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Georgette Chapman Phillips*

Zombie Cities

Urban Form and Population Loss

I don't think the government can create communities. I think only people can create communities. But I do think that governments can help lay down the conditions for what kind of community you have a chance of having, for better and for worse.¹

Zombie is a Haitian Creole term used to denote an animated corpse that is brought back to life by mystical means such as witchcraft. Zombie Cities, as I use the term here, are decimated urban areas that are brought back to life by mystical means such as public policy.² The success of reviving and reanimating these Zombie Cities relies on the alchemy of initiatives—economic, social, legal—that create the conditions that facilitate re-animation. This examination focuses on the legal piece of the puzzle and turns on land use law and zoning codes that allow a city to reimagine itself in a form that is possibly quite different than that one currently codified. Land use law (and the planning policies that underpin such law) is deeply rooted in the concept of managing growth.³ The emphasis on growth is clearly misplaced for cities with huge population losses. The growth emphasis borders on perverse when you consider the link between the impact of single use Euclidean zoning and the segregation of the poor into the urban core (where high density/low cost housing is available) which in many cases exacerbated losses in population.⁴ At best traditional zoning law treats the city as a static concept; at worst it

*David B. Ford Professor of Real Estate, Wharton School and Professor of Law, University of Pennsylvania Law School. I gratefully acknowledge the research support of Jennifer Barzeski and Eric Yoshida along with the generous support of the Zell/Lurie Real Estate Center.

¹ Journalist Gary Younge from an interview

(<http://www.npr.org/player/v2/mediaPlayer.html?action=1&t=1&islist=false&id=152735473&m=152736262>)

based on his essay Stevanage, *Granta*:119, 10 May 2012

² Other scholars have focused on housing in “zombie neighborhoods,” see, Robert Mark Silverman, Kelly Patterson, Dawn Of The Dead City: An Exploratory Analysis Of Vacant Addresses In Buffalo, NY 2008–2010 *Journal Urban Affairs*, Vol 35 Issue 2 (May 2013). I take this notion one step further in applying the term to entire cities that are teetering on the line between the vibrancy of life and the stupor of death.

³ Indeed, the root of modern US zoning law, Euclidean zoning, came about as a response to the fear of unregulated intrusion of multi-family units that would serve as a “nuisance” in the Cleveland suburb of Euclid Ohio. For a fascinating historical account of the history of the Euclid decision see, Richard Chused, *Euclid’s Historical Imagery* 51 *Case Western L. Rev.* 597 (2001)

⁴ See, Lisa C. Young, *Breaking the Color Line, Zoning and Opportunity in America’s Metropolitan Areas*, 8 *J. Gender, Race & Justice* 670 (2005); Florence Wagman Roisman *Housing, Poverty, and Racial Justice: How Civil Rights Law Can Redress the Housing Problem of Poor People*, *Journal of Poverty Law and Policy*, (36 *Clearinghouse Rev.* 21 (2002-2003)) http://heinonline.org/HOL/Page?handle=hein.journals/clear36&div=6&g_sent=1&collection=journals

imposes antiquated and unforgiving strictures that fail to allow organic and dynamic change. As cities lose population and increasingly contain hollow caverns of land caused by population shrinkage, local governments struggle to align the land use codes premised upon population growth with their new topographic reality.

In this paper I will examine population losses in large American cities. I specifically focus on the largest cities because of the iconic position they hold in the American urban landscape. Detroit may be the most visible example of this phenomenon. While there are certainly many smaller urban areas that suffer from population loss, the transmutation of cities such as Detroit -- plus St. Louis, Pittsburgh and Cleveland-- deals a blow to our national identity. Cars. Beer. Steel. These are all industries that not only employ millions but also serve as a unique moniker of a city's public face. When an economic identity succumbs to a new economic reality must the city follow in its path? Historically legal scholars have paid particular attention to local land use as a method to controlling growth. Not nearly enough attention has been paid to local land use law as a method of managing shrinkage.

In this examination I will first set the stage by presenting census data demonstrating trends in population loss in major American cities. Information presented in this section should not surprise the reader. Rather it is included to quantify the scope of population loss in many US cities. The economic⁵, physical⁶ and even climatic⁷ reasons for why some cities are losing population and others gaining is certainly well researched. However, there is another thread of inquiry that deserves more attention, especially from land use scholars. The de-industrialization of the US economy (and concomitantly of many US cities) led to the phenomenon of US population centers shifting from being centers of production and becoming centers of consumption and creation of social capital. This article includes a review of the literature in urban planning and urban economics that examines this change.

The legal question presented is how zoning law and planning regulations are (or are not) keeping pace with this change. The viability US cities will increasingly rely on a city's consumption profile so we must juxtapose current land use law against that trend. Traditional Euclidian zoning with its separation of uses is premised upon the city as a center of production. But modern US cities are no longer centers of production. Zoning, if done correctly, can capture the value of consumption in the urban setting. The next task is to re-imagine traditional zoning so as to conform with the new economic reality of a city being the center of consumption. This article will present examples of zoning initiatives that support the consumption based city form. Deindustrialization devastated not only the economic viability but also the

⁵ Rieniets, T. *Shrinking Cities: Causes And Effects Of Urban Population Losses In The Twentieth Century* 4 *Nature & Culture* 231-254 (2009) (focusing on deindustrialization); David Wilson and Jared Wouters, *Spatiality and Growth Discourse*, 25 *J. Urban Aff.* 2 (2003)(discussing impact of globalization); Cities, regions and the Decline of Transport Costs 83 *Papers in Regional Science* 1 (2004)(citing decrease in transportation costs as a reason for urban center population loss)

⁶ There is a link between age of housing stock and population growth. See, Moon Jeong Kim and Hazel Morrow-Jones, *Intrametropolitan Residential Mobility and older Inner Suburbs*, 21 *Housing Policy Debate* 1 (2001). It should be noted though that the interaction of new housing and good schools cannot be separated. Kim and Morrow-Jones acknowledge this aspect in their paper at p. 158.

⁷ Jordan Rappaport, *Moving to Nice Weather*, *Reg. Science & Urban Econ.* 37, Issue 3, 1 (2007).

social fiber in many US cities. The new economic order based on a strong service sector lends itself to a new zoning pattern that supports the development of a consumption oriented urban form.

The goal of this examination is to push local governments in the direction of breaking the pattern of trying to recreate days of past glory of the manufacturing economy that necessitated the separation of land uses. These attempts often rely on policies that reinforce economic realities that will not be coming back. Not all historically large cities have suffered devastating population declines. There are cities where population loss has at least been attenuated if not completely reversed.⁸ Cities that have come through this metamorphosis have learned to accept the city that is rather than the city that was or could have been. City leaders must move towards visualizing their cities poised for viability in a new economic world order where cities satisfy the consumptive needs of the citizens. The leaders in what might be categorized as Zombie Cities will stand a better chance of re-animating the corpse by putting together plans based on managing shrinkage and re-imaging their city as a consumption center with a smaller population.

