for Philadelphia to reach that density. $5,505,000 = 1,568,000e(0.0037 \text{ growth rate})(341 \text{ years})$.

B. URBAN PLANS

In 2007, a voter referendum established a new Zoning Code Commission, tasked with designing a new zoning code. In 2011, the Commission began work to overhaul the zoning code which had gone untouched since the 1960's.²²⁷ The new Philadelphia Zoning Code came into effect in 2012. The Philadelphia Zoning Code is in Title 14 of the Philadelphia Municipal Code.²²⁸

The new code also established the Philadelphia City Planning Commission (PCPC), which is tasked to work with localities to regularly update the city's code. In 2011, PCPC adopted a citywide plan, Philadelphia 2035,²²⁹ and began working on 18 district-level strategic plans to implement that broader vision.

The City Planning Commission has worked with communities to generate these district-level plans. All the plans have been adopted, with the Upper Northwest District Plan adopted as recently as 2018.²³⁰ The oldest plan in-force is 9 years old while the most recent is two years old. The average age of these plans is 5 years.

²²⁷ Ryan Briggs, A New Zoning Code for a Different Philadelphia Nextcity.org (2018), <https://nextcity.org/daily/entry/a-new-zoning-code-for-a-different-philadelphia>.

²²⁸ Philadelphia Municipal Code, Title 14, http://www.amlegal.com/codes/client/philadelphia_pa/.

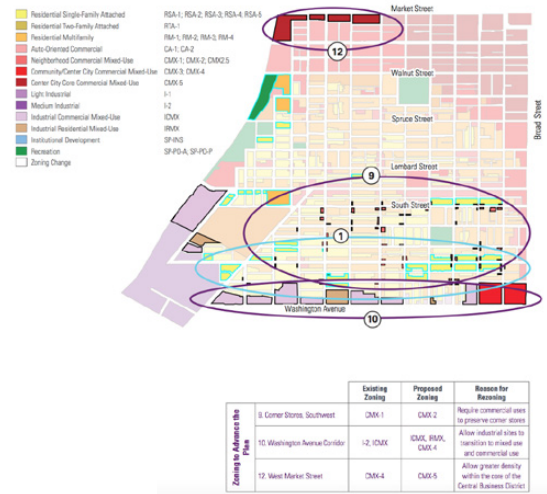
²²⁹ The Philadelphia City Planning Commission, *Philadelphia 2035, The Comprehensive Plan*, 2011.

²³⁰ Upper Northwest, Phila2035, <https://www.phila2035.org/upper-northwest>.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): The Central Business District (Southwest Quadrant)

Priority Recommendations — Southwest Quadrant



Source: © The Philadelphia City Planning Commission, Central District Plan (2013), https://www.phila.gov/CityPlanning/plans/District%20Plans%20Library/Central_DP_FINAL.pdf.

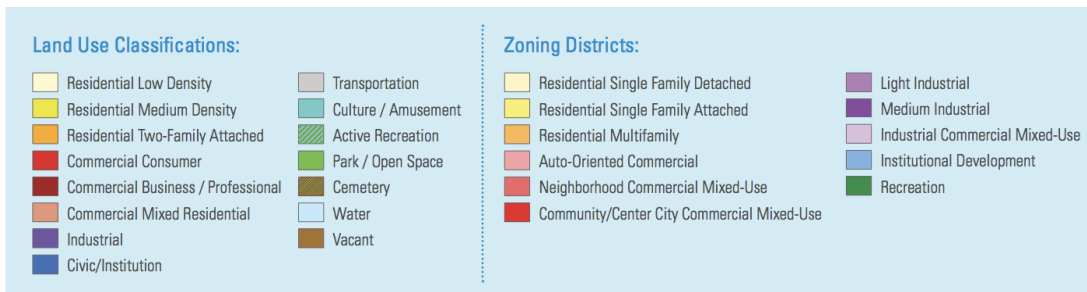
This site is a four-block area in the southwest quadrant of the city's Central District, marked by the circle labeled 12 in the Central District Plan map above. The 2013 plan called for more density of mixed-use commercial and residential properties along Market Street. While some lots remain undeveloped in the area, there is evidence of new mixed-use construction alongside existing mixed-use structures, indicating the initial stage of compliance with the 2013 Central District Plan. However, it appears that some of the commercial spaces are vacant – precluding the dense commercial corridor envisioned by the plan.



The image on the left shows Storefronts alongside Market Street in Central Philadelphia, while the image in the center evidences mixed-use construction on Market Street. The image on the right shows the empty storefronts on Market Street. Source: © Google Maps

The West Park District Plan suggested zoning changes for the area around the intersection of 40th Street and West Girard Avenue. The suggestions and rationale of the City Planning Commission in drafting this plan are indicated in the following sketch. In the three drawings below, existing land use is drawn on the left,

current zoning districts in the middle, and suggestions for reform on the right. The PCPC hoped to facilitate the creation of a “commercial node” at a major intersection to better serve the needs of the community by rezoning the district to allow for commercial use.



10 40th Street and Girard Avenue

The commercial corridor of Girard Avenue has seen sharp decline. To better meet the needs of residents and visitors, the commercial uses need to be combined to form a denser commercial node at the intersection of 40th Street and Girard Avenue.

(See THRIVE p. 26)



Source: © Philadelphia City Planning Commission, West Park Plan (2012) <https://www.phila2035.org/west-park>

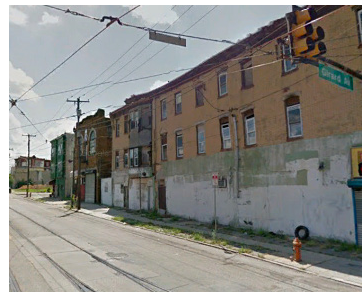
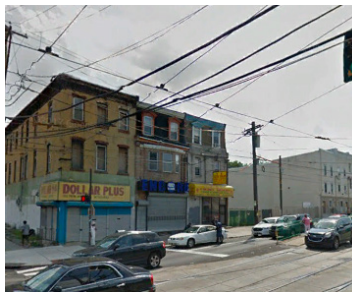
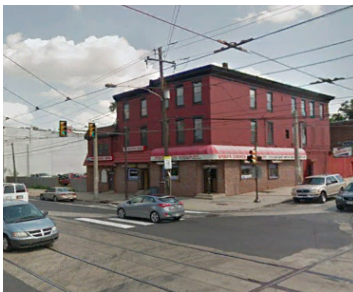
Despite the proposal, current development indicates that there is little evidence of a denser commercial node.



Aerial View of W. Girard Ave & N 40th St. Source: © Google Maps

When looking at the street level, there are still only four retail outlets – two “corner stores” and a fast-food restaurant.

The adjacent vacant lots indicate that the “dense commercial node” has not yet been realized.



The images above show the storefronts at the intersection of W Girard and N 40th and the limited compactness to promote a 'dense commercial node.' Source: © Google Maps

D. LAND ADMINISTRATION

The minimum lot sizes that are used to approve land subdivisions²³¹ are provided below:

Land Use Classification*	Minimum Lot Size (m ²)
Residential Multifamily - 1	133.7 m ²
Residential Multifamily - 2	1393 m ²
Residential Multifamily - 3	929.03 m ²
Residential Multifamily - 4	464 m ²

²³¹ PCPC, Zoning Code Quick Reference (2017), https://www.phila.gov/CityPlanning/resources/Publications/Philadelphia%20Zoning%20Code_Quick%20Reference%20Manual.pdf.

Residential Mixed-Use - 1	8093 m ²
Residential Mixed-Use - 2	4046.86 Acre
Auto-Oriented Commercial - 1	464 m ²
Auto-Oriented Commercial - 2	1393.5 m ²

* PCPC, Zoning Code Quick Reference (2017), https://www.phila.gov/CityPlanning/resources/Publications/Philadelphia%20Zoning%20Code_Quick%20Reference%20Manual.pdf.

There number of approved subdivisions in the past year could not be ascertained. There are, however, extensive records of land expropriation. There are dozens of active “Blight Certification” and “Redevelopment” plans, although not all of these involve public acquisition of property but rather designations that indicate ongoing city investment.²³² In 2015 for example, the City Council voted to allow the Philadelphia Housing Authority redevelop a “blighted” neighborhood, Sharswood, and granted the Philadelphia Housing Authority the right to acquire 1,300 properties by eminent domain (800 of these are privately owned). The properties were a mix of commercial and residential and public housing.²³³

E. INSTITUTIONAL FRAMEWORK

The Philadelphia City Planning Commission is responsible for planning at the city level and assisting with district level plans. It has 30 professional staff; 6 GIS experts, 5 urban design experts, and 19 community or citizen planning experts.²³⁴

²³² PCPC, *Blight Certifications and Redevelopment Area Plans*, <https://www.phila.gov/CityPlanning/plans/communityplans/Pages/BlightandRedevelopmentReports.aspx>.

²³³ <https://www.forbes.com/sites/scottbeyer/2015/06/26/philadelphia-to-seize-1330-properties-for-government-redevelopment/#64885d82d020>.

²³⁴ <https://www.phila.gov/CityPlanning/aboutus/Pages/StaffDirectory.aspx>.

Responsibilities for enforcing the city’s zoning rules and code are split between the Department of Licenses and the Code Enforcement Unit. The Code Enforcement Unit is a subdivision of the City Law Department with 13 named attorneys responsible for bringing enforcement actions.²³⁵ The Department of Licenses and Inspection has nearly 120 field inspectors to enforce the code.²³⁶

While there is similarly no central collection of the number of prosecutions or demolitions brought by the Department of Licenses and Inspection, there are recent examples of it exercising such authority. In January 2018, it was reported that the department had begun a campaign of shutting down reconfigured vacant warehouses.²³⁷

²³⁵ Philadelphia Law Department, *Code Enforcement Unit*, <https://www.phila.gov/law/litigation/Pages/CodeEnforcementUnit.aspx>.

²³⁶ Philadelphia Department of Licenses and Inspections, 2012 +2013 *Annual Report*, https://www.phila.gov/li/aboutus/PDF/FY12_FY13%20thru%20331%20Annual%20Report%20-%20FINAL.pdf.

²³⁷ Pat Loeb, *D&I Breakthrough Helps Crack Down On Unsafe Warehouses*, CBS Philly (14 Jan. 2018) philadelphia.cbslocal.com/2018/01/14/li-breakthrough-helps-crack-down-on-unsafe-warehouses/.

13 PORTLAND, UNITED STATES

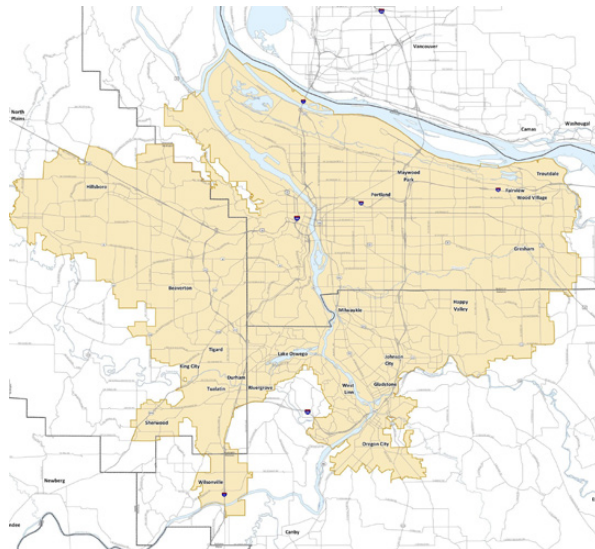


Source: © https://www.nationsonline.org/oneworld/map/google_map_Portland.htm

A. URBAN AREAS

Portland is the largest city in the state of Oregon. According to the U.S. Census Bureau, Portland's population was 647,805 in 2017.²³⁸

The Portland area has an urban growth boundary ("UGB") which has been drawn around the city since 1979.



