

Single-Family-Only Zones

by Laurence C. Gerckens, AICP

When New York City adopted America's first comprehensive zoning code in 1916, it created only three land-use categories: residence, business, and industry. While areas designated for residence were protected from the intrusion of new commercial or industrial uses, all forms of residence were permitted — including boarding houses, multiple-dwellings, and tenements.

The zoning code emphasized two kinds of protection for residences: first, protection from the impacts of commercial and industrial traffic, odors, smoke, deliveries, and garbage; and second, protection from the severe financial loss that could result from incompatible commercial or industrial uses destroying the residential utility of a site.

In the 1920s a number of municipalities expanded on New York's single "residence" district by creating districts limited to development for single-family-detached homes only. The courts upheld these ordinances based on: (1) a public safety rationale (i.e., the risk of fire would be reduced because there would be fewer buildings, located farther apart, housing fewer families per acre); and (2) the premise that single-family-detached residence districts would induce good citizenship through the encouragement of home ownership.

The public safety rationale was constitutionally sound as it was founded on physical conditions capable of being proven to bear a direct relationship to public health and safety — preventing the extreme congestion commonly associated with the practices of apartment and tenement house construction of that era.

However, the second premise, that single-family districts would foster good citizenship by encouraging home ownership, was based on a faulty presumption. It presumed that single family-detached homes would be owner-occupied. But this was not a requirement of single-family-only zoning districts. Moreover, as time would prove, the courts would not look favorably on

attempts by municipalities to specify conditions of occupancy (rental, ownership, lease, etc.) in their zoning codes.

Even more significantly, the presumption that single-family-only districts would be solely occupied by home owners has not been borne out. In metropolitan areas throughout the country, block-by-block surveys indicate large numbers of single-family detached units which are renter, not owner, occupied. Indeed, in many communities entire neighborhoods of new single-family-detached units have been built and marketed as rental units.

Looking back, we need to recall that in the early years of this century the single-family-detached house was, in most parts of the country, virtually the only type of dwelling unit available for individual purchase. Given this, fostering single-family-only districts might well have been a rational response to promotion of home ownership at that time. Today, in contrast, the condominium row house (or townhouse) often represents the principal home ownership option, particularly for young couples, single parents, and other single-wage-earner families.

Ironically, the same arguments made decades ago in favor of public laws promoting single-family-only districts to encourage home ownership could well be marshaled today in favor of promoting townhouse-density attached-unit zoning! (recognizing that it would be as illegal to zone for condominium ownership of units of this type as to require owner occupancy in single-family detached areas).

If communities, nevertheless, continue to value single-family-detached zoning as an encouragement for home ownership, efforts must at least be undertaken to make these areas available to far more citizens. This can be done in several ways, including: reducing lot and floor area requirements; increasing single-family residential densities; and making single-family detached homes an allowable use in all areas, not just

in low-density residential districts.

To illustrate the last point, an R-10 zone (allowing 10 units/acre) might well permit and encourage single-family detached homes — *as well as* townhouses and apartments. Studies done as early as the 1940s indicate no significant negative public impacts, or private health or safety hazards, from single-family-detached residential construction at densities as high as 12 to 16 units per acre, provided that the land's carrying capacity and public infrastructure are adequate.

Because many communities' single-family residence districts are zoned for quite low densities, affordable home ownership options are often severely restricted. Paradoxically, most multi-family residence districts are zoned for too many units, resulting in overcrowding and perimeter environmental conflicts. A site zoned for a maximum of 20 units/acre will usually be developed at the highest allowable density because the sale price of the land reflects the maximum legal profit one can make from development.

What many of our communities seem to have in short supply is zoning densities "in the middle." For example, residential zoning in the range of 6 to 8 units/acre without distinction as to building type would allow for a wider range of housing options than occurs in today's very low density single-family-only zones. At the same time, it could lead to lower land prices and less crowded development than occurs at typical 20 units/acre multi-family densities. ♦

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