Phoenicia vs. Phoenix

History is replete with once thriving cities that dwindle to nothing. Ancient cities like Carthage (destroyed by war), Pompeii (destroyed by nature) and Tanis (destroyed by economic changes) rose and fell. Even the modern day Phoenix Arizona pays homage to a lost civilization of the Ho Ho Kam (Native American title for “the people who have gone”) who once lived there but disappeared because of drought.⁹ In the relatively short period of American history we have seen countless US towns rise and fall on changing industrial and mercantile winds. The somewhat famous ghost town of Bodie, California represents an urban center that thrived on gold and died when the rush ended.¹⁰

On the other hand, world cities such as Addis Ababa and Riyadh that were relatively small urban centers in 1950 are home to millions of residents in 2010.¹¹ In the United States cities like Phoenix (despite its historically ironic moniker) have literally exploded in population.¹² The top twenty US cities (in terms of population)¹³ in 1950 were¹⁴:

⁸ While no declining major city has rebounded to its 1950 population level, Boston hit its population nadir in 1980 and now has a population greater than in 1970. Kansas City hit its low point in 1990 and now has a population greater than that of 1980. Philadelphia posted its first (modest-2%) increase in 2009. Census of Population 1970 <http://www2.census.gov/prod2/statcomp/documents/1980-02.pdf> Table No. 28 at p. 24

⁹ <http://phoenix.gov/citygovernment/facts/history/index.html>

¹⁰ from 1870's until 1940, gold mine operated there with 8,000 inhabitants. Now, about 20% (170) of original structures remain. http://discovermagazine.com/2008/apr/17-the-most-famous-ghost-town-in-america/article_view?b_start:int=1&-C=

¹¹ The population of Addis Ababa was less than 400,000 in 1950. Population in 2010 was 4.07 million. http://books.mongabay.com/population_estimates/full/Addis_Ababa-Ethiopia.html. Riyadh grew from 111,000 residents in 1950 to over 4.6 million in 2010. http://books.mongabay.com/population_estimates/full/Riyadh-Saudi_Arabia.html

¹² In 1950 the population of Phoenix, AZ was 107,000. In 2010 the population was close to 1.6 million.

¹³ City is defined by the politically bounded city not the metropolitan area.

City	Population (Thousands)
New York City	7,892
Chicago	3,621
Philadelphia	2,072
Los Angeles	1,970
Detroit	1,850
Baltimore	950
Cleveland	915
St. Louis	857
Washington, D.C.	802
Boston	801
San Francisco	775
Pittsburgh	677
Milwaukee	637
Houston	596
Buffalo	580
New Orleans	570
Minneapolis	522
Cincinnati	504
Seattle	468
Kansas City	457

By 2009 the top twenty had shifted¹⁵:

City	Population (Thousands)
New York City	8,392
Los Angeles	3,832
Chicago	2,851
Houston	2,258
Phoenix	1,594
Philadelphia	1,547

¹⁴ Census of Population 1970 <http://www2.census.gov/prod2/statcomp/documents/1980-02.pdf> Table No. 28 at p. 24 and Statistical Abstract of the United States 2011,

<http://www.census.gov/compendia/statab/2011/tables/11s0027.pdf> Table 27 at p. 34

¹⁵ Statistical Abstract of the United States 2011,

<http://www.census.gov/compendia/statab/2011/tables/11s0027.pdf> Table 27 at p. 34

San Antonio	1,374
San Diego	1,306
Dallas	1,300
San Jose	965
Detroit	911
San Francisco	815
Jacksonville	814
Indianapolis	808
Austin	786
Columbus	769
Fort Worth	728
Charlotte	704
Memphis	677
Boston	645

Although New York, Chicago and Los Angeles remained at the top of the heap, the remainder of the list represents more than a reshuffling of the deck chairs. If we match lists of population gains against population losses it becomes clear that some cities that weren't on the list of large cities in 1950 (e.g. Phoenix and San Antonio) catapulted to the top of the 2010 list. Likewise some very large cities in 1950 disappeared from the list by 2009 (e.g. St. Louis, Pittsburgh, Baltimore, Cleveland).

It is not just the number of people lost that matters; the percentage loss is more pointed indicator of whether a city takes on zombie characteristics. A 300 pound woman can lose 100 pounds and still be healthy. A 175 pound woman who loses 100 pounds risks death. Here is a list of the cities that were among the top twenty in population in 1950 and the percentage they lost by 2009:

St. Louis	-58%
Pittsburgh	-54%
Buffalo	-53%
Cleveland	-53%
Detroit	-51%
New Orleans	-38%
Cincinnati	-34%
Baltimore	-33%
Minneapolis	-26%

Philadelphia	-25%
Washington, D.C.	-25%
Chicago	-21%
Boston	-19%
Milwaukee	-5%

Interestingly, once these cities started losing population it is rare for it to be resuscitated to its former size.¹⁶ If a city falls off of the “top twenty” list it never goes back on. Although the years between 2000 and 2009 saw a slowing of decline (and even some increases) the bounce backs are increasingly less. Like a patient experiencing rally periods of comparatively renewed health these increases are not enough to regain full vitality. Even worse there are some cities, such as Cleveland and Detroit, that have had fifty years of unrelenting population loss.¹⁷

By way of comparison here are the cities that were in the top twenty in population in 2009 and the percentage growth since 1950:

San Francisco	5%
Kansas City	5%
New York City	6%
Seattle	32%
Memphis	71%
Indianapolis	89%
Los Angeles	95%
Columbus	105%
Fort Worth	161%
Dallas	199%
San Antonio	237%
Houston	279%

¹⁶ New York and Seattle are notable exceptions. These cities managed to actually gain back early losses that post a net increase over the 60 year period.

¹⁷ One commentator has dubbed these as the “hard core” in terms of population loss. See, Robert Beauregard, Urban population loss in historical perspective: United States, 1820-2000, *Environment and Planning A* Vol. 41 pp 514-528 (2009) at 521

San Diego	291%
Jacksonville	297%
Charlotte	425%
Austin	496%
San Jose	915%
Phoenix	1389%

The pattern of growth mirrors the pattern of decline. Once a city started to grow the growth continued unabated through 2009. This is not just a regional phenomenon (admittedly, though, the cities in the South and West have been growing for nearly half a century). This pattern holds true within many regions of the United States.

The economic, social and geographic similarity within each group of winners and losers (and conversely the dissimilarity between the groups) is a well-travelled discussion. Population gainers tend to have lower density, warmer weather and employment based on service. Population losers tend to be denser, colder weather, and an industrial based employment. An additional lens I would like to introduce into the discussion is the role of iconic identity. If one looks at the cities that lost population they often are associated with an iconic product (Pittsburgh=Steel, Detroit=Cars, St. Louis =Beer). This is more than a story of loss of the jobs in the manufacturing sector. This is a story of a lost identity. This loss will serve as persistent undertow in formulating policy. In essence this demographic change is more than population loss; this is loss of identity.

Iconic city identities are rooted in manufacturing. From 1960 to 2000 US employment in manufacturing slid from 2% to 13%.¹⁸ In 1950 seven of the eight largest American cities had a larger manufacturing sector than that found on a nationwide basis (only Los Angeles had fewer people proportionately employed in manufacturing).¹⁹ By 1990 only two cities (Chicago and Detroit) had a larger sector of its workforce in manufacturing than the national percentage.²⁰ By 2000 only Detroit was left with a proportion of workforce in manufacturing larger than the national workforce.²¹ Clearly the loss of manufacturing jobs dealt a mighty blow to many cities. However, loss is only part of the story.

Job *gain* in the service sector stands as important as job *loss* in manufacturing. US employment in the service sector grew from 62.2% in 1960²² to 79% in 2010.²³ The differentiating point in whether a city

¹⁸ U.S. Dept. of Labor, Bureau of Labor Statistics, *available at* <http://data.bls.gov/pdq/SurveyOutputServlet>

¹⁹ Edward L. Glaeser, *Are Cities Dying?*, *J. Econ. Perspectives*, Vol. 12, No.2, 39–160, 144-145. (Spring 1998).

²⁰ Edward L. Glaeser, *Are Cities Dying?*, *J. Econ. Perspectives*, Vol. 12, No.2, 39–160, 144-145. (Spring 1998).

²¹ SOCDs County Business Patterns Special Data Extracts, *available at* <http://socds.huduser.org>.