Map of Portland Oregon's Urban Growth Boundary, Source: © Oregon Metro, <https://www.oregonmetro.gov/urban-growth-boundary>

²³⁸ United State Census Bureau, Quick Facts: Portland Oregon, <https://www.census.gov/quickfacts/fact/table/portlandcityoregon/PST045217>.

Metro, the regional government for the Oregon portion of the Portland Metropolitan Area, created the UGB in compliance with Oregon Senate Bill 100. Bill 100 was signed into law to protect nature and wildlife from urban sprawl. The UGB has been expanded three dozen times since it was first drawn in 1979. Major expansions – more than 300 acres –

happened in 1998, 1999, 2002, 2004, 2005 and 2011. In 2018, Metro recommended an expansion of nearly 2,200 acres to support the development of more than 6,000 single family residences. As approved by Metro, urban development may extend beyond the UGB, creating residences such as the ones pictured below.



Residential Community Next to Farmland , Source: © Modern Farmer , <https://modernfarmer.com/2016/09/portland-urban-growth-boundary/>

The UGB is distinct from Metro's jurisdictional boundary. People living inside the UGB but outside of Metro's jurisdictional boundary cannot vote in Metro elections and are not subject to Metro regulations. However, Oregon state law authorizes Metro jurisdiction over all UGB decisions, "even if the land...is outside Metro's legal boundary."²³⁹

On average, Portland has 1,765 people per km².²⁴⁰

²³⁹ Metro, Urban Growth Boundary, <https://www.oregonmetro.gov/urban-growth-boundary>.

²⁴⁰The average population was calculated by dividing 647,805 people (population of City/County) by 367km² (Area of City/County).

Using the current population growth rate of 1.2%,²⁴¹ Portland is projected to reach an average population density of 15,000 persons per km² in the year 2152.²⁴²

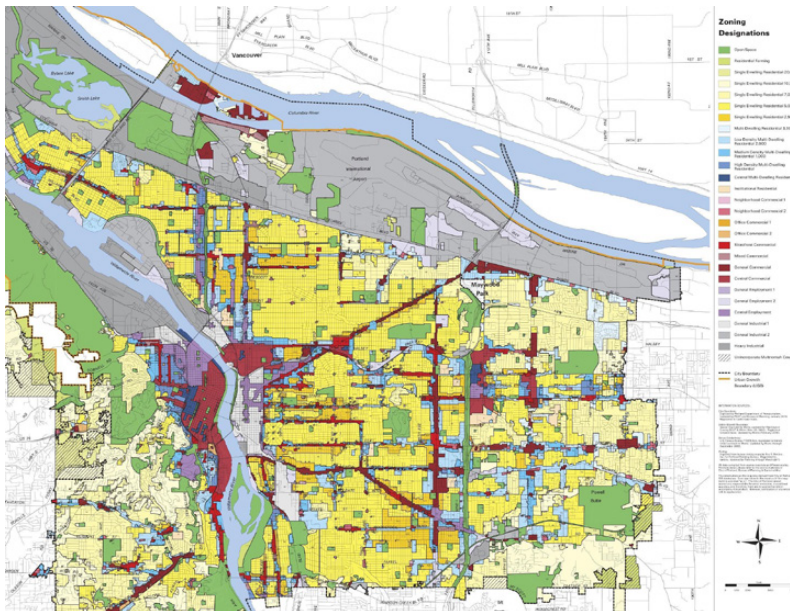
²⁴¹ Elliot Njus, *Portland Area Population Growth slows to lowest level since 2013, Census Bureau Says*, Oregon Live, (Mar. 22, 2018), https://www.oregonlive.com/front-porch/index.ssf/2018/03/portland-area_population_growth.html.

²⁴² Portland, Oregon has a 1.2% growth rate. To reach a density of 15,000 persons/km² Portland would need a population of 5,505,000 (15,000 * 367km²). 5,505,000 = 647,805(0.016 growth rate)(134 years) Therefore, Portland will reach the UN density targets in the year 2152. (2018 + 134 years).

B. URBAN PLANS

The Portland Zoning Code, adopted by Ordinance No. 1631608 in 1991, governs zoning and land use for Portland. The Code resulted from collaboration between Portland's Planning Commission, Bureau of Planning, City Council, and other agencies, following over 150 public meetings and hearings to analyze public comments and review the Code.²⁴³ In 2016, Portland built upon several of its former plans to adopt the 2035 Comprehensive Plan to "manage expected population and employment growth."²⁴⁴ The Plan went into effect May 24, 2018 and included changes to the zoning map.

The 2035 Comprehensive Plan demonstrates Portland's commitment to the UGB by establishing a principle of building up inside the UGB instead of extending it. An additional guiding principle is the Plan's focus on environmental health and protecting Portland's natural resources. The Plan guides new growth and expansion to existing centers and corridors, not over natural land. The 2035 Comprehensive Plan is the only plan presently in force, making the average age of plans as 2 years. Approval of changes to the UGB that are not compliant with the 2035 Comprehensive Plan are subject to Metro's separate approval.



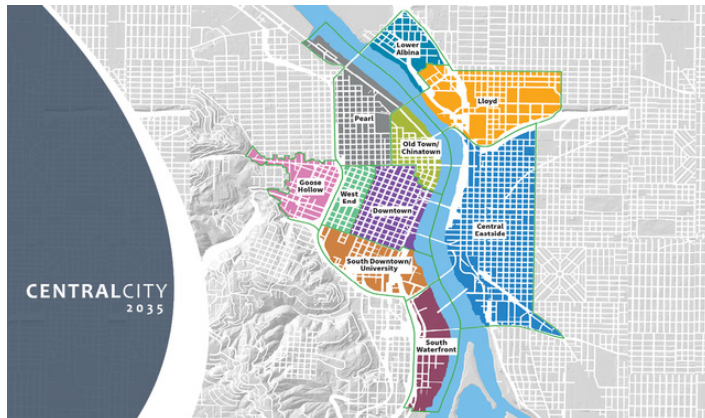
Zoning Map of Portland, Oregon, Source: © Oregon Metro, <https://modernfarmer.com/2016/09/portland-urban-growth-boundary/>

²⁴³ City of Portland, Oregon Bureau of Planning, https://www.portlandoregon.gov/bps/title33_complete_print.pdf.

²⁴⁴ City of Portland, <https://www.portlandoregon.gov/bps/2035-comp-plan.pdf>.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Portland City Center



Central City District Map for Portland, Oregon, Source: © Portland Bureau of Planning and Sustainability , <https://www.portlandoregon.gov/bps/69862>

The Downtown District, one of the 10 districts located within Portland's Central City, is zoned primarily for commercial usage pursuant to the 2035 Comprehensive Plan. The aerial shots below are taken from the vantage point of the Pioneer Place Skybridge located on Fourth Avenue in the Downtown District.

These images demonstrate that the buildings in this area are primarily commercial, with office space above the first floor. There is no visible residential real estate in these images. Current development shows compliance with the 2035 Comprehensive Plan.

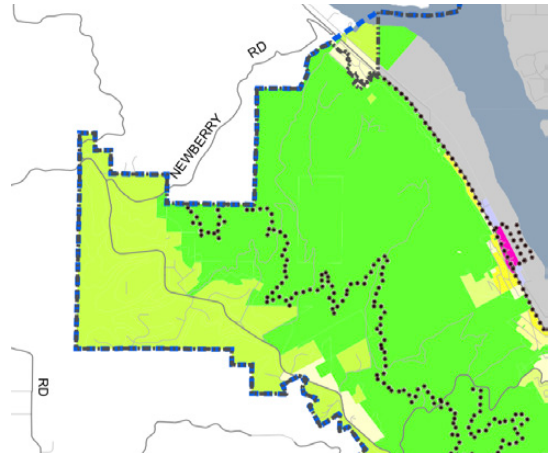


Left image: View of Downtown, Portland from the Skybridge. Source: © Fourth Avenue at Morrison from Pioneer Place Skybridge - Portland, Oregon, https://commons.wikimedia.org/wiki/File:Fourth_Avenue_at_Morrison_from_Pioneer_Place_skybridge_R_Portland_Oregon.jpg. Right image: Aerial view of the commercial district. Source: © WikiVisually: Pioneer Place https://wikivisually.com/wiki/Pioneer_Place

Site Two (edge of the built-up area): Forest Park, Northwest Portland

This site is a semi-residential neighborhood close to the northwest UGB of Portland and adjacent to Linnton Park. In 2015, Metro Council voted against new development in this area in order to protect the valuable farmland,

forestland and natural features in accordance with plans at that time.²⁴⁵ The 2035 Comprehensive Plan zones most of the area for forest and farmland.



Left image: Satellite View of Forest Park, Google Maps (2018) Source: © <https://www.google.com/maps/@45.5990694,-122.8272009,1562m/data=!3m1!1e3>

Right image: Land use map for Forest Park Portland from the 2035 Comprehensive Plan
Dark green areas are zoned for open space and the lighter green for farmland and forestland.
Source: © <https://www.portlandoregon.gov/bps/2035-comp-plan.pdf>



Satellite View, 10548 NM Skyline Blvd, Portland Oregon. Small homes dot forested roads.
Source: © Google Maps (2018) <https://tinyurl.com/y9vrucnt>

²⁴⁵ Portland Tribune, Metro votes against expanding growth boundary (Nov. 12, 2015), <https://pamplinmedia.com/pt/9-news/280938-157288-metro-votes-against-expanding-growth-boundary->

Satellite imagery indicates that significant forest land and open space has been preserved. While there are some homes in the area, these homes are very far apart, with some surrounded by forests and some using the property as farmland. Accordingly, current development complies with the 2035 Comprehensive Plan.

D. LAND ADMINISTRATION

The minimum plot size used to approve subdivisions varies by zoning designation. Table 1 lists minimum plot sizes for single-dwelling residential zones and Table 2 lists minimum plot sizes for multi-dwelling residential zones.

Table 1 – Single-Dwelling Residential Zones Minimum Plot Size in square meters (m²)

Zoning Codes	RF	R20	R10	R7	R5	R2.5
Minimum Plot Size	4831	1115	557	390	279	149

Table 2 – Multi-Dwelling Residential Zones Minimum Plot Size (m²)

Zoning Codes	R3	R2	R1	RH	RX	RMP
Multi-Dwelling	557	371	929	929	None	929
Attached Houses	148	148	NONE	NONE	NONE	NA
Detached Houses	148	148	NONE	NONE	NONE	NA
Duplexes	371	185	NONE	NONE	NONE	NA

For lots in an industrial zone, all lots in the General Industrial 1 zone must meet Standard B in Table 3. For land divisions in the General Industrial 2 and Heavy Industrial zones with 10 or more lots, at least 80 percent of the lots must meet Standard A in Table 3 and the remaining

must meet Standard B. Land divisions in the General Industrial 2 and Heavy Industrial zones with between 2 and 10 lots must meet Standard A, and with 1 lot, Standard B.

