

Smart Code advocate finally agrees to ‘code free’ zones

by Randy Bright <http://www.tulsabeacon.com/?p=5967>

Some of you may recall that several years ago I was in an ongoing e-mail discourse with the managing editor of the Smart Code, who had taken exception to some of the things that I had written about New Urbanism in one of my columns.

After she initially contacted me, I spent a great deal of time studying the Smart Code, which was developed by Andres Duany, an architect well known and respected among urban planners. After several months, we amiably parted ways with neither of us succeeding in convincing each other of the error of our ways. As I recall, in my last correspondence with her I told her that I could accept the Smart Code except for the exclusion of one thing: freedom.

What I meant by that was not that the Smart Code was designed to take away anyone’s freedom, but that the imposition of any code that impedes the property rights of an individual to use his or her own property as they see fit simply could never get my support. I could accept new developments being governed by the Smart Code (or any other code, form-based code or otherwise) as long as those who purchased property in the development knew and understood the rules. That is freedom of choice.

What I could not accept was the notion that a city or county could adopt a new code without the consent of the people (an election), then force anyone who wanted to build or modify their buildings to go to great expense and trouble to satisfy the “desired form” that the code imposed. In addition, *Kelo v. New London* gave far too much power to local governments to take properties under the duress of law for the purpose of enhancing local economics. This misguided decision has resulted in cases where the poor, unable to afford to fight city hall, have been forced from their homes in order to clear the way for retail space to be built. I can point to a local example in the Tulsa area where that happened.

Though I don’t agree with Mr. Duany on the idea that an existing city should be recalibrated to any form-based code on a city-wide basis, I do agree that the Smart Code could be a good model for a new town. The problem is, new towns are virtually nonexistent in the United States, and I think that we are more likely to see the demise of many small towns over the coming decades than to see new ones being formed. There are simply too many federal and environmental regulations to overcome for a new town to form in a rural area. Most growth will take place at the perimeter of metropolitan areas.

Duany spoke recently at the 2012 Congress for the New Urbanism. Always controversial, Duany did not disappoint his audience, but he did surprise me with some of his comments, and I would like to compliment him and comment on a few of them.

According to an article on the Bacons Rebellion website, Duany believes that “planners, developers and designers need to adjust to the new age of economic austerity,” embracing “lean

development, a concept that encompasses both ‘green’ building and sustainability and economic efficiency.”

As an example, Duany said that mixed-use buildings (ones that have retail space on the ground floor and residential space on the second and third floors) are too expensive to build in the current economy, suggesting that the uses could be spread out on the ground level, presumably to allow for phased construction. This probably did not sit well with those in the audience who insist on dense, multi-story developments, but he is correct that should be an option.

The article also stated, “Duany acknowledged that there needs to be ‘code free’ zones, or at least zones free from strictures of the Smart Code. Thirty to 40 percent of the population doesn’t want to live in New Urbanism-style communities and they shouldn’t be made to. The core principle, he said, is to give people a choice.”

If you have been reading my columns for the past few years, you know that I believe that people should not just have a choice, but freedom to decide for themselves what they can do with their property. So I applaud Mr. Duany for introducing the very concept that I thought that the Smart Code and other form-based codes lacked: a recognition of the importance of property rights and freedom based on the concepts that our Founders fused into our Constitution and that made America the greatest country on the planet.

I am sure that Mr. Duany and I are still a universe apart in the many of the things that we believe regarding planning, but I see his recent statements as a very positive development. I will be very interested to see what directions that they take him.

©2012 Randy W. Bright

Randy W. Bright, AIA, NCARB, is an architect who specializes in church and church-related projects. You may contact him at 918-582-3972, rwbrightchurcharch@sbcglobal.net or www.churcharchitect.net.

This entry was posted on Thursday, May 17th, 2012 and is filed under [Columns](#).