²² Kutscher, Ronald E., *The American Work Force, 1992-2005*, Bureau of Labor Statistics Monthly Labor Review (Nov. 1993).

becomes a zombie (or whether it escapes that fate) is whether other sectors (most likely service) pick up employment. In essence we should compare the slope in the line in the number of manufacturing jobs and the slope in the line of the number of service jobs to begin the discussion of the likelihood of a city pushing itself forward. As an illustration: In 1970 Boston had 43,240 people employed in manufacturing and by 2000 this number slid to 21,329.²⁴ In 1970 the city had 86,433 people employed in service jobs and by 2000 this number increased to 142,131.²⁵ As other commentators have noted: metropolitan areas with high levels of education and significant manufacturing as of 1940 switched from manufacturing to other industries faster than high-manufacturing areas with less human capital. These results suggest that skills are valuable because they help cities adapt and change their activities in response to negative economic shocks. High skills allow reinvention. We should not be surprised if a high-skill New England city manages to reinvent itself while a low-skill rust belt town does not. Boston shines as a great example of cities that managed to escape zombie status despite decline in population.²⁶

In contrast, Detroit represents the opposite phenomenon. In 1970 Detroit has 186,215 jobs in manufacturing which slid to 64,586 in 2000.²⁷ Unlike Boston, though, jobs in the service sector did not pick up the slack. In fact service jobs declined from 131,969 in 1970 to 128,559 in 2000.²⁸ Failure to adapt to the new economy serves as a marker for zombie city. A nuanced, but critical, point should be highlighted here. To escape zombie status does not require population gain to previous levels. There are several cities (Chicago, Washington DC, in addition to Boston) that declined in absolute population but whose proportion of service sector employment either rose or declined at a much slower pace.²⁹ This distinction serves as an important starting point for the later policy discussion of when and how zombie cities can be revived.

Role of Zoning

In their attempt to turn the tide on population loss many cities have implemented various strategies such as tax based incentives (e.g. tax abatements)³⁰ and eminent domain (often as a precursor to large

²³ Richard Henderson, Employment Outlook: 2010 -2020, Bureau of Labor Statistics Monthly Labor Review (Jan. 2012).

²⁴ U.S. Department of Housing & Urban Dev., State of the Cities Data Systems, Avail.at

http://socds.huduser.org/Census/industry.oddb?msacitylist=1120.0*2502507000*1.0&metro=msa

²⁵ U.S. Department of Housing & Urban Dev., State of the Cities Data Systems, Avail.at

http://socds.huduser.org/Census/industry.oddb?msacitylist=1120.0*2502507000*1.0&metro=msa

²⁶ The Rise of the Skilled City, Edward L. Glaeser; Albert Saiz; Gary Burtless; William C. Strange Brookings-Wharton Papers on Urban Affairs, (2004), pp. 47-105 at 84.

²⁷ U.S. Department of Housing & Urban Dev., State of the Cities Data Systems, Avail.at

http://socds.huduser.org/Census/industry.oddb?msacitylist=2160.0*2600022000*1.0&metro=msa.

²⁸ U.S. Department of Housing & Urban Dev., State of the Cities Data Systems, Avail.at

http://socds.huduser.org/Census/industry.oddb?msacitylist=2160.0*2600022000*1.0&metro=msa.

²⁹ Cities, such as Phoenix and Houston, that phenomenal growth between 1950 and 2000 experienced substantial growth in number of service jobs.

³⁰ Another popular incentive, Tax Incremental Financings (“TIFs”), are generally not used by declining cities as they are a tool for financing based on growth. See, Richard Briffault, The Most Popular Tool: Tax Incremental Financing And The Political Economy Of Local Government, 77 U. Chi. L. Rev. 65, 80 (2010)

scale redevelopment projects). The success of these efforts, whether it is Renaissance Center in Detroit or the Inner Harbor in Baltimore fell short in repositioning the respective cities back to their former stature. Targeted, place based, efforts such as these do not go deep enough into the nucleus of the issue. The core of the problem rests in changing not an individual facet or neighborhood. But rather, reformulating the essence of the city itself.

Zoning stands out as an important ingredient in the alchemy of policy that influences whether a city becomes a zombie. Cities with strict land use and zoning laws differ systematically from cities where the code is more lenient.³¹ Strict land use laws are a hindrance to zombie cities in two salient fashions. First of all these codes tend to be based on the theory of separation of uses. As housing stock ages and becomes uninhabitable the ability to quickly redapt the property for non-residential use is hampered. Secondly, most of the existing law is zoning for the control of growth; not zoning for planned decline. This results in an awkward focus on what in some instances is a quixotic fantasy of revival to former glory.

Euclidian Zoning

Very few regulatory decisions have stood the test of time as the case of Village of Euclid v. Ambler Realty Co.³² This case upheld the constitutionality of the Standard Zoning Enabling Act of 1922. The Act formed the basis upon which most zoning in the United States is modeled and carried with it the implementation of both density prevention and separation of uses as fundamental goals of zoning and land use.³³ Adoption of zoning was swift and pervasive. By 1926 more than 426 municipalities containing more than 27 million inhabitants (then over half of the total urban population in the United States) lived in zoned cities.³⁴

A groundbreaking decision, *Euclid* was monumental in its day and has continued to be the foundation for development for many generations.³⁵ In *Euclid*, the Supreme Court legitimized local government's ability to control development within its boundaries, ruling that local municipalities can oversee industrial development to ensure that it "shall proceed within definitely fixed lines."³⁶ As enunciated by the Supreme Court, the constitutionality of the separations of uses explicitly rests on the notion that

³¹ Wayne Batchis, Enabling Urban Sprawl: Revisiting The Supreme Court's Seminal Zoning Decision Euclid V. Ambler In The 21st Century, 17 Va. J. Soc. Pol'y & L. 373, 381 (2010)

³² Village of Euclid, Ohio v. Ambler Realty, 272 U.S. 365, 47 S.Ct. 114 (1926) This case is commonly understood to be "one of the most influential and enduring judicial decisions upholding the rights of communities to determine their demographic, economic, and societal future." See, Michael Allan Wolf, Euclid At Threescore Years And Ten: Is This The Twilight Of Environmental And Land-Use Regulation? 30 U. Rich. L. Rev. 961 (1996)

³³ Janice C. Griffith, Green Infrastructure: The Imperative of Open Space Preservation, 42/43 Ur. Law 259 (2010/2011) (around fn 74)

³⁴ Garrett Power, The Unwisdom Of Allowing City Growth To Work Out Its Own Destiny, 47 Md. L. Rev. 626 (1988)

³⁵ Village of Euclid, Ohio v. Ambler Realty, 272 U.S. 365, 47 S.Ct. 114 (1926). See Nadav Shoked, The Reinvention of Ownership: the Embrace of Residential Zoning and the Modern Populist Reading of Property, 28 Yale J. on Reg. 91 (2011)

for more background and analysis of *Euclid*.

³⁶ *Euclid*, 272 U.S. at 389.

single family uses must be insulated from the perceived negative impact of non-residential uses.³⁷ When we consider the plight of zoning in cities with declining residential population, the primacy of the single family dwelling in zoning codes severely limits what can happen to hollowed out neighborhoods. In its opinion, the Court found in favor of an ordinance which limited the construction of multi-family apartment buildings next to single family homes, explaining that "...apartment houses, which in a different environment would be not only entirely unobjectionable but highly desirable, come very near to being nuisances..."³⁸ as they destroy the quiet character of detached family neighborhoods.

As we move into the twenty-first century, it is becoming clear that a new American reality is emerging. Cities continue to change and evolve; some shrinking, some growing, as the centers of population shift. While this is not a new phenomenon, there is a need for reformation of local zoning codes to meet the changing dynamics. As the dynamics of the city transform, so too must the zoning codes. Concurrent with this resizing of American cities, comes a shift in employment trends. There is no longer a definitive need for clean, quiet residential areas located apart from the noise and filth of factories and other commercial enterprises.³⁹ In fact the advent of the digital age has brought the actual workplace to the worker's living room in some instances.