Table 3 – Industrial Zones Minimum Plot Size (m²)

Standards:	Standard A	Standard B
Minimum Plot Size	3716	929

For lots in an employment zone, all lots in the EG1 zone must meet Standard B, stated in Table 4. For land divisions in the EG2 zone with 10 or more lots, at least 80 percent of the lots must meet Standard A, stated in Table 4, and

the remainder must meet Standard B. Land divisions in the EG2 zone with between 2 and 10 lots must meet Standard A, and with 1 lot, Standard B.

Table 4 – Employment Zones Minimum Plot Size (m²)

Standards:	Standard A	Standard B
Minimum Plot Size	1858	929

Portland has approved 19 land subdivisions in the past 12 months:²⁴⁶ With respect to land expropriation, Portland voters approved a bond measure in 2006 that allotted \$168 million for land acquisition by Metro. The land purchased by Metro was acquired at market rate from willing sellers, to protect prairies, wetlands and other natural habitats and to create outdoor recreation spaces.²⁴⁷ Between 2006 and 2016, Oregon Metro acquired 5,481 acres using funds from the 2006 bond measure.²⁴⁸

E. INSTITUTIONAL FRAMEWORK

Spatial planning is managed at the municipal level by Portland’s Planning and Sustainability Commission, pursuant to City Title § 33.710.020. The Planning and Sustainability Commission advises the City Council on Portland’s long-range land use, planning, and sustainability goals, policies, and programs.²⁴⁹

The Planning and Sustainability Commission has eleven volunteer commissioners, none of whom may hold public elective office.²⁵⁰ Currently, the Commission staff includes professionals from the following industries: architecture, land use law, marketing, business consulting, urban planning, and green housing development.

Development control and building inspection are not institutionally integrated with spatial planning as this is handled by the Bureau of Development Services.²⁵¹ Within this Bureau, the Portland Online Permitting Services & Inspection Services Unit possesses enforcement authority over development control and building codes. This unit is divided into three sub-units: Commercial Inspections, Residential Inspections and Livability Inspections. The Bureau of Development Services has carried out 2,195 administrative actions to enforce development within the past 12 months, as stated in Table 6 ²⁵².

Table 6 - Period (Sept. 2017 – Sept. 2018)*

Administrative Actions	Instances
Construction Code Complaints	104
Dangerous Structure Complaints	64
Housing Maintenance Complaints	1,039
Zoning Violation Complaints	988

* Portland, Oregon, Public Records, Portland Maps, <https://www.portlandmaps.com/advanced/?action=permits>.

²⁴⁶ City of Portland Corporate Geographic Information System (GIS) Team, *Portland Maps*, Land Use Data, <https://www.portlandmaps.com/advanced/?action=landuse#search>.

²⁴⁷ Oregon Metro, <https://www.oregonmetro.gov/public-projects/parks-and-nature-investments/history>.

²⁴⁸ Oregon Metro, <https://www.oregonmetro.gov/news/parks-and-nature-2016-land-acquisition>.

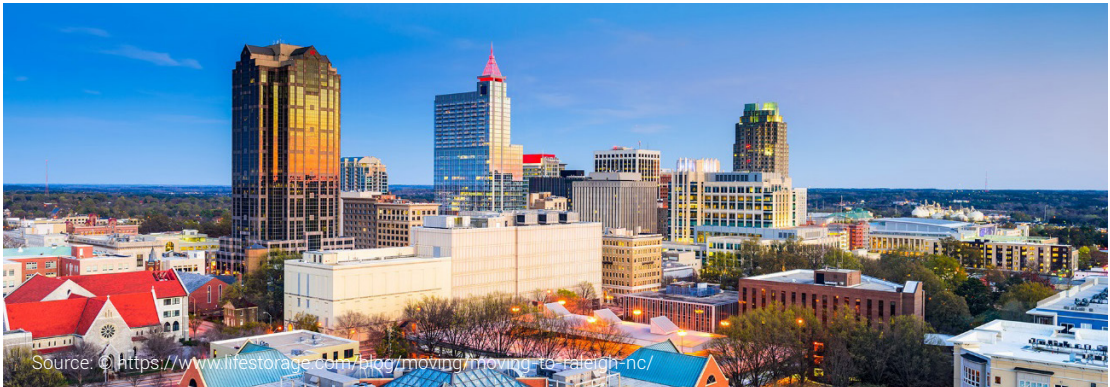
²⁴⁹ Portland, Oregon, City Code § 33.710.040.A

²⁵⁰ Portland, Oregon, City Code § 33.710.040.B.

²⁵¹ Portland, Oregon, City Code § 3.30.005.

²⁵² Portland, Oregon, Public Records, *Portland Maps*, <https://www.portlandmaps.com/advanced/?action=permits>.

14 RALEIGH, UNITED STATES



A. URBAN AREAS

The city of Raleigh is in Wake County, which lies in the northeast central region of North Carolina. Raleigh is the capital of North Carolina and the second-largest city within the state. It consists entirely of mainland, which is marked by rolling hills sloping toward the state's flat coastal plain. Although the state's zoning-enabling statute, N.C. GEN STAT. § 160A-383, establishes that "zoning regulations shall be made in accordance with a comprehensive plan," North Carolina's cities are not required by state law to prepare a comprehensive land use plan, and the nature of such a plan is not defined by statute.

However, Raleigh has a long history of using comprehensive city planning. Raleigh is guided by the 2030 Comprehensive Plan, which is a long-range policy document adopted by the City Council that applies to the entire city of Raleigh.²⁵³

²⁵³ This is currently being updated.

The Comprehensive Plan also contains 22 specific area plans that provide further guidance to selected geographic areas.²⁵⁴ The Plan establishes a vision for the City, provides policy guidance for growth and development and contains action items directed at the City to implement the vision. There is no urban growth boundary (UGB) or a de facto UGB for the city of Raleigh. The city of Raleigh has both Extra-Territorial Jurisdiction (ETJ) and Urban Service Areas (URSA), but neither serves as a restriction on urban growth. The ETJ is the land area outside the municipal boundary where the city exerts jurisdiction and applies planning powers. The URSA is an unincorporated area outside city limits in which Raleigh will eventually supply urban services²⁵⁵ and exert planning powers, such as zoning, if the URSA

²⁵⁴ These include: Arena, Avent West, Brier Creek Village, Cameron Park, Crabtree, Downtown West Gateway, Falls Lake, Falls of Neuse Corridor, Five Points East, Forestville Village, Garner-Tryon Neighborhood, I-540 Falls of Neuse, King Charles, Mission Valley, Olde East Raleigh, Rock Quarry-Battle Bridge, South Park, Stanhope Village, Triangle Town Center, Wade/Oberlin, Wake Crossroads.

²⁵⁵ These urban services could be water, wastewater, fire, and police protection etc.

is adjacent to corporate limits. The URSA is therefore a mechanism for orderly growth that is expected to be developed and serviced by the municipality in the future, as opposed to a UGB which is a hard-line restricting development outside the boundary. If a site in the ETJ or URSA develops to the degree where it can be serviced by public utilities, the site will typically be annexed into city limits. The average population density within Raleigh's jurisdiction is 1,964 people per km².²⁵⁶ At the city's annual growth rate (2.5%), it would take the city until 2090 to reach an average population density of 15,000 people per km² within the existing municipal boundary.

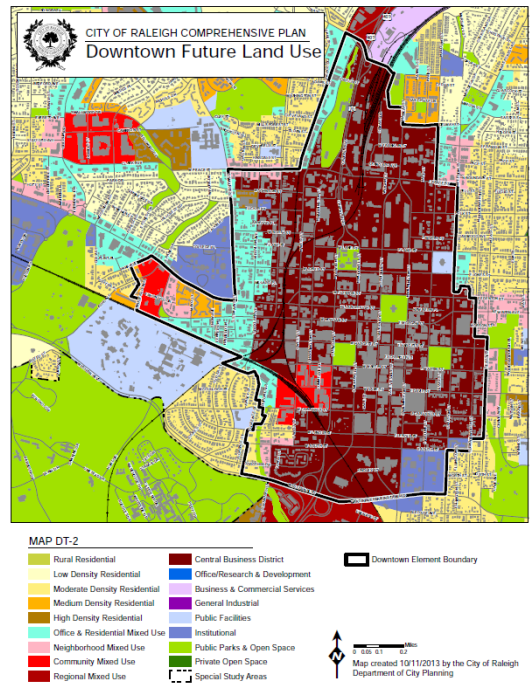
B. URBAN PLANS

100% of the area available for urbanization is covered by the Raleigh Comprehensive Plan. The Comprehensive Plan, including the 22 specific area plans, were adopted by the City Council in 2009. The age of plans currently in force is 11 years.

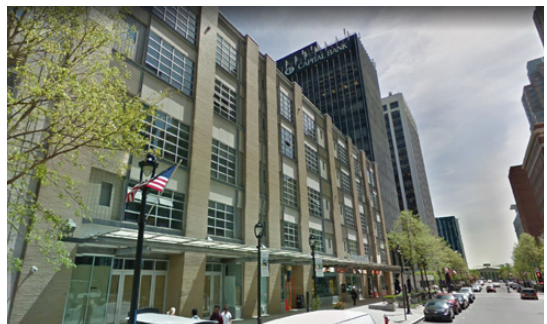
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Raleigh Downtown

Raleigh's downtown is the most developed part of the city and its commercial hub. It lies at the nexus of the city's roadway and public transportation networks. The average development trend is toward mixed-use in compliance with the Raleigh Comprehensive Plan: Downtown Future Land Use 2030.



Source: © Raleigh Comprehensive Plan; Downtown Future Land Use 2030



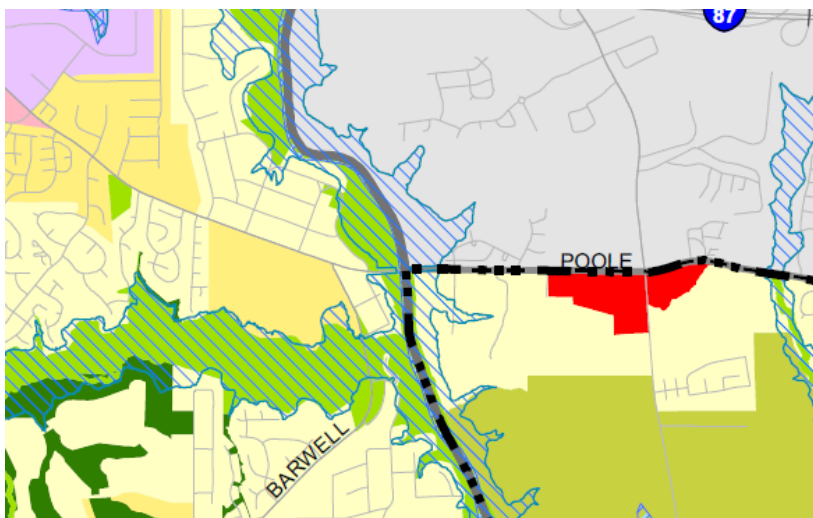
²⁵⁶ Population Density = Total Population (458,682 inhabitants) divided by Total Land Area (233.56 km²).