Zoning for Population Growth

Few zoning ordinances, still the most frequent tool of American local land-use planning, explicitly anticipate that the locality or its neighborhoods will lose population.⁴⁰ In fact, this is the major flaw in adopting the New Urbanism matrix on declining urban cores. As zoning has evolved there has been an increasing emphasis on "smart growth" and sprawl deterrence.⁴¹ The community creation of New Urbanism is a means, not an end. Planners and urban economists have a robust literature in the area of shrinking cities.⁴² By contrast, legal scholarship on zoning historically has focused heavily on growth and

³⁷ Get cite from case. See also, Gerald A. Fisher, *The Comprehensive Plan Is An Indispensable Compass For Navigating Mixed-Use Zoning Decisions Through The Precepts Of The Due Process, Takings, And Equal Protection Clauses*, 40 *Urb. Law.* 831, 831 (2008)

³⁸ *Euclid*, 272 U.S. at 395.

³⁹ Separation of land uses originated in part from an effort to improve inner-city conditions; "the proximity of polluting industry to housing, paired with overcrowding and the widespread lack of sanitation, contributed to making the industrial city a center of disease and misery." See Sonia Hirt, *The Mixed-Use Trend: Planning Attitudes and Practices in Northeast Ohio*, *Jour. of Architectural and Planning Research* 24:3 (Autumn 2007), 224, 225.

⁴⁰ Deborah Popper and Frank Popper, *Smart Decline in Post-Carbon Cities*, *The Post Carbon Reader Series: Cities, Towns, and Suburbs* <http://www.postcarbon.org/Reader/PCReader-Popper-Divine.pdf>, Post Carbon Institute 2010. An interesting exception to this statement is Youngstown, OH. For years, despite massive population losses the zoning code planned for growth. Finally in the 2010 Plan acknowledged the shrinking population and took steps to plan for a smaller city. City of Youngstown, *The Youngstown 2010 Citywide Plan 45* (2005), *available at* <http://www.youngstown2010.com>.

⁴¹ Janice C. Griffith, *Regional Governance Reconsidered*, 21 *J. L. & Pol.* 505, around fn 142 (2005), Patricia E. Salkin, *From Euclid To Growing Smart: The Transformation Of The American Local Land Use Ethic Into Local Land Use And Environmental Controls*, 20 *Pace Env'tl. L. Rev.* 109, generally

⁴² Rieniets, T. *Shrinking cities: Causes and effects of urban population losses in the twentieth century* 4 *Nature & Culture* 231-254 (2009) (international perspective on shrinking cities); James Rhodes and John Russo, *Shrinking Smart? Urban Redevelopment and Shrinkage in Youngstown, OH* 34 *Urban Geography* 3 (2013)(analyzes planning

sprawl containment.⁴³ Whether for environmental reasons,⁴⁴ open space preservation,⁴⁵ land use is viewed through the lens of growth. Even writers in Michigan, one of the few states that LOST population in the last decade,⁴⁶ focus on sprawl when discussing zoning.⁴⁷ Those who do write about zoning and population loss focus on specific palliative remedies such as urban farming⁴⁸ and land banks⁴⁹. To their credit, there have been radical proposals put forth recently, such as decommissioning neighborhoods through the use of eminent domain.⁵⁰ In this article, however, I advocate a more inclusive mode of transformation by allowing the neighborhood (rather than City Hall) determine the form of the city.

Zoning for Population Decline

One commentator has noted that the population declines experienced by many of America's manufacturing centers might be the final stage of trauma positioning these cities for the next stage of urbanizations.⁵¹ As with any crisis, medical or demographic, the problem rests in identifying the nadir. While cities such as Pittsburgh and Philadelphia have seen population and property values stabilize in the last decade, there is still considerable skepticism as to whether this change is sustainable and

efforts of Youngstown, OH); Justin B. Hollander and Jeremy Nemeth, *The Bounds Of Smart Decline: A Foundation Theory For Planning Shrinking Cities* 21 *Housing Policy Debate* 3 (2011)(focusing on ethics, equity and social justice); Robert Mark Silverman, Kelly Patterson, *Dawn Of The Dead City: An Exploratory Analysis Of Vacant Addresses In Buffalo, NY 2008–2010* *Journal Urban Affairs*, Vol 35 Issue 2 (May 2013) (linking neighborhood poverty rates to prevalence of vacant properties)

⁴³ One interesting direction is the notion of municipal dissolution as set forth in Michelle Wilde Anderson, *Dissolving Cities*, 121 *Yale L.J.* (2012). See also, Ashira Pelman Ostrow, *Emerging Counties*: 122 *Yale L.J.* Online 187. Dissolution is the final step and, despite its use in Miami, one which has limited practical implication for the large cities under inspection here. The Planning community on the other hand has several footholds into the notion of planning for shrinking cities. See, *Shrinking Cities: International Perspectives and Policy Implications*, eds. Karina Pallagst, Thorsten Wiechmann and Cristina Martinez-Fernandez, Routledge 2013 and Hunter Morrison and Margaret Dewar, *Planning in America's Legacy Cities: Toward Better, Smaller Communities After Decline*, in *Rebuilding America's Legacy Cities*, Alan Mallach, ed, The American Assembly (2012).

⁴⁴ Michael Bothe, *Property Rights and Local Zoning V. Nature Protection: Some Comparative Spotlights*, 42/43 *Ur. Law* 259 (2010/2011); Charles Haar, Michael Allan Wolf, *Planning And Law: Shaping The Legal Environment Of Land Development And Preservation*, 40 *Envtl. L. Rep. News & Analysis* 10419 (2010)

⁴⁵ Janice C. Griffith, *Green Infrastructure: The Imperative of Open Space Preservation*, 42/43 *Ur. Law* 259 (2010/2011)

⁴⁶ US Census Bureau. See, <http://quickfacts.census.gov/qfd/states/26000.html>

⁴⁷ See, H. William Freeman, *A New Legal Landscape For Planning And Zoning: Using Form-Based Codes To Promote New Urbanism And Sustainability*, 36 *Mich. Real Prop. Rev.* 117 (2009)

⁴⁸ See, Susanne A. Heckler, *A Right To Farm In The City: Providing A Legal Framework For Legitimizing Urban Farming In American Cities* 47 *Val. U. L. Rev.* 217 and Catherine J. LaCroix, *Urban Agriculture and other Green Uses: Remaking the Shrinking City*, 42 *Urb. Law.* 225 (2010)

⁴⁹ Julie Tappendorf and Brent Denzin, *Turning Vacant Properties Into Community Assets Through Land Banking*, 43 *Urb. Law.* 801 (2011)

⁵⁰ Ben Beckman, *The Wholesale Decommissioning Of Vacant Urban Neighborhoods: Smart Decline, Public-Purpose Takings, And The Legality Of Shrinking Cities*, 58 *Clev. St. L. Rev.* 387 (2010)

⁵¹ Robert Beauregard, *Urban population loss in historical perspective: United States, 1820-2000*, *Environment and Planning A* Vol. 41 pp 514-528 (2009)

impacting.⁵² Even in the face of population loss, though, few cities have taken the challenge to address this problem with changes to land use law.

There are a few brave cities hitting this issue head on. For example, Youngstown, Buffalo, Braddock (PA) and Flint (MI) have recognized that radical transformative change may be their only salvation.⁵³ The most visible effort of zoning for population decline is Detroit. The Detroit Works Project seeks to turn large swaths of the city back into farmland by demolishing whole neighborhoods.⁵⁴ These ambitious aspirations are rooted in a two pronged development plan that invites community engagement.⁵⁵ As highlighted by Detroit's recent declaration of bankruptcy these drastic measures seem to be too late.

It requires strong political will to suggest zoning for shrinkage. Unfortunately this will rarely exists absent dire circumstances. In this vein, I propose that we instead view this change in direction as zoning for consumption instead of zoning for decline. In fact, this is the shift that post-industrial cities are attempting to make. They must shed the model of land use based on a production based scheme and embrace the notion that cities, if they are to survive, need to first meet the consumption needs of present and future citizens. The image of a manufacturing powerhouse, along with its signature product, can no longer define the identity of a city.

Zoning and cities- centers of production or consumption?

Cities as Centers of Production

From the tables above we can see that most of the US cities that were the major population losers in the last 60 years were also the major centers of industrial production in the preceding era. Job loss in the former industrial cities was not a matter of industries changing locations. Industrial companies did not simply pull up stakes in Pittsburgh and move their operations to Charlotte. Rather the percentage of people employed in industrial jobs dropped steadily in the United States from 33.7% in 1950 to 13% in 2000.⁵⁶ On a city scale, in 1950 seven of the eight largest US cities had a larger manufacturing sector than that of the US.⁵⁷ By 1990 this number was down to two (Chicago and Detroit),⁵⁸ and by 2000 only Detroit had a larger percentage of its workforce in manufacturing than the United States.⁵⁹ As industrial

⁵² One commentator has noted that any claim to a turnabout from massive decline to mere shrinkage is doubtful. See Robert Beauregard, *Urban population loss in historical perspective: United States, 1820-2000*, *Environment and Planning A* Vol. 41 pp 514-528 (2009) at 521.

⁵³ For more information on these efforts see, Deborah Popper and Frank Popper, *Smart Decline in Post-Carbon Cities*, *The Post Carbon Reader Series: Cities, Towns, and Suburbs* <http://www.postcarbon.org/Reader/PCReader-Popper-Decline.pdf>, Post Carbon Institute 2010

⁵⁴ For the announcement see http://www.msnbc.msn.com/id/35767727/ns/us_news-life/t/detroit-wants-save-itself-shrinking/from/toolbar. See also, <http://detroitworksproject.com/2012/05/09/detroit-works-project-explores-green-uses-for-detroit-land-2/>

⁵⁵ See, <http://detroitworksproject.com/>

⁵⁶ U.S. Dept. of Labor, Bureau of Labor Statistics, *available at* <http://data.bls.gov/pdq/SurveyOutputServlet>

⁵⁷ Edward L. Glaeser, *Are Cities Dying?*, *J. Econ. Perspectives*, Vol. 12, No.2, 39–160, 144-145. (Spring 1998)

⁵⁸ Edward L. Glaeser, *Are Cities Dying?*, *J. Econ. Perspectives*, Vol. 12, No.2, 39–160, 144-145. (Spring 1998)

⁵⁹ American FactFinder, United States Census

employment moved outside the US Population loss did not occur evenly across urban centers. Industrial cities (including port cities) bore the brunt of the losses.⁶⁰

As jobs shifted away from manufacturing, employment and population patterns likewise shifted. From 1960 to 2000 the percentage of US employment in the service sector rose from 65% to 81%.⁶¹ As one economist noted, the mobility of employment to different sectors moves more quickly than city population.⁶² Furthermore, it has also been shown that cities drop percentage of workers in a sector much more quickly than they add employment in another sector. This means that a city once dependent on a dying industry, such as manufacturing, will drop employment much more quickly than it will add to its employment in a non-manufacturing sector.⁶³ Just as Glaeser and Gyourko determined about housing, urban decline is not the mirror image of growth.⁶⁴ The resulting situation reflects more than a temporary business cycle shock. It signals a permanent problem in the city's labor market.⁶⁵ Detroit has been studied as a city that has not successfully balanced the loss of production jobs with an increase of employment in the service sector.⁶⁶

Manufacturing cities lost more than population and jobs during this era. City amenities such as restaurants, culture and beauty suffered as well. Some studies have shown that this decline in amenities is an ongoing struggle that continues to plague former manufacturing centers.⁶⁷ The lack of amenities hampers growth because cities are increasingly oriented around consumption amenities spurring population growth faster in higher amenity areas.⁶⁸ Research has found a strong positive correlation between population growth and consumption amenities suggesting that quality of life is becoming an increasing more important determinant of where people choose to live.⁶⁹

The land use regulatory backdrop to the production center city was built upon the pervasive adoption of Euclidian zoning statutes that sought to separate factory from home. Despite its longevity and indelible

⁶⁰ Census data. See also, Robert Beauregard, Urban population loss in historical perspective: United States, 1820-2000, *Environment and Planning A* Vol. 41 pp 514-528 (2009) at 522.

⁶¹ Bureau of Labor Statistics

⁶² Gilles Duranton, Urban Evolutions: The Fast, the Slow and the Still, 97 *American Economic Rev.* 1 (2007) at 201

⁶³ Duranton at 201

⁶⁴ Edward Glaeser, Joe Gyourko Urban Decline and Durable Housing, 113 *J. Political Economy* No. 2 (April 2005)

⁶⁵ Edward Glaeser, Cities, Information and economic Growth, *Cityscape* p. 21.

⁶⁶ See, Thierry J. Noyelle. The Rise of advanced Services: Some implications for Economic Development in US Cities, *Journal of the American Planning Association*, 49:3 280-290 (1983) at 285.

⁶⁷ Did the Rust Belt Become Shiny? A Study of Cities and Counties That Lost Steel and Auto Jobs in the 1980s, James Feyrer, Bruce Sacerdote, Ariel Dora Stern, Albert Saiz and William C. Strange *Brookings-Wharton Papers on Urban Affairs* (2007), pp. 41-102 at 87. Article stable URL: <http://www.jstor.org/stable/25067440>

⁶⁸ The Rise of the Skilled City, Edward L. Glaeser; Albert Saiz; Gary Burtless; William C. Strange *Brookings-Wharton Papers on Urban Affairs*, (2004), pp. 47-105 at 47. Stable URL: <http://www.jstor.org/stable/25067406>

Consumer City, Glaeser, Edward, Kolko, Jed, Saiz, Albert, *Journal of Economic Geography* 1 (2001) at 35. In fact one standard deviation increase in the amenity value increases local population growth by 0.34 of a standard deviation. Glaeser, Kolko Saiz at 38.

⁶⁹ Jordan Rappaport, Consumption Amenities and City Population Density, *Regional Science and Urban Economics*, Volume 38, Issue 6, November 2008, Pages 533-552

imprint on the planning of US cities, Euclidian zoning has been routinely criticized as “functionalist”⁷⁰ and “rigid.”⁷¹ Such criticisms will pointedly challenge cities with declining populations. This type of land use regulation may serve the model of a city as a center of production but it is poorly suited for the city as a center of consumption. The mismatch stems from basing the regulatory utility of zoning codes as a means of controlling production and growth. They provide a long term promise of status quo for one’s property, of maintaining the exclusive character of a place. This was based partly on nuisance principles-- a facet of American law which prevents a neighbor from interfering with another’s enjoyment or use of his property. But the Court also noted that urban life was becoming increasingly more complex.⁷² Even in the original Euclid opinion, Justice Sutherland argued that new innovations required new zoning.⁷³ It should be noted that a more modern view maintains that this move towards separate uses was due less to modern inventions, such as the automobile, and more to the movement of social norms towards a separation between work and the residence and the residence and the city.⁷⁴

The separation of work and home is no longer practical given the lifestyle and housing climate of today. Instead, zoning needs to turn on a different axis – towards the goals of consumption and the creation of social capital. These two prongs are in keeping with the progression of social norms as they are today.

Cities as Centers of Consumption

At the dawn of the internet some predicted that technological innovation would eviscerate the role of urban centers as providing the hub for employment. This prognostication proved incorrect.⁷⁵ However changes in how we work did blur the distinction between work and home.⁷⁶ As these lines shift so must the proper role of zoning. As noted above, city amenities have emerged as a crucial factor in population growth. Cities that will thrive in the future will do so because they provide an attractive place to live and enjoy and less so because they are centers of production.⁷⁷ Population growth is strongly positively correlated with consumption amenities.⁷⁸ However, zoning based on separation of uses clashes with consumption based model of urban design. For a city to become a center of consumption residents cannot be walled off from places of commerce. Mixed use zoning, notably that which is done along the lines of Urban Villages, is an important first step. As will be discussed, *infra*, Urban Villages exemplify the

⁷⁰ Eliza Hall, *Divide And Sprawl, Decline And Fall: A Comparative Critique Of Euclidean Zoning*, 68 Pitt. L. Rev. 915, 918 (2007), See also, Jay Wickersham, *Jane Jacob’s Critique of Zoning: From Euclid to Portland and Beyond*, 28 B.C. ENVTL. AFF. L. REV. 547, 557 (2001).