The images show commercial development of the downtown district. Source: © City of Raleigh

Site Two (edge of the built-up area): Porter's Ranch

Porter's Ranch is an area located on the edge of city limits at the intersection between Poole Road and Rock Drive near the Neuse River. Development in Porter's Ranch has remained rural residential/low density residential in nature and complies with the 2030 Comprehensive plan. There is no specific area plan guidance for this location.



Low Density Residential

This category encompasses most of Raleigh's single-family detached residential neighborhoods, corresponding roughly to the R-2, R-4, and R-6 zoning districts (but excluding parks within these districts). It also identifies vacant or agricultural lands – in the city and in the county – where single-family residential use is planned over the next 20 years. Smaller lots, townhouses and multifamily dwellings would only be appropriate as part of a conservation subdivision resulting in a significant open space set-aside. As defined in the zoning regulations, manufactured home parks could also be appropriate in this land use category.

Source: 2030 Comprehensive Plan map. Blue cross hatch indicates the Neuse River critical habitat and open space. Map available at: <https://www.raleighnc.gov/business/content/PlanDev/Articles/LongRange/2030ComprehensivePlan.html>



These images demonstrate the low-density development of Porter's Ranch. Source: © City of Raleigh

D. LAND ADMINISTRATION

The size of land subdivisions that are legal and can be approved in Raleigh is contingent on the zoning district and building type. Other than mixed-use downtown lots (DX) that require no minimums, the minimum lot size is 371.6 m². 87 land subdivisions have been approved in the past 12 months. There is a record of public acquisition of land within the municipal boundary in the last five years.²⁵⁷

E. INSTITUTIONAL FRAMEWORK

Planning and development control is managed at the municipal level by both the Raleigh Department of City Planning and the Development Services Department. Effective July 1, 2015, the Planning and Development Department split into the Department of City Planning that enforces zoning violations with 42 staff ²⁵⁸ and the Development Services Department that enforces development regulation with 136 staff.²⁵⁹ Both entities

perform development control functions independently.²⁶⁰ The Department of City Planning has 6 zoning enforcement officers and the Development Services department has 3 officers, who have regulatory authority to enforce development control. The Department of City Planning has carried out approximately 500 administrative actions namely, zoning code enforcement to enforce development within the past 12 months. Code enforcement officers can issue notices of violation, and if a violation is not rectified, the officer may issue a summons to the violator. If found guilty, the violator may be subject to civil penalties until the property conforms to the code.

In terms of legislative framework, the Departments of City Planning and Development Services rely on the following state laws:

- Chapter 153A Counties, Article 18 Planning and Regulation of Development; and
- Chapter 160A Cities and Towns, Article 19 Planning and Regulation of Development.

²⁵⁷ For example, in 2016, the city purchased 0.98 acres at 1514 Ronald Drive for use as a future fire station.

²⁵⁸ According to the Department of City Planning Employee Directory (2018), these include: 18 planners, 6 zoning inspectors, 8 designers, 7 real estate experts, 1 GIS Analyst, and 2 communications specialists

²⁵⁹ According to the Department of Development Services Employee Directory (2018), these include: 16

planners, 66 building inspectors and plan reviewers, 22 land development inspectors and plan reviewers, 3 zoning inspectors, and 29 business support specialists.

²⁶⁰ Development regulation enforcement is the enforcement of all building codes during the construction process, and issuing a final Certificate of Occupancy. Zoning violation enforcement is making sure all current active uses follow the regulations in the Unified Development Ordinance.

15 SPRINGFIELD, UNITED STATES



Source: © Springfield-MA.gov

A. URBAN AREAS

The City of Springfield is the third largest city in the state of Massachusetts, serving as the commercial, financial, and cultural center of the western part of the state.²⁶¹ The city hosts a population of 153,060²⁶² and is the heart of a larger metropolitan area of more than 600,000 people.²⁶³

In the U.S., states play a key role in regulating urban growth. Some states have passed statewide comprehensive planning and growth management legislation.²⁶⁴ Others, like Massachusetts, primarily delegate land use planning to local governments. Under Massachusetts General Laws Chapter 40A, known as “The Zoning Act,” enacted in 1975

²⁶¹ Open Space & Recovery Action Plan 2015 – 2022, https://www.springfield-ma.gov/planning/fileadmin/Planning_files/Open_Space_Plan/OpenSpace_FINAL_2015.pdf, p. 13.

²⁶² *Ibid.*, p. 10.

²⁶³ <https://censusreporter.org/profiles/31000US44140-springfield-ma-metro-area/>

²⁶⁴ David L. Callies, Robert H. Freilich, Shelley Ross Saxer, *Land Use: Cases and Materials*, 7th ed. (2017), West Academic Publishing: St. Paul, MN, p.p. 884 – 905.

and revised in 2016, cities and towns in Massachusetts are authorized to adopt zoning ordinances and by-laws.²⁶⁵

Springfield is guided by Springfield Zoning Ordinance 2013²⁶⁶, and Open Space & Recovery Action Plan 2015 – 2022,²⁶⁷ which establish *de facto* urban growth boundaries through land use zoning. The total area available for urbanization under these plans amounts to 82.1 km². Springfield has limited land available for new development, however, and has achieved maximum buildout.²⁶⁸

In relation to population density, data for population within the area legally available for urbanization is not available. The closest equivalent is the population density within the administrative boundary, which is 1,864 persons per km².

²⁶⁵ Mass. Gen. Laws Chapter 40A, <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter40A>.

²⁶⁶ City of Springfield Zoning Ordinance Articles, <https://www.springfield-ma.gov/code/index.php?id=zoning-ordinances>.

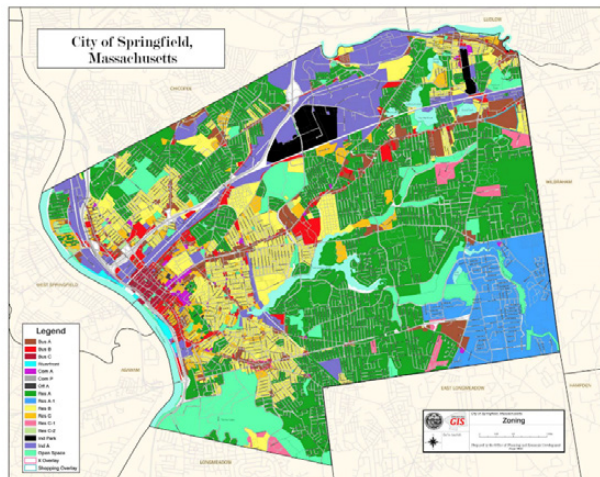
²⁶⁷ *Supra*, note 300.

²⁶⁸ *Ibid.*, p. 18.

At the current population growth rate (0.7%), population density is not expected to significantly increase in the foreseeable future.

However, hypothetically, the city would reach 15,000 people per km² by year 3025.

B. URBAN PLANS



Source: © Open Space & Recovery Action Plan 2015 – 2022

100% of the area in Springfield available for urbanization is covered by the two aforementioned spatial plans. The age range of current plans in force is 4 years, and the average age of those plans is 6 years. Springfield has limited land available for new development. Due to limited amount of vacant land (approximately 7.5% of total land area), future development will consist of continued infill development and redevelopment of commercial centers, downtown, and inner-city neighborhoods.

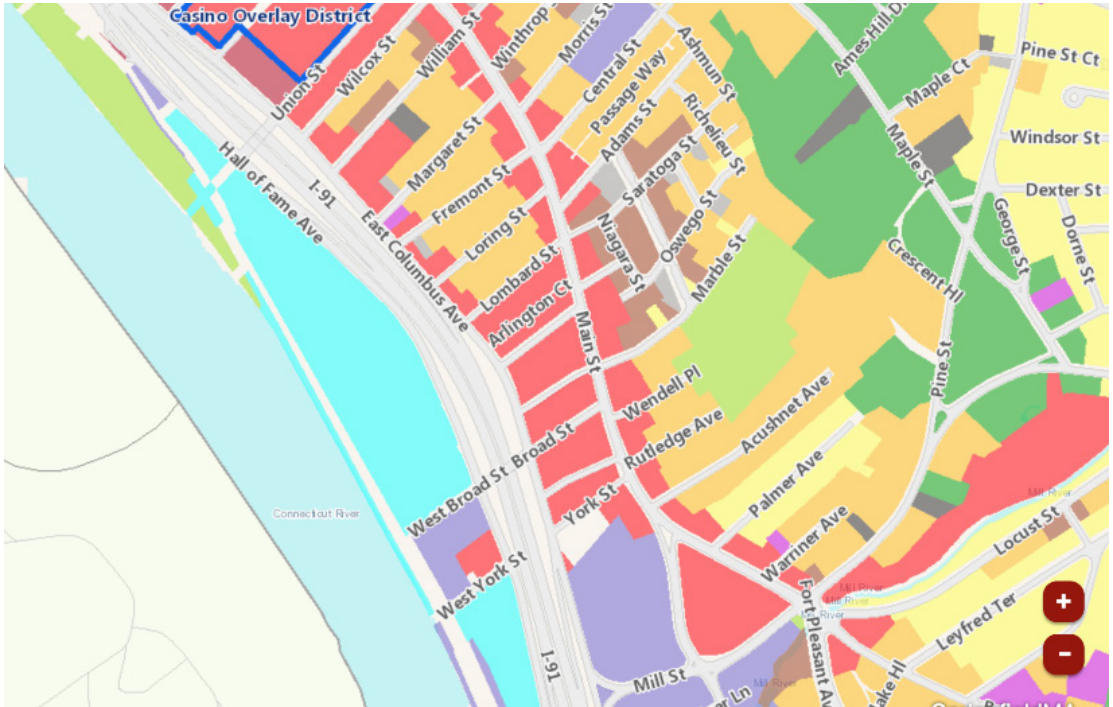
C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Naismith Memorial Basketball Hall of Fame (Riverfront District)

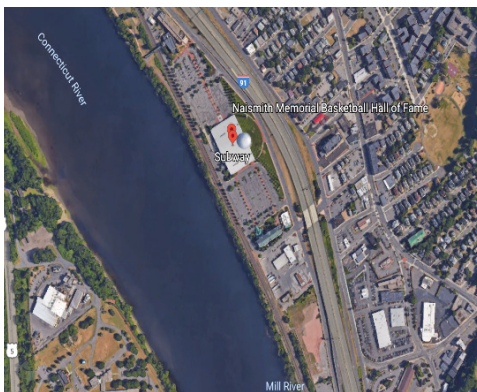
Riverfront development is one of the major ongoing projects in Springfield, and Naismith Memorial Basketball Hall of Fame is a big part of that project. Riverfront district permits mixed-use buildings, medium density residential, lodging, medical and financial services, open space areas, recreation and entertainment according to Article 3 of the City of Springfield Zoning Ordinance.²⁶⁹

²⁶⁹ City of Springfield Zoning Ordinance Article 3, Section 3.2: Purpose of Zoning Districts, p. 63, https://www.springfield-ma.gov/planning/fileadmin/Planning_files/Zoning_2013_Documents/Images/Article_3_2017.pdf

This site is designated as a cultural facility which complies with the zoning requirements for this area.