⁷¹ Brian W. Ohm, Robert J. Sitkowski, *The Influence Of New Urbanism On Local Ordinances: The Twilight Of Zoning?*, 35 Urb. Law. 783, around f.n. 9 (2003)

⁷² *Euclid*, 272 U.S. at 386-387.

⁷³ *Euclid*, 272 U.S. at 386-387.

⁷⁴ Nadav Shoked, *The Reinvention of Ownership: the Embrace of Residential Zoning and the Modern Populist Reading of Property*, 28 Yale J. on Reg. 91 (2011).

⁷⁵ See, Markus Moos and Andrejs Skaburskis, *Workplace Restructuring And Urban Form: The Changing National Settlement Patterns Of The Canadian Workforce*, 32 J. Urban Aff. 1 at p.25 citing Stephen Graham, *Telecommunications and the future of cities: debunking the myths*, 14 Cities No. 1 (1997).

⁷⁶ Markus Moos and Andrejs Skaburskis, *Workplace Restructuring And Urban Form: The Changing National Settlement Patterns Of The Canadian Workforce*, 32 J. Urban Aff. 1 at p.27.

⁷⁷ See, Glaeser, Edward, Kolko, Jed, Saiz, Albert, *Consumer City*, *Journal of Economic Geography* 1 (2001) at 28.

⁷⁸ Jordan Rappaport, *Consumption Amenities and City Population Density*, *Regional Science and Urban Economics*, Volume 38, Issue 6, November 2008, Pages 533-552.

correct match of land use regulation to urban form. Besides offering localized variety of use, these plans decentralize the city, creating multiple focus areas throughout the city with increased accessibility.

This consumption model, as expressed through decentralization of urban form, facilitates the creation of social capital. Although notoriously difficult to clearly define, social capital can be thought of as “... connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them.”⁷⁹ Land use regulations impact how our communities are to be structured and the interpersonal networks of social capital that populate them.⁸⁰ Social capital encourages action and the realization of goals, through personal interactions between individuals and the positive qualities associated with them like trust and reciprocity. Benefits can be community-wide, measured by economic success, or on an individual level.⁸¹

The social capital of a community formulates the interaction between the inhabitants of a place to each other, and to the place itself creating a symbiotic relationship between neighbors and also between local business owners and residents. Social capital builds reciprocity, trust and mutual benefit. It is “the ways in which individuals and communities create trust, maintain social networks, and establish norms that enable participants to act cooperatively toward the pursuit of shared goals.”⁸² It is the various social networks we as individuals encounter every day.⁸³ Whether this is the neighborhood butcher who knows your order when you walk through the door or a neighborhood watch or a network of neighbors who look out for one another’s kids as they play in outside common areas, social capital brings the sense of belonging, of community and of productivity. Social capital comprises “the web of relationships and cooperative action between people who share a geographic space in big cities and/or an interest in maintaining a healthy neighborhood. What emerges from these relationships over time are established networks of “small-scale, everyday public life and thus of trust and social control” necessary to the “self-governance” of urban neighborhoods.”⁸⁴

Areas with generous amounts of social capital enjoy livable spaces and prosperity. Studies indicate that “where trust and social networks flourish, individuals, firms, neighborhoods, and even nations prosper.”⁸⁵ So too, do organizations. A large part of social capital includes involvement in civic

⁷⁹ Steven Durlauf, *On the Empirics of Social Capital*, 112 *The Economic Journal* 483 (2002), citing Putnam, *Bowling Alone*, Simon and Schuster, New York (2000)

⁸⁰ For an interesting discussion of this see, Stephen Clowney, *A Walk along Willard: A Revised Look at Land Use Coordination in Pre-Zoning New Haven*, 115 *YALE L. J.* 116 (2005).

⁸¹ Lawrence W. Libby and Jeff S. Sharp, 85 *Land-Use Compatibility, Change, and Policy at the Rural-Urban Fringe: Insights from Social Capital*, *Amer. J. Agricultural Econ.* 1194 (Dec. 2003).

⁸² Sheila R. Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 *Notre Dame L. Rev.* 527, 529 (2006); See DAVID HALPERN, *SOCIAL CAPITAL* 1-19 (2004).

⁸³ “The core idea of social capital theory is that social networks have value.” ROBERT PUTNAM, *BOWLING ALONE* (2000).

⁸⁴ Sheila R. Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 *Notre Dame L. Rev.* 527, 530 (2006) citing JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 146-83, 155-156 (1961).

⁸⁵ ROBERT PUTNAM, *BOWLING ALONE* (2000), 319 citing Stephen Knack and Philip Keefer, *Does Social Capital Have an Economic Payoff? A Cross-Country Investigation*, vol. 112 no.4 *QUARTERLY JOURNAL OF ECONOMICS* 1251-88 (1997) and Rafael La Porta, et. al., *Trust in Large Organizations*, vol. 87 no. 2 *AMER. ECON. REVIEW* 333-338 (1997).

organizations. In short, location matters. Face to face interaction and exchange is key to the strength of an organization, a neighborhood, a corporation.⁸⁶

Creation of social capital has the added benefit of encouraging economic growth. Strong social capital is decisive to companies exhibiting success across many areas, such as filling jobs and increasing job retention, product innovation, and promoting the formation of start-up companies.⁸⁷ Economic growth benefits from the more social exchanges and face to face contact in addition to the strictly business relationships. In similar fashion, neighborhood social capital benefits residents in myriad ways, from personal satisfaction and community involvement to strong economic interactions. Zoning and the resultant division of uses can greatly affect these social exchanges. Land use regulation can encourage mutually beneficial interactions or it can fabricate an artificial frame in place of a city's natural course. Strict land use regulation, in particular, dampens the organic flow of a city's growth, both structurally and demographically.⁸⁸

Areas of mixed use seem to enjoy abundant social capital, stemming from the social interactions arising from the daily activities around a given neighborhood. The varied uses allow for many different types of traffic and commerce.⁸⁹ Busy streets feel more secure and more alive. Indeed one generally feels a greater sense of security on a busy, thriving street than on a deserted one.⁹⁰ Moreover, busy streets have an indescribable unintelligible excitement about them. A Boston planner once explained, "I often go down there [to Boston's North End] myself just to walk around the streets and feel that wonderful, cheerful street life."⁹¹

⁸⁶ In the corporate world, social capital is perceived as the intangible benefits a company gives back to the community it serves. See, Laurence Lock Lee, *Social Capital: The New Driver for Corporate Success in the Knowledge Era*, in *KNOWLEDGE MANAGEMENT TOOLS AND TECHNIQUES: PRACTITIONERS AND EXPERTS EVALUATE KM SOLUTIONS*, p. (Madanmohan Rao ed. 2004). There are best practices which cross over between the corporate and the social contexts and serve to benefit both realms. Society in general, is moving away from the industrial era of the last century to an era of knowledge in which connections are widespread, no longer bound by geographical limitations. These corporate alliances aim to achieve goals through collaboration rather than through competition, and in many ways are more effective than competitive means. See, David Knoke and Emanuela Todeva, *Strategic Alliances and Corporate Social Capital*, *Kölner Zeitschrift für Soziologie und Sozialpsychologie*, May 2002.

⁸⁷ Paul S. Adler and Seok-Woo Kwon, *Social Capital: Prospects for a New Concept*, *Academy of Management Review*, Vol. 27, No. 1, 17--40 (2002).

⁸⁸ Jonathan Levine, *ZONED OUT: REGULATION, MARKETS AND CHOICES IN TRANSPORTATION AND METROPOLITAN LAND USE* (RFF Press 2005).

⁸⁹ "...need of cities for a most intricate and close-grained diversity of uses that give each other constant mutual support, both economically and socially. The components of this diversity can differ enormously but they must supplement each other in certain concrete ways." JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 19 (1961).

⁹⁰ Sheila R. Foster, *The City as an Ecological Space: Social Capital and Urban Land Use*, 82 *Notre Dame L. Rev.* 527, 543 (2006).

⁹¹ JANE JACOBS, *THE DEATH AND LIFE OF GREAT AMERICAN CITIES* 13-15 (1961). "General street atmosphere of buoyancy, friendliness and good health was so infectious that I began asking directions of people just for the fun of getting in on some talk."

Re-imagining zoning for a shrinking population

What should consumption based zoning look like? Certainly a more mixed-use environment tops the list. However, this alone is insufficient to potentially sustain a consumption based, amenity driven urban form. The goal should be to create an environment, through zoning and land use initiatives that allow the city resident easy access to work, commerce and leisure activities. Based on attributes of the Urban Villages model,⁹² key ingredients for the plan should include:

- Mixed use zoning that allows for variety of services-this will facilitate job creation of small businesses in residential areas
- Polycentric design-multiple centers of economic activity
- Increased residential density—allowing mixed housing
- Increased accessibility – public transportation, pedestrian friendly paths, sufficient parking facilities
- Green space/Open space-encouraging public use and activity

Recent zoning changes in declining cities

Many of the cities with population loss have revised their zoning codes with varying degrees of radical change. On one end of the spectrum is Baltimore (which has lost every decade resulting in a 33% of population since 1950). Ignoring this entrenched trend the Mayor recently announced that she wants to bring 10,000 new families to the city over the next ten years.⁹³ Although the new zoning code⁹⁴ does specifically endorse green space and mixed use development it lacks the urgency of wholesale transformation of approach to urban design that might give her dream of population growth a fighting chance. This same lack of sweeping vision can be found in the new codes of Philadelphia,⁹⁵ St. Louis⁹⁶ and Cleveland.⁹⁷ Each of these cities chose a timid path of tepid modification.

Detroit stands alone in its sheer willingness to attempt bold changes. A public announcement by the Mayor that citizens may be relocated from their homes in high vacancy neighborhoods might have politically volatile but was certainly audacious.⁹⁸ The Detroit Future City Plan expressly states as one of its imperatives that planning must “focus on sizing the networks for a smaller population, making them more efficient, more affordable, and better performing.”⁹⁹ The plan expressly acknowledges a smaller

⁹² www.urbanvillages.com

⁹³ Stephanie Rawlings-Blake, Baltimore State of the City Address, Feb. 13, 2012. Transforming Baltimore, Baltimore Sun, Nov. 15, 2012.

⁹⁴ Approved March 2013 City of Baltimore Council Bill 12-0152

⁹⁵ www.phila2035.org

⁹⁶ St. Louis Ordinance No. 69199 (2012) created an overlay zone. The city’s zoning law was last overhauled in 1994. Title 26 of 1994 City of St. Louis Code.

⁹⁷ Cleveland City Planning Commission, Connecting Cleveland 2020 Citywide Plan, Land Use and Zoning, *available at* [http:// planning.city.cleveland.oh.us/cwp/landuse.htm](http://planning.city.cleveland.oh.us/cwp/landuse.htm)

⁹⁸ Anna Clark, Can Urban Planning Rescue Detroit, Next City, <http://ht.ly/mA2Rx> accessed 8/20/13

⁹⁹ <http://detroitworkspj.com/wp-content/uploads/2013/01/02-Blueprint-for-Detroits-Future011413.pdf>

city calling for population stabilization by 2030 with 600,000-800,000 residents.¹⁰⁰ Unfortunately the fate of the Detroit Future City Plan is uncertain due to the city declaring bankruptcy.

Another city with a bold plan (and a much better resolution) is Pittsburgh. While zoning plays an important role, it is the city's embrace of a new identity that provided the cataclysmic spark for change. Long identified as a steel manufacturing the city transformed itself to become a center for the high tech industry. Its success story has found its way into the media, starring in many articles applauding its rebirth¹⁰¹ and for its reuse of industrial sites for art centers, technology centers and theaters.¹⁰² As one entrepreneur put it, "We're creating the place where we want to live now,"¹⁰³ a mantra certainly worth repeating. Pittsburgh was recognized by President Barack Obama as "a bold example of how to create new jobs and industries while transitioning to a 21st century economy. As a city that has transformed itself from the city of steel to a center for high-tech innovation –including green technology, education and training, and research and development...Pittsburgh will provide ...a powerful example of our work."¹⁰⁴

Pittsburgh is a rich example of repurposing and re-use in order to create a new city scape from the remnants of the old.¹⁰⁵ Pittsburgh's Zoning Code was written in 1958 and updated in 1999.¹⁰⁶ The original plan, as was the standard for the day, "promoted suburban style growth." Interim plans recognized many of the same issues that were to plague the city in later years – "an overspecialized economy, degraded environment, inadequate infrastructure and deteriorating downtown."¹⁰⁷ These were addressed by various means including environmental regulations and redevelopment authorities.

City officials are now overhauling the zoning and planning laws to reflect the new Pittsburgh. PLANPGH¹⁰⁸ is the first comprehensive plan in the city's history and is broken down into 11 components.¹⁰⁹ LandusePGH will integrate the components by 2014 into a land use vision for the future. While all of the components are interesting, several stand out as taking a new approach to

¹⁰⁰ <http://detroitworksproject.com/wp-content/uploads/2013/01/02-Blueprint-for-Detroits-Future011413.pdf>

They also state that this population will allow Detroit to remain among the 20 largest cities in the US. In 1950-1970 Detroit was the fifth most populous city in the US. In 2010 it was number 14 in terms of population.

¹⁰¹ See *Details* magazine's April 2012 issue that brings former rustbelt cities' turnarounds into the spotlight. Doug Dubois, *The Rust Belt Revival, What's Happening in Pittsburgh*, DETAILS (April 2012). See also, Caitlan Smith, *Pittsburgh, City of Renewal*, THE ATLANTIC (Sept. 2009).

¹⁰² Caitlan Smith, *Pittsburgh, City of Renewal*, The Atlantic, Sept. 24, 2009.

¹⁰³ Doug Dubois, *The Rust Belt Revival, What's Happening in Pittsburgh*, DETAILS (April 2012).

¹⁰⁴ The White House, Office of the Press Secretary, *Statement by the President on the G-20 Summit in Pittsburgh*, Sept. 8, 2009, available at http://www.whitehouse.gov/the_press_office/Statement-by-the-President-on-G-20-Summit-in-Pittsburgh.

¹⁰⁵ See Caitlan Smith, *Pittsburgh, City of Renewal*, THE ATLANTIC, Sep. 2009. Article details the specific changes that each part of the city experienced. See also <http://www.pittsburghgreenstory.org>.

¹⁰⁶ Pittsburgh, Pennsylvania, Code of Ordinances §902.03 (1999).

¹⁰⁷ Edward Muller, "Downtown Pittsburgh : Renaissance and Renewal," in Kevin J. Patrick and Joseph L. Scarpaci, Jr., *A Geographic Perspective of Pittsburgh and the Alleghenies: From Precambrian to Post-Industrial* (Washington: Association of American Geographers, 2000).

¹⁰⁸ Planpgh.com

¹⁰⁹ The components are: Open Space, Preservation, Transportation, Public Art, Urban Design, City Owned Buildings, Energy, Economic Development, Housing, Infrastructure and Educational Facilities

planning. DesignPGH divides the city into six study areas.¹¹⁰ OpenspacePGH provides clear instructions and guidelines for land use and infrastructure decisions about the city's green spaces.¹¹¹ LivePGH inventories current housing stock to understand what types of housing work well in certain locations, which ones don't and why. The refreshing honesty of expressly acknowledging population shrinkage along with the new economic vitality provides a strong base for forward thinking planning. When the PLANPGH is finalized and implemented a review to gauge success is in order.