Source: © Springfield WebGIS, <https://maps.springfield-ma.gov/gis/#search-count>

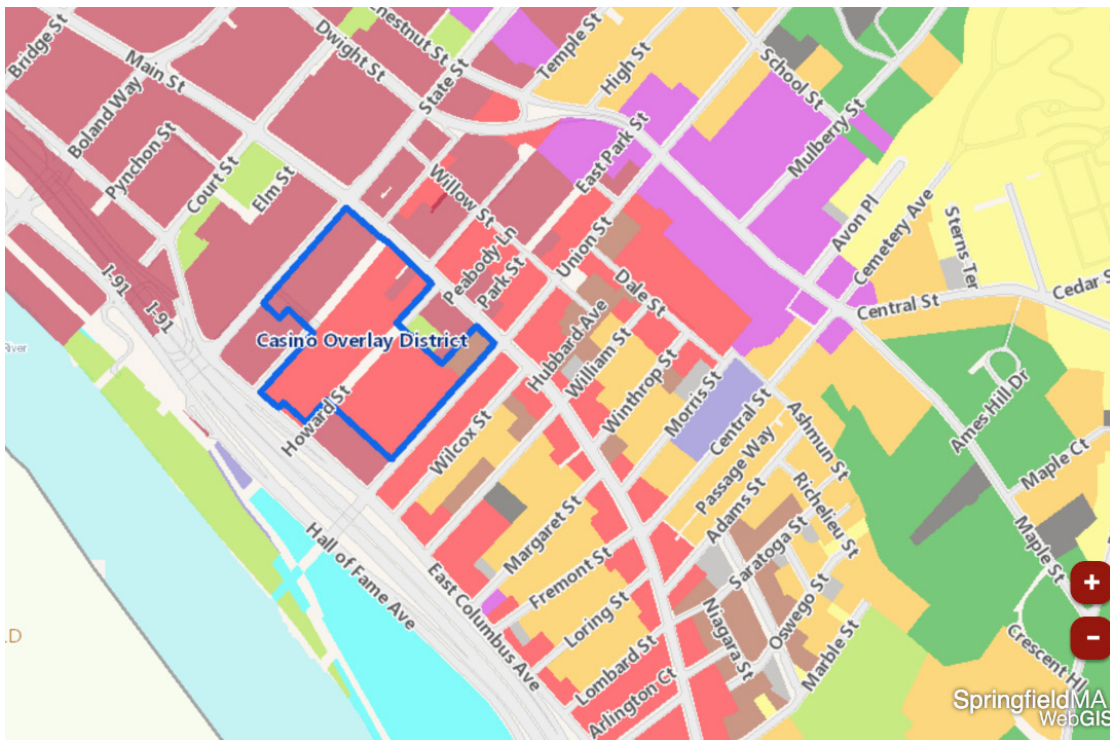


Source: © Google Earth

Site Two (edge of the built-up area): MGM Springfield Resort Casino

The MGM Resort Casino is a brand-new development, located within Springfield Central Cultural District. Constructed in an area negatively affected by a tornado in 2011 and completed in 2018, the development stands in the Casino Overlay zoning district (outlined in blue). The development preserves some of the registered historical properties and hosts a 2 million-square-foot complex with gaming, restaurants, a hotel, a spa, a movie theater, retail space, and off-site residential units.

The current state of the MGM Springfield Resort Casino shows compliance with the Casino Overlay District zoning requirements that include Business A, Business B, and Business C zoning districts²⁷⁰ and permit the “casino and casino complexes, inclusive of accessory uses, including but not limited to retail, restaurants, hotels, accessory parking, housing, etc.”²⁷¹



Source: © Springfield WebGIS, <https://maps.springfield-ma.gov/gis/##search-count>

²⁷⁰ Springfield WebGIS, <https://maps.springfield-ma.gov/gis/##search-count>.

²⁷¹ City of Springfield Zoning Ordinance Article 3, Section 3.2: Purpose of Zoning Districts, *supra*, p. 64.



Source: © <https://www.springfield-ma.gov/planning/index.php?id=casino>.

D. LAND ADMINISTRATION

The minimum residential plot size in Springfield, MA is contingent on the land use. For residential uses, the minimum lot size depends on the principal use and the location in the zoning district. For instance, the minimum lot size for a single-family dwelling in a Residential A1 district is 929 m² but 464.5 m² in a Residential C-1 area.

In commercial districts, only Office A districts have the minimum lot area specified (557.4 m²); no set minimum lot area in Commercial Parking, Commercial A, Business A, Business B, Central Business District, or Regional Shopping districts exists.²⁷² In industrial districts, only Industrial Park districts have a minimum lot requirement of 6,070.3 m²; no minimum lot area requirements are imposed

²⁷² City of Springfield Zoning Ordinance Articles, Section 5.3.10: Dimensional and Intensity Regulations in Business Districts, https://www.springfield-ma.gov/planning/fileadmin/Planning_files/Zoning_2013_Documents/Images/Article_5_2017.pdf

in either Mixed Use Industrial or Industrial A districts.²⁷³

Two land subdivisions have been approved in the past twelve months: Bay Street (24,095 m²) and Juliet Street (8,582.5 m²). In the last five years, the city has acquired 350 properties through tax title process. Many of these expropriated properties were repossessed by the owner, some were auctioned by the city.

E. INSTITUTIONAL FRAMEWORK

Planning and development control at the municipal level is managed by the Office of Planning & Economic Development,²⁷⁴ which consists of three main departments: (1) The City of Springfield Planning Department,²⁷⁵

²⁷³ City of Springfield Zoning Ordinance Articles, Section 5.4: Industrial Districts, https://www.springfield-ma.gov/planning/fileadmin/Planning_files/Zoning_2013_Documents/Images/Article_5_2017.pdf

²⁷⁴ The Office of Planning & Economic Development, <https://www.springfield-ma.gov/planning/>

²⁷⁵ City of Springfield Planning Department, <https://www.springfield-ma.gov/planning/index.php?id=planning>

which serves as the administration for the Planning Board, Conservation

Commission, and Historical Commission; (2) City of Springfield Economic Development, which offers incentives and assistance to businesses and commercial developers and manages the city's Brownfields Program;²⁷⁶ and (3) Springfield Redevelopment Authority (SRA) that buys and sells property, acquires property through eminent domain, and constructs, finances, and maintains properties throughout the City.²⁷⁷ Currently, the Office of Planning & Economic Development has 5 planners, who are full-time employees.

The office of Planning & Economic Development is also responsible for the enforcement of development control, undertaken by its Department of Inspectional Services, Building Division, which has 40 professional staff. The city's Department of Public Works also has a site plan review process for development. It has 65 professional staff employees and controls storm water, drainage, and traffic.

There is no record of prosecutions, demolitions, fines, or other administrative actions to enforce planning or development control in the last 12 months.

In terms of the legislative framework, the Office of Planning & Economic Development relies on the following laws:

- Springfield City Ordinances, adopted in 2012;
- Springfield Zoning Ordinance, enacted in 2013 and amended in 2017 in accordance with the Massachusetts General Laws Chapter 40A, and any and all amendments thereto, and authorized by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts (the "Home Rule Amendment");
- Massachusetts General Laws, Part I, Title XVII, Chapter 121B, current as of February 2017;
- Massachusetts General Laws, Part I, Title VII, Chapter 41, current as of February 2017;
- Massachusetts Building Code 780 C.M.R., 9th Edition, effective as of 2018.

²⁷⁶ City of Springfield Economic Development, <https://www.springfield-ma.gov/planning/index.php?id=econ-dev>

²⁷⁷ Springfield Redevelopment Authority, <https://www.springfield-ma.gov/planning/index.php?id=sra>

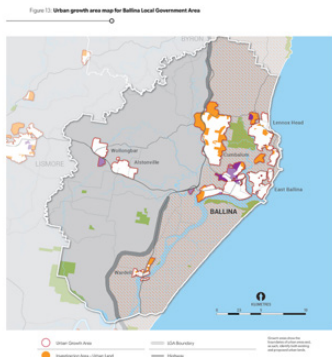
16 SYDNEY, AUSTRALIA



A. URBAN AREAS

The city of Sydney, which is the capital of New South Wales (NSW) and one of Australia's largest cities, is best known for its harbor-front Sydney Opera House, with a distinctive sail-like design. Located on Australia's east coast, the metropolis surrounds Port Jackson and extends about 70 km on its periphery towards the Blue Mountains to the west, Hawkesbury to the north, the Royal National Park to the south and Macarthur to the south-west. Sydney is made up of 658 suburbs, 40 local government areas and 15 adjoining regions.

Each local government with the Greater Sydney area has an urban growth area map.²⁷⁸ In relation to the population density, data for population within the area legally available for urbanization is not available. The closest equivalent is the population density within the built-up area which has an area of 4,064 km² and 5,029,711 people.²⁷⁹ This translates to an average population density of 1,237 people per km². At the current population growth rate (1.5%), it would take the city until 2493 reach a density of 15,000 people per km² within the existing built-up area. There is minimal sprawling development beyond the growth boundaries.



Source: © New South Wales Department of Planning and Environment. Urban Growth Area Map for Ballina Local Government Area. <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/North-Coast/North-Coast-Regional-Plan/Local-government-narratives-and-urban-growth-area-maps>

²⁷⁸ <https://www.planning.nsw.gov.au/Plans-for-your-area/Regional-Plans/North-Coast/North-Coast-Regional-Plan/Local-government-narratives-and-urban-growth-area-maps>

²⁷⁹ <https://www.cityofsydney.nsw.gov.au/learn/research-and-statistics/the-city-at-a-glance/greater-sydney>

B. URBAN PLANS

Section 3.3 of the Environmental Planning and Assessment Act 1979 requires urban plans to include or identify: a) the basis for strategic planning in the region having regard to economic, social and environmental matters; b) a vision statement; c) objectives consistent with that vision; d) strategies and actions for achieving those objectives; and e) an outline of the basis on which the implementation of those actions will be monitored and reported. The Greater Sydney Commission prepared the Greater Sydney Region Plan - A Metropolis of Three Cities in 2016 concurrently with Future Transport 2056 and the State Infrastructure Strategy, aligning land use, transport and infrastructure planning to reshape Greater Sydney as three unique but connected cities. The Regional Plan was approved in 2018 and it establishes a 20-year framework to manage growth and change for Greater Sydney in the context of social, economic and environmental matters.²⁸⁰ Other numerous planning and development controls are in force such as the Local Environmental Plans (LEPs) prepared by relevant local government authorities. These are statutory documents that guide planning decisions and manage the way land is used within a local government area. Through zoning and planning controls, LEPs are used to reserve land for open space, schools, transport or other public purpose as well as guide development and protect the environment.

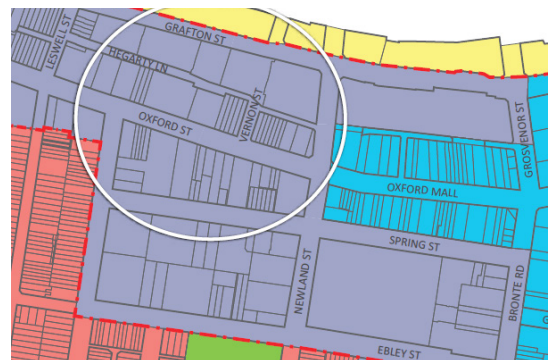
²⁸⁰ <https://www.greater.sydney/metropolis-of-three-cities/about-plan#fig2> For more information, the Regional Plan can be accessed here: <https://gsc-public-1.s3-ap-southeast-2.amazonaws.com/greater-sydney-region-plan-0618.pdf>

An LEP generally comprises of a written instrument and accompanying maps.²⁸¹ For example, the City of Sydney Local Environmental Plan 2012 applies to development within the city proper. The average age of plans currently in force is 3.5 years.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Newland Street, Bondi Junction Westfield

The Bondi Junction Urban Design Review (approved in 2013), recommends changing the area west of Newland Street which is presently B3 Commercial Core (under the Waverley Local Environmental Plan 2012) to B4 Mixed Use. Current development shows compliance with the proposed amendment.