Urban Villages

Instead of the tentative steps taken in Baltimore, Philadelphia, St. Louis and Cleveland, I encourage cities to take the bold steps of adopting radically different zoning construct: Urban Villages.¹¹² Zoning polycentric Urban Villages diverges from the historical urban form of the so called "natural evolution" monocentric model of urban economics.¹¹³ Lauded by Jane Jacobs decades ago, the city as urban village continues to be a vibrant example of a living, thriving metropolitan form, found in today's growing cities.¹¹⁴ The strategy advocated here differs from the historical Urban Village model of the late 19th century in that this is not the creation of whole towns.¹¹⁵ Rather, it is a call for cities to rethink the notions of centralization and separation of uses that hinder consumption.

Cities that adopt this format strive to be polycentric cities in which there are 'multiple centers of economic activity' as opposed to monocentric cities where work/shopping/cultural activities are all located downtown.¹¹⁶ The rationale behind this layout is that people live in multiple places, not just where they sleep.¹¹⁷ Additionally, the trend towards urban villages complements the shift from a

¹¹⁰ As will be discussed, *infra*, these study areas fit neatly in to the construct of Urban Villages.

¹¹¹ This plan confronts population loss head on by stating: "Pittsburgh has an extensive parks and recreation system that evolved to serve a population twice its current size." A goal of the new policy will be to "transition to the right size and mix of opportunities and resources" See, <http://exchange.planpgh.com/portal/openspace/openspacepgh?pointId=1365444094858#section-1365444094858> accessed 8/20/13.

¹¹² I wish to clearly differentiate Urban Villages from New Urbanism. Although the term is more prevalent in the UK, Urban Villages can be distinguished from New Urbanism by the "greater emphasis on the ratio of employment to residential uses." See, Ed Morgan, *The Sword in the Zone: Fantasies of Land-Use Planning Law*, 62 U. Toronto L.J. 163 (2012) citing, Bridget Franklin & Malcolm Tait, 'Constructing an Image: The Urban Village Concept in the UK' (2002) 1 *Planning Theory* 250.

¹¹³ This theory is generally credited to William Alonso, *Location and Land Use*, Harvard Univ. Press, Cambridge, MA 1964, Edwin Mills, *An Aggregative Model of Resource Allocation in a Metropolitan Area*, Johns Hopkins Press, Baltimore (1967), Richard Muth, *Cities and Housing*, University of Chicago Press, Chicago (1969).

¹¹⁴ Jane Jacobs, *The Death and Life of Great American Cities* (1961).

¹¹⁵ George Pullman created a whole industrial based town of Pullman Ill based on mixed use ideals. Hannah Wiseman, *Public Communities, Private Rules*, 98 *Geo. L.J.* 697, 722 (2010).

¹¹⁶ WILLIAM T. BOGART, *TRADING PLACES: THE ROLE OF ZONING IN PROMOTING AND DISCOURAGING INTRAMETROPOLITAN TRADE*, 51 *Case W. L. Rev.* 697,700 (200-); *citing* William T. Bogart, *THE ECONOMICS OF CITIES AND SUBURBS* 177-206 (1998). See article for sites re economic info ie <50% of employment is located in city center.

¹¹⁷ WILLIAM T. BOGART, *TRADING PLACES: THE ROLE OF ZONING IN PROMOTING AND DISCOURAGING INTRAMETROPOLITAN TRADE*, 51 *Case W. L. Rev.* 697,703 (200-); *citing* MARION CLAWSON, *SUBURBAN LAND CONSERVATION IN THE UNITED STATES: AN ECONOMIC AND GOVERNMENTAL PROCESS* 16 (1971).

manufacturing to a service industry based economy that some of the older cities are making¹¹⁸ as people generally do not want to travel for services and urban villages offer the convenience of all of the necessary amenities one might need within easy access to one another. Advocates of the urban village contend that people are more inclined to live next to work now that work is not in a polluted factory and that advances in technology make it easier to transact business remotely.

Although there are several cities that have adopted this planning model,¹¹⁹ Phoenix, AZ is the best example. The city of Phoenix is divided into fifteen urban villages, which are in turn composed of five key components: core, neighborhoods, open space, community service areas and regional service areas.¹²⁰ Each village has its own Planning Committee, appointed by the City Council. The planning committees are responsible for “balancing housing and employment opportunities, concentrating intensity in village core...and promoting the unique character and identity of each village.”¹²¹ The Phoenix General Plan 1985-2000 was updated on March 12, 2002. The Map of the General Plan marks off Primary Core areas around which the urban villages are located. These core areas are situated in mixed use, commercial or high density residential districts. The Planning Commission took the “idea of living, working, and playing in the same village” as the principle focus of its city plan, which debuted in 1985 as the Phoenix Concept Plan 2000 and was revised in 1994 and 2002.

The plan calls for a “balanced city-wide distribution” of private and public services so that no one village will house the majority of these services.¹²² The plan is fluid in that it takes into account the specific resources and features of each village so that each village has something unique to offer. Each village has its own unique feel, some more urban, some more suburban or rural, some catering to automobile traffic, others to pedestrians.¹²³ The number of jobs for each village is determined based on the development patterns of each village.¹²⁴

Conclusion

In the world of science fiction a zombie cannot be brought back to life. Dead is dead.¹²⁵ However, in the world of urban life zombie cities can be brought back to health and vitality, albeit in a form and size that

¹¹⁸ Christopher B. Leinberger and Charles Lockwood, How Business is Reshaping America, The Atlantic, October 1986.

¹¹⁹ Notably Seattle, Fort Worth and San Diego have elements of Urban Villages. See, Seattle’s plan at City of Seattle Dept. of Planning & Development, City of Seattle Comprehensive Plan 1.27 (2005), available at http://www.seattle.gov/dpd/cms/groups/pan/@pan/@plan/@proj/documents/web_informational/dpdp020401.pdf; Fort Worth’s Urban Village Development Program, avail. at [http://fortworthtexas.gov/uploadedFiles/PlanningandDevelopment/My_Urband_Village/Urban%20Village%20Development%20Program%20Brochure-4-03-06_streets%20labeled\(1\).pdf](http://fortworthtexas.gov/uploadedFiles/PlanningandDevelopment/My_Urband_Village/Urban%20Village%20Development%20Program%20Brochure-4-03-06_streets%20labeled(1).pdf); and City of San Diego General Plan (2008), avail. at <http://www.sandiego.gov/planning/genplan/pdf/generalplan/landuse2010.pdf>

¹²⁰ City of Phoenix, The Phoenix Urban Village Model, p. 5 (1994).

¹²¹ City of Phoenix, *The Village Planning Handbook* (adopted July 23, 1986). The impact of land use decisions on neighboring villages should be addressed but was not specifically resolved in this plan.

¹²² City of Phoenix, The Phoenix Urban Village Model, p. 5 (1994).

¹²³ City of Phoenix, The Phoenix Urban Village Model, p. 6 (1994).

¹²⁴ City of Phoenix, The Phoenix Urban Village Model, p.6 (1994).

¹²⁵ I must credit AMC show The Walking Dead for the limited amount of information that I possess about zombies.

differs from their historical identity. Maximizing consumption and social capital should form the cornerstone of reconstituting failing cities. Zoning is a powerful tool that can facilitate these goals. Instead of trying to reclaim the golden times of years gone by, cities can view population loss as natural outcome of changing economies and evolving social structures. Land use regulation can, likewise, evolve and adapt to new circumstances.

Beginning with increased provision of mixed use zoning and moving on to include neighborhood based planning that promotes the creation of social interaction and social capital, zoning can serve as an enabler rather than an impediment to envisioning the re-birth of cities. Building on the poly-centric notion of urban village and adding attention to public open space and easy access to all types of commercial use, the city forges a new identity and life.