B3	Commercial Core
B4	Mixed Use
R3	Medium Density Residential
R4	High Density Residential
RE1	Public Recreation
SP2	Infrastructure

Source: © Waverley Council.
http://www.waverley.nsw.gov.au/_data/assets/pdf_file/0005/64607/BJUDR_Final_Report_Low_res_Report-220213.pdf

²⁸¹ <https://www.penrithcity.nsw.gov.au/building-development/planning-zoning/planning-controls/local-environment-plans#quick-link-1>

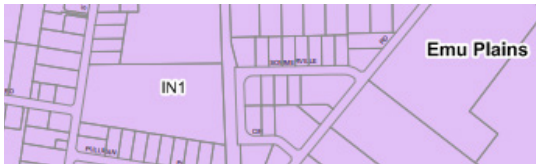


The images above show a blend of residential, commercial and institutional uses. Source: © Google Maps

Site Two (edge of the built-up area): Emu Plains, Penrith

This site is earmarked as “General Industrial” according to the Penrith Local Environmental Plan 2010 (Land Zoning Map - Sheet LZN_005).

Current development shows non-compliance with the plan given the predominant presence of residential developments.



- IN1** General Industrial
- IN2** Light Industrial
- R1** General Residential

Source: © Penrith City Council. https://legislation.nsw.gov.au/maps/fd7f5bed-f8e5-4c76-bec4-f03397c346b9/6350_COM_LZN_005_020_20160829.pdf



The images above show residential developments in Emu Plains which contradicts the zoning requirement. Source: © Google Maps

D. LAND ADMINISTRATION

The size of land subdivisions that are legal and can be approved depends on the land uses. However, the New South Wales Department of Planning and Environment sets a standard

minimum lot size of 250m² for residential developments.²⁸²

²⁸² <http://www.prpsydne.com.au/good-news-for-developers-and-builders-as-the-nsw-government-announces-new-approval-pathways-for-residential-properties/>

Hundreds of thousands of land subdivisions have occurred in the past 12 months (April 2018 – March 2019).²⁸³ There is record of acquisition of land for public purposes in the past five years undertaken by the Roads and Maritime Services²⁸⁴ (RMS) as part of developing or upgrading infrastructure. For instance, in 2014, the RMS acquired privately-owned property to construct the Gerringong Bypass.²⁸⁵

E. INSTITUTIONAL FRAMEWORK

Planning and development control is carried out at both the state and municipal levels. At the state level, this is managed by the New South Wales Department of Planning and Environment (NSW) while at the municipal level, this is undertaken by the City of Sydney Planning Department.

The New South Wales Land and Environment Court hears environmental, development, building and planning disputes. NSW has 1,932²⁸⁶ professional staff while the City of Sydney has 1,763²⁸⁷ professional staff.

NSW has carried out 1600 administrative actions to monitor and enforce planning and development control in the past 12 months (see figure below).²⁸⁸ Records of enforcement actions by the Council of the City of Sydney for the past 12 months could not be ascertained.²⁸⁹

²⁸³ http://www.nswlrs.com.au/_data/assets/pdf_file/0016/223090/2017-2018_Q4_new_parcels.pdf, http://www.nswlrs.com.au/_data/assets/pdf_file/0010/225676/2018-2019_Q1_new_parcels.pdf, http://www.nswlrs.com.au/_data/assets/pdf_file/0005/226895/2018-2019_Q2_new_parcels.pdf, http://www.nswlrs.com.au/_data/assets/pdf_file/0009/228168/2018-2019_Q3_new_parcels.pdf

²⁸⁴ Roads and Maritime Services is the government body responsible for providing a safe and efficient road transport system in New South Wales.

²⁸⁵ <https://www.rms.nsw.gov.au/documents/projects/factsheet-land-acquisition-information-guide.pdf>

²⁸⁶ This number is comprised of permanent (1,346 full time and 163 part-time), temporary (219 full time and 44 part-time) and 160 senior executive staff members as of the year 2017-2018. For more information, see NSW Planning and Environment, 'Annual Report 2017-2018' <https://www.planning.nsw.gov.au/-/media/Files/DPE/Reports/annual-reports-and-corporate-plans/dpe-annual-report-2017-18.pdf?la=en>

²⁸⁷ This figure has been taken from the City of Sydney, 'Annual Report 2016/17' pg. 33 https://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0008/292382/Financial-Reports-2016-17.pdf

²⁸⁸ 1554 compliance monitoring activities and 46 enforcement activities.

²⁸⁹ However, it should be noted that there is evidence of enforcement action undertaken by the Council of the City of Sydney given the existence of this policy document. Prosecution and Civil Enforcement Policy 2017, https://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0004/200992/Prosecution-and-civil-enforcement-policy.pdf

COMPLIANCE MONITORING ACTIVITIES	2018/2019 TOTAL
Inspections completed	515
Investigations completed	235
Review of compliance documentation	804
Subtotal compliance monitoring	
ENFORCEMENT ACTIVITIES	2018/2019 TOTAL
Official cautions issued	16
Orders imposed	16
Enforceable undertaking	1
Penalty notices	12
prosecutions	1
Total	46

In terms of the legislative framework, the NSW and City of Sydney rely on the following legislative instruments:

- The Constitution of Australia 1900;
- The Environmental Planning and Assessment Act 1979;
- The Protection of the Environment Operations Act 1997;
- The Local Government Act 1993;
- The Greater Sydney Commission Act 2015;
- The NSW Roads Act (1993);
- The Road Transport Act 2013;
- The Crown Lands Act 1989;
- The Land Acquisition (Just Terms Compensation) Act 1991; and
- The Heritage Act 1977 (NSW).

17 TOLEDO, UNITED STATES



Source: © <https://www.agefriendly.com/cities/Toledo+OH+USA>

A. URBAN AREAS

The City of Toledo, the fourth largest city in Ohio, is located in Northwest Ohio's Lucas County. A once booming port city, Toledo sits at the western end of Lake Erie. Since its days as the "Glass City," when the city was home to the nation's glass manufacturers, Toledo has seen a steady decline in population. Currently, Toledo consists of 24 neighborhoods²⁹⁰ governed by the Toledo-Lucas County Plan Commissions,²⁹¹ the 20/20 Comprehensive Plan, and the Toledo Municipal Code.²⁹²

290 These include: Franklin Park, East Toledo, Birmingham, Totco, Warren Sherman, Lagrange, North River, Fort Industry, Point Place, North Towne, Whitmer-Trilby, Scott Park, Secor Garden, South Side, DeVaux, Glendale, Beverly, Reynolds Corners, Southwyck, Five Points, Englewood, Onyx, West Gate, Ottawa, Old West End, Downtown. City of Toledo, Neighborhood & Council Districts, <https://toledo.oh.gov/media/5377/neighborhoods.pdf>.

291 The Toledo-Lucas County Plan Commissions is comprised of two separate commissions: The Toledo City Plan Commission and the Lucas County Planning Commission. The purpose of this joint commission is to "create a community with a high quality of life and access to economic opportunity for...residents." This is achieved "by providing effective guidance on land use decisions." See City of Toledo, Ohio, Plan Commission, <https://toledo.oh.gov/services/plan-commission/>.

292 American Legal Publishing Corporation, Toledo Municipal

Code, [http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/parteleven-planningandzoningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:toledo_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/parteleven-planningandzoningcode?f=templates$fn=default.htm$3.0$vid=amlegal:toledo_oh).

Together, these entities establish a *de facto* urban growth boundary (UGB) through land use zoning. According to the U.S. Census Bureau, Toledo has a population of 278,000 people and has experienced a 4% decrease in population since 2010. It is approximately 206 km² and holds approximately 1,359 people per km².²⁹³ At the current population growth rate of -4%, the city is unlikely to ever reach a population density of 15,000 per km².

To preserve natural land, the city has incorporated regulations and land use plans that preserve unique and fragile areas of land.²⁹⁴ Toledo's Special Purpose Districts "protect natural amenities" of open land. Within a particular residential area, where there might be natural land to protect, the Toledo City Plan Commission developed subdivision

Code, [http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/parteleven-planningandzoningcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:toledo_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/parteleven-planningandzoningcode?f=templates$fn=default.htm$3.0$vid=amlegal:toledo_oh).

293 United States Census Bureau, Quick Facts: Toledo Ohio, July 2017, <https://www.census.gov/quickfacts/toledocityohio>.

294 Toledo City Plan Commission Report, (Oct. 12, 2017) <https://toledo.oh.gov/media/4582/october-12-city.pdf>, pgs. 3-4.

regulations that require commission approval before natural land can be built up.²⁹⁵ Many Special Purpose Districts are surrounded by residential, commercial and large industrial zones.²⁹⁶

B. URBAN PLANS

100% of the area within Toledo's *de facto* UGB is governed by the spatial plans adopted pursuant to Toledo's Municipal Code, Part Eleven - Planning and Zoning Code, enacted in 2004. The Zoning Index created pursuant to Part Eleven of the Municipal Code, outlines planning by district.

In 2000, Toledo adopted the 20/20 Comprehensive Plan, which was subsequently amended by Ordinance 367-11 in 2011, to rethink infrastructure and development within the city's limits.²⁹⁷ Among other items outlined in the plan, the city government envisions a more stable housing stock, a flourishing downtown, and nature as a recreational attraction by 2020. The 20/20 Comprehensive Plan "provides a set of recommendations to guide the future growth and development of the city."²⁹⁸ Part of its implementation framework includes "land use and related recommendations for the development and redevelopment of the city," and "code enforcement" in order to scale up development

²⁹⁵ Subdivision Rules & Regulations For the City of Toledo, § 302, <https://toledo.oh.gov/media/1099/subdivision-regulations-toledo.pdf>.

²⁹⁶ City of Toledo Zoning Index, <https://toledo.oh.gov/media/1233/Toledo-BaseMap.pdf>.

²⁹⁷ City of Toledo, Ohio, <https://toledo.oh.gov/media/1129/toledo-2020-plan.pdf>; The University of Toledo Urban Affairs Center, Planning Downtown Toledo, <https://www.utoledo.edu/centers/urban-affairs/docs/planning-downtown.pdf>.

²⁹⁸ City of Toledo, Ohio, <https://toledo.oh.gov/media/1129/toledo-2020-plan.pdf>.

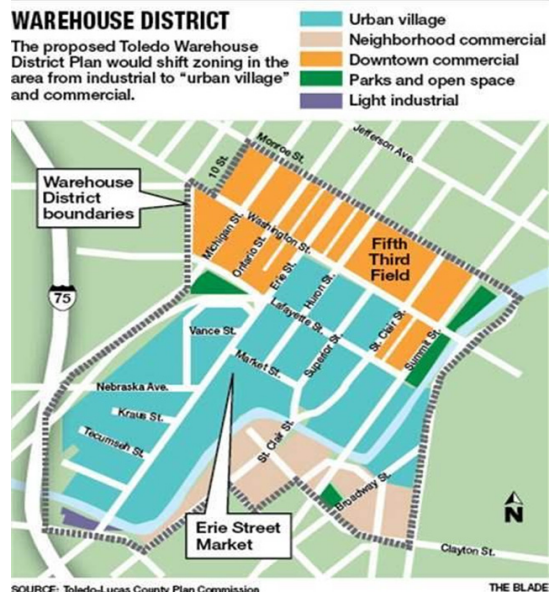
downtown to attract more businesses and people to the city.²⁹⁹

Toledo's 20/20 Comprehensive Plan is the only plan presently in force, making the average age of plans in force 9 years.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Downtown Toledo

Downtown Toledo, Ohio is primarily zoned for commercial usage.



Source: © The Blade, https://www.toledoblade.com/local/2013/02/15/Shift-in-zoning-aims-to-protect-Warehouse-District-area-property-owners-worry.html?fb_comment_id=412243032196887_2601701

²⁹⁹ Ignazio Messina, Official: Lots to do yet on city's 20/20 plan, The Blade, <https://www.toledoblade.com/local/2014/11/03/Official-Lots-to-do-yet-on-city-s-20-20-plan/stories/20141102177>, (last visited Dec. 5, 2018).

From the below aerial shot, the streets surrounding Fifth Third Field in Downtown Toledo are in compliance with Toledo's Planning and Zoning Code as well as the 20/20 Comprehensive Plan because the area consists of high-rise offices and low-rise retail space.

The area also contains restaurants and shops indicating compliance with the commercial zoning as well as compliance with the 20/20 Comprehensive Plan's vision for a "flourishing" commercial downtown.³⁰⁰

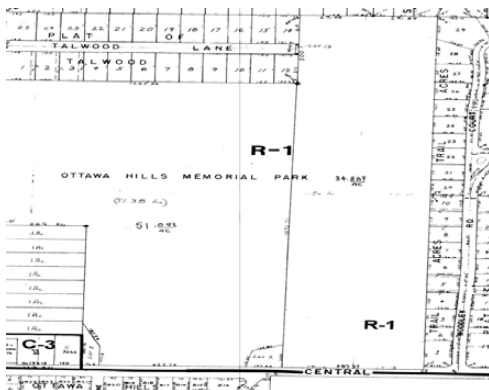


Aerial shot of the area surrounding Fifth Third Field., Source: © Flickr, <https://www.flickr.com/photos/owhsports/5633258164>

Site Two (edge of the built-up area): Ottawa Hills Memorial Park

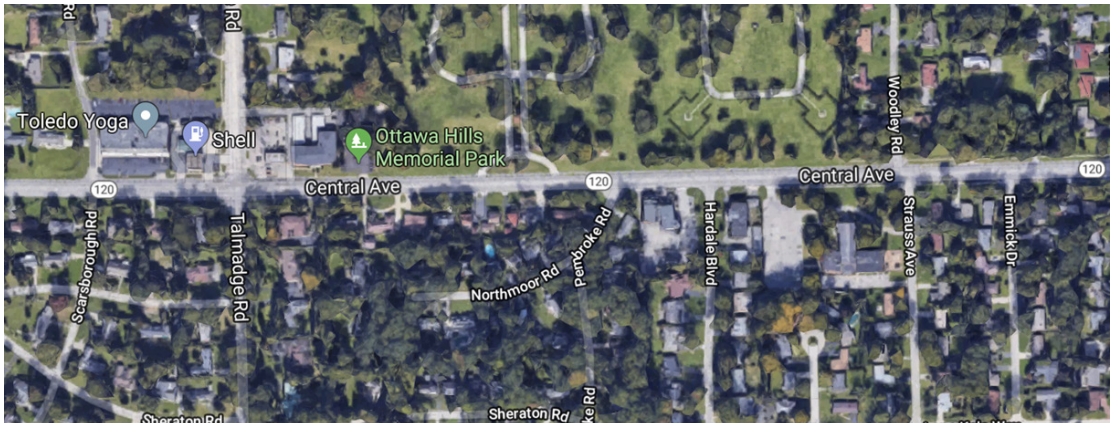
Pursuant to Toledo's Zoning Index and the 20/20 Comprehensive Plan's recommendation for more park space, Zone 78, which contains

Ottawa Hills Memorial Park, is sectioned primarily for public green space.



Source: © City of Toledo, Ohio, <https://toledo.oh.gov/services/plan-commission/zoning-maps/> click on 78 for Zone 78 map (<https://toledo.oh.gov/media/1312/Toledo-78.pdf>)

³⁰⁰ Google Maps, <https://www.google.com/maps/place/Fifth+Third+Field/@41.6487177,-83.5403625,17z/data=!4m5!3m4!1s0x0:0x1cb79ecbd76fb1b2!8m2!3d41.6485687!4d-83.5386609> (last visited Dec. 13, 2018); City of Toledo, Ohio, <https://toledo.oh.gov/media/1129/toledo-2020-plan.pdf> at pgs. 2-4.



Source: © Google Maps, <https://www.google.com/maps/place/Ottawa+Hills+Memorial+Park/@41.6773682,-83.6434969,244m/data=!3m1!1e3!4m5!3m4!1s0x883c7edbaaaa2fa5:0xb43d5338c312a23618m2!3d41.6774658!4d-83.6426154>

Despite being zoned as green space, some commercial development has encroached upon the Ottawa Hills Memorial Park. As seen above, “Toledo Yoga” and “Shell” gas station, both commercial units (C-3), have encroached upon park land (R-1). However, there is no public record of enforcement action against either of these entities, and a substantial portion of the greenspace has been preserved, as demonstrated by the image.

Therefore, on the whole, current development indicates compliance with the Zoning Index and 20/20 Comprehensive Plan.

D. LAND ADMINISTRATION

The size of land subdivisions that are legal and can be approved in Toledo varies by zoning district. The minimum land division plot sizes for residential and commercial zoning³⁰¹ districts can be found in Tables below:

Table 1 – Residential Zoning Districts Minimum Lot Area Standards*

	Single-Dwelling Residential (111 m2)	Single-Dwelling Residential, (836 m2)	Single-Dwelling Residential, (557 m2)	Duplex Residential, (57 m2)	Multi-Dwelling Residential (with 12 units per acre)	Multi-Dwelling Residential (with 24 units per acre)	Multi-Dwelling Residential (with 36 units per acre)	Manufactured Housing Park
Detached House	1115	836	557	557	557	557	557	N/A
Attached House	N/A	N/A	N/A	279	279	279	279	N/A
Duplex	N/A	N/A	N/A	279	279	279	279	N/A
Multi-Dwelling	N/A	N/A	N/A	N/A	334	167	111	N/A
Manufactured Home	N/A	N/A	N/A	N/A	N/A	N/A	N/A	334
All Other Development	1115	836	557	557	557	557	557	N/A

* Toledo, Ohio, Mun. Code §1106.0100 (2004).

301 Toledo, Ohio, Mun. Code §1106.0100 (2004).

Table 2 – Commercial Zoning Districts Minimum Lot Area Standards*

Minimum Lot Area (m ²)	Neighbourhood Commercial	Office Commercial	Mixed Commercial-Residential	Storefront Commercial	Regional Commercial	Downtown Commercial
Detached House	557	N/A	N/A	N/A	N/A	N/A
Duplex/Attached House (per unit)	279	N/A	1,400	N/A	N/A	N/A
Multi-Dwelling (per unit)	390	167	130	167	167	46

* Toledo, Ohio, Mun. Code §1106.0102 (2004).

The City of Toledo approved thirty-seven land subdivisions between November 2017 and October 2018 ³⁰², as detailed by the zoning codes in Table 3 below:

Table 3 – Toledo Land Subdivisions Approvals from November 2017 – October 2018*

Zoning Code	Number of Approvals
Office Commercial (CO)	2
Regional Commercial (CR)	7
Institutional Campus (IC)	1
General Industrial (IG)	3
Limited Industrial (IL)	1
Mixed Use (MX)	8
Duplex Residential 6,000 square feet (RD6)	7
Multi-Dwelling Residential 36 units/acre (RM36)	2
Single-Dwelling Residential 12,000 sq. ft. (RS12)	1
Single-Dwelling Residential 6,000 sq. ft. (RS6)	5
Total	37

* Data obtained directly from Toledo-Lucas County Plan Commissions County Planner on November 15, 2018.

³⁰² Data obtained directly from Toledo-Lucas County Plan Commissions County Planner on November 15, 2018.

With respect to land expropriation, under sections 1724 and 5722 of the Ohio Revised Code, a county may elect to organize a county land reutilization corporation.³⁰³ Such a corporation is organized for the statutory purpose of "*efficiently holding and managing vacant, abandoned, or tax-foreclosed real property pending its reclamation, rehabilitation, and reutilization.*"³⁰⁴ Pursuant to this legislative authority, the Toledo City Council in August 2010 established the Lucas County Land Bank, a county land reutilization corporation, with the purpose of acquiring vacant and abandoned properties through tax foreclosure, owner donation, real estate owned donation, and purchase.³⁰⁵ While a land bank is established by the board of county commissioners through a resolution, a land bank is not part of county government. Rather, land banks are independent corporations that are governed by a board of directors composed of local government leaders.³⁰⁶

In July 2016, Lucas County Land Bank publicized their "1,500 Project", which aims to raze or renovate 1,500 vacant properties by September 2020.³⁰⁷ Between January 2013 and November 2018, the Land Bank acquired 5,100 properties. Of these properties, 1,351 were residential, 3,600 were vacant lots, 61 were commercial lots, and 3 were industrial lots.

³⁰³ Ohio Rev. Code Ann. § 1724.04 (West).

³⁰⁴ Ohio Rev. Code Ann. § 1724.01 (West).

³⁰⁵ Five Year Progress Report 2010-2015, Lucas County Land Bank (2015), <http://co.lucas.oh.us/DocumentCenter/View/55765/2010-2015-Progress-Report?bidId=>

³⁰⁶ Land Bank Playbook, Western Reserve Land Conservancy, https://www.wrlandconservancy.org/county-land-banks/playbook_home/.

³⁰⁷ Five Year Progress Report 2010-2015, Lucas County Land Bank (2015), <http://co.lucas.oh.us/DocumentCenter/View/55765/2010-2015-Progress-Report?bidId=>

With respect to the method of acquisition, 3,923 of the lots were in tax foreclosure, 892 were forfeited land, 112 were donated by the owner(s), 166 were donated by a bank, and 6 were purchased by the Land Bank.

The Land Bank does not, however, acquire property through eminent domain, as it is a non-profit corporation, not a government entity. Pursuant to the Toledo Municipal Code, the power of eminent domain may be exercised only by the City of Toledo itself.³⁰⁸ In August 2018, the Toledo City Council authorized the initiation of eminent domain proceedings for two parcels of land in order to construct a roundabout and pedestrian walkway.³⁰⁹ This project required the purchase of 0.0836 acre of land.³¹⁰

Similarly, in 2016, the city initiated eminent domain proceedings to acquire approximately 1.73 acres of property adjacent to the roadway connecting Highway I-75 and Erie Street in order to execute its Anthony Wayne Trail Gateway Improvement Project as a part of the 20/20 Comprehensive Plan.³¹¹

³⁰⁸ Toledo, Ohio, Mun. Code §1201.14 (2004).

³⁰⁹ Sarah Elms, Eminent Domain Proceedings to Begin to Make Way for S. Toledo Roundabout, *The Blade* (Aug. 15 2018), <https://www.toledoblade.com/local/2018/08/14/Eminent-domain-proceedings-to-begin-to-make-way-for-South-Toledo-roundabout-sje/stories/20180814194>.

³¹⁰ Toledo City Council, Toledo City Council Agenda Review (July 31, 2018).

³¹¹ WTOL11, City of Toledo uses eminent domain to acquire land for Anthony Wayne Road project, <http://www.wtol.com/story/33265258/city-of-toledo-uses-eminent-domain-to-acquire-land-for-anthony-wayne-road-project/>; Toledo Blade, Council approves eminent domain for Trail work, <https://www.toledoblade.com/Politics/2016/10/11/Council-approves-eminent-domain-for-Anthony-Wayne-Trail-work.html>.

D. INSTITUTIONAL FRAMEWORK

Planning and development control is managed at the municipal level by the Toledo City Plan Commission pursuant to Chapter 10 § 189-90 of the Toledo City Charter.³¹² The Toledo City Plan Commission has five members, including a Chair and a Vice Chair.³¹³ As of December 2016, the Toledo-Lucas County Plan Commissions, which are comprised of the Toledo City Plan Commission and the Lucas County Planning Commission, together consisted of 10 professional staff members.

This staff includes one Director, one Administrator, two Principal Planners, three Planners, one Planning Technician, one Secretary, and one Clerk Specialist.³¹⁴ The Department of Neighborhoods and Business Development Division of Code Enforcement (Division of Code Enforcement) is responsible for the enforcement of development controls. The table below details the recorded administrative actions by the Division of Code Enforcement in 2017³¹⁵:

Period (January – December 2017)*	
Administrative Actions	Instances
30 Day Public Nuisance Orders	1,682
30 Day Housing Violation Orders	114
72 Hour Public Nuisance Orders	5,651
Notice of Liability	2,853
Sign Violation Warning	22
Unfit for Human Habitation Orders	54
Vacant Residential Building Registrations	1,199
Zoning Violation Orders	12,840
Demolitions with City Crews	366
Fire/Emergency Demolitions	90
Total	24,871

* City of Toledo, Ohio, Division of Code Enforcement, <https://toledo.oh.gov/services/neighborhoods/code-enforcement/>.

³¹² Toledo, Ohio, City Charter Ch. 10 §189 (2000), [http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/toledomunicipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:toledo_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/toledomunicipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:toledo_oh).

³¹³ The 1500 Report, The Blade (July 25, 2016, <http://www.toledoblade.com/Featured-Editorial-Home/2016/07/25/The-1-500-project-Lucas-County-Land-Bank.html>).

³¹⁴ 2016 Annual Report, Toledo-Lucas County Plan Commissions (2016), <https://toledo.oh.gov/media/3914/2016-annual-report.pdf>.

³¹⁵ City of Toledo, Ohio, Division of Code Enforcement, <https://toledo.oh.gov/services/neighborhoods/code-enforcement/>.

18 VICTORIA, CANADA



Source: © liam ragan

A. URBAN AREAS

Victoria is the capital city of British Columbia and is situated on the Southern tip of Vancouver Island. It is the largest urban area on the island and had a population of 367,770 in 2016. The city relies on the Provincial Agricultural Land Commission (PALC) and their Agricultural Land Reserve (ALR) system to limit urban sprawl. Despite this, there is no overarching Urban Growth Boundary guiding the designation and distribution of ALRs. The city benefits from geographic features limiting development expansion, being bordered by mountains on one side and an ocean on the other.

As of the 2016 census, the average population density within the Victoria Census Metropolitan Area (CMA) is 528.3 people per km².³¹⁶

³¹⁶ Focus on Geography Series, 2016 Census, Population and Dwelling Count, Victoria, <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-cma-eng.cfm?LANG=Eng&GK=CMA&GC=935&TOPIC=1>

If the population of Victoria continues to increase at 1.3% annually, it will take the city 255 years (2275) to reach a population density of 15,000 people per km². Due to the lack of a formal growth boundary, it is difficult to determine the extent to which the ALRs have prevented urban sprawl in the Victoria area. On the one hand, areas designated as ALRs have avoided major development but on the other hand, suburbs have emerged on the outskirts of the Victoria core and have continued to expand, with neighbouring Langford now one of the fastest growing municipalities in the province.³¹⁷

B. URBAN PLANS

The entire CMA is 100% covered by zoning laws, as is the majority of Vancouver Island. Land Use Plans approved by the provincial government are divided geographically.

³¹⁷ Langford's population grows by 20.9% in five years, highest in region <https://www.timescolonist.com/business/langford-s-population-grows-by-20-9-in-five-years-highest-in-region-1.9748691>

Two of these plans cover the Victoria area: the Vancouver Island Land Use Plan and the South Island District Landscape Unit Plans. The latter applies to management of old growth forest, conservation sites, and other environmental features considered important for the protection of biodiversity.³¹⁸

The City of Victoria also has two primary zoning bylaws which oversee the distribution of industrial, commercial, and residential sites throughout the city. The Zoning Regulations Bylaw (80-159) was signed into law in 1981 and applied to all areas of Victoria except for the Downtown Core Area, which is covered by Zoning Bylaw 2018 (18-072).³¹⁹ Thus, the oldest zoning plan in force is 39 years old while the most recent is 2 years old. The average age is 20.5 years.

C. SPOT CHECKS ON PLAN IMPLEMENTATION

Site One (commercial district): Downtown Victoria

The Downtown Core Area is located at the centre of Victoria proper and is zoned primarily for commercial usage with certain exceptions for mixed-use residential and historic buildings pursuant to the 2018 Zoning Bylaw (18-072). The images below are from Centennial Square and Johnson Street which are earmarked as Old Town District-1 Zone (OTD-1). In accordance with OTD-1, buildings should not

³¹⁸ Vancouver Island Land Use Designations https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/land-use-plans-and-objectives/westcoast-region/vancouverisland-rlup/map2_vancouver_island_lupa.pdf

³¹⁹ City of Victoria, Zoning, www.victoria.ca/EN/main/residents/planning-development/development-services/zoning.html

be more than 15 meters high and off-street parking is restricted. Current development shows compliance with the Plan.



Source: © On the World Map, <http://ontheworldmap.com/canada/city/victoria/victoria-downtown-map.html>



Image above shows the commercial nature of the downtown area. Source: © Liam Ragam

Site Two (edge of the built-up area): 4298 Wilkinson Road, Saanich

This site is in the centre of the District of Saanich, north of Victoria and within the CMA boundary. Current development highlights

the success of the ALR system in delineating agricultural land and creating a border to development.



Source: © 2020 District of Saanich, <https://www.saanich.ca/EN/main/community/about-saanich/property-information-report.html>



Image above shows the land set aside for agricultural development is intact. Source: © Liam Ragan

D. LAND ADMINISTRATION

The Zoning Regulation Bylaw specifies the minimum sizing requirements for every zone type and individual zones in Victoria.³²⁰ The Small Lot House designation is the smallest possible lot size and allows a minimum lot size of 260 m² and a minimum width of 10m.³²¹ The size of the house permitted in this zone is also smaller, with a range of 160 m² – 190 m². The British Columbia government also sets minimum plot sizes, but in the event

of conflict, the size designated by municipal zoning takes precedence.³²²

The City of Victoria compiles its land development history within a Development Applications History database.³²³ According to this database, there were 98 development applications opened in the period between September 2018 – September 2019.

³²⁰ City of Victoria, Zoning Regulation Bylaw, <https://www.victoria.ca/EN/main/residents/planning-development/development-services/zoning/zoning-regulation-bylaw.html>

³²¹ City of Victoria, Small Lot House, <https://www.victoria.ca/assets/Departments/Planning~Development/Development~Services/Applications/Small%20Lot%20Rezoning%20Package.pdf>

³²² BC Regulations, Local Services Act, http://www.bclaws.ca/civix/document/id/complete/statreg/262_70#division_d2e1832

³²³ City of Victoria, Development Applications History, http://opendata.victoria.ca/datasets/development-applications-history/data?selectedAttribute=CREATED_DATE&where=STATUS%20%3D%20%27COMPLETED%27%20AND%20CREATED_DATE%20%3E%20%20TIMESTAMP%20%272018-09-10%2000%3A00%3A00%27%20AND%20CREATED_DATE%20%3C%20%20TIMESTAMP%20%272019-09-10%2023%3A59%3A59%27

Since its inception, the Capital Regional District has acquired 4,800 hectares of land for regional parks and trails through government funding and a household tax.³²⁴ These purchases took place in the year 2000, 2004, 2009, 2015 and 2019.

D. INSTITUTIONAL FRAMEWORK

The Victoria Development Services provides policy, regulation and planning guidance to the City Council and parties wishing to initiate development. It employs a total of 21 people, including planners assigned to different zones and neighbourhoods (10 planners in total), 7 building and plumbing inspectors, 2 electrical inspectors and 2 additional staff.

This department also provides permits and evaluates development applications for relevance.

Development control is undertaken by the Bylaw and Licensing Services department, which enforces zoning bylaws (property use) as well as building bylaws (construction, electrical, plumbing).³²⁵ It has 11 professional staff, 10 of whom are Bylaw Officers who are appointed to enforce City bylaws. No records of administrative actions to enforce development control in the past 12 months could be ascertained.

324 Capital Regional District, Regional Parks Land Acquisition, https://www.crd.bc.ca/docs/default-source/crd-document-library/maps/parks-trails/regional-parks-land-acquisitions-2000-2017.pdf?sfvrsn=9ca1e4ca_8

325 City of Victoria, Bylaw Services <https://www.victoria.ca/EN/main/city/bylaw-services.html>

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EFFECTIVENESS OF PLANNING LAW IN LAND-RICH DEVELOPED COUNTRIES

URBAN LEGAL CASE STUDIES VOLUME 10

A core objective of the Urban Legislation work of UN-Habitat is to develop and disseminate knowledge and information about urban law to promote enabling legislation adequate to meet the challenges of rapid urbanization. Rapid urbanization presents cities with several development challenges caused by disorderly and unplanned urban expansion; therefore, reforms of the current planning laws are urgently needed. Ensuring that planning laws fulfil their functions as effectively as possible means that they are frequently under scrutiny as contexts and needs change.

UN-Habitat has conducted an objective, evidence-based assessment on the application of physical planning laws in 18 cities of the Land-Rich Developed Countries Region. The selection of cities is based on the UN Global Sample of 200 cities as a statistically and regionally representative dataset. The study considers whether the law is being applied as written and informs the discussion on the effectiveness of legislative design. This publication portrays the findings from the study with empirical data on growth boundaries, population density, compliance with spatial planning and zoning, land management and staffing capacity.

City managers in Land-Rich Developed Countries can use this information to rethink the sustainability of their urbanization model and to help them create systems that can result in equity, shared prosperity and environmental sustainability. These are key principles embodied under the New Urban Agenda and the 17 Sustainable Development Goals (SDGs) – particularly Goal 11.

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