

**Research article**

Regulatory islands: a case study in tactical community zoning

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Abstract

Despite the clear environmental and economic benefits of denser forms of housing, the ability to construct such housing remains elusive. Restrictive zoning policies and local coalitions of Not in My Backyard activists make the construction of dense housing within established neighbourhoods a near impossibility in jurisdictions throughout the United States. The purpose of this article is to illustrate how architects might leverage community coalition building and the critical interpretation or 'hacking' of local zoning ordinances to realise dense, infill housing projects even within otherwise highly conservative policy environments. Using Pier Vittorio Aureli's history of settlement form and property rights as an initial contextual framework, the article outlines how infill housing might adopt an alternate view of housing development, subverting the primacy typically assigned to individual private property rights and financial speculation. Sited on an infill lot within one of Lincoln, Nebraska's older neighbourhoods, the project relies on a non-normative, strategic implementation of a Community Unit Plan zoning mechanism to enlist neighbourhood support and establish higher levels of allowable density. This,

in combination with the implementation of a Community Land Trust, allows the project to introduce a greater quantity and diversity of housing types that offer possibilities for home ownership, affordable rental opportunities and even temporary or supportive housing in areas historically dedicated solely to single-family housing models. Ultimately, the significance of the project rests not in its formal novelty but in its demonstration of an immediate and attainable means through which denser forms of housing might be realised.

Keywords zoning; affordable housing; infill development; tactics

Introduction

The need for the architectural profession to meaningfully engage with issues of resource depletion and environmental degradation has never been more clear or more urgent. At the time of writing, this past July was Earth's hottest month on record.¹ The western United States is currently experiencing the worst drought conditions in nearly 12 centuries² and the Great Salt Lake is on the verge of transforming into a cloud of poisonous, arsenic dust as the rapid development of the area continues to diminish the flow of snow melt into the lake.³ Clearly, where and how we choose to live and build have direct impacts on the broader ecological systems upon which we rely as a species, and this relationship requires that we critically re-examine existing building practices and settlement forms, carving out strategies for transitioning away from the resource-intensive suburban settlement form that has become so ubiquitous across the United States. Simultaneously, rising economic inequality and an ever-worsening housing affordability crisis threaten to push a larger percentage of the global population into poverty. Intertwined with this crisis in housing affordability are questions of social cohesion and the negative impacts that spatial separation, the loss of public space and the continuing emphasis on delimited, private space have on the well-being of both the individual and collective society. The same settlement forms and city planning practices that have led to such an unsustainable way of living have also served as mechanisms of segregation, exclusion and exploitation over the past century or more, disproportionately denying particular populations access to appropriate housing and the ability to acquire property and access wealth generated from such property holdings. In the end, a critical examination of our housing models and settlement forms must be understood as a necessary part of an attempt to address these contemporary societal ills.

One way for architects, planners and designers to respond to these pressing conditions is to design and build denser forms of housing that are more resource efficient, rely less on extensive networks of private transit infrastructure, include a greater amount of public or common space and inject a greater number of housing units back into the available housing stock. As one architect suggests, widespread adoption of low-rise housing typologies of even two to three stories could serve as a highly effective response to the climate and housing crises, and provide affordable, communal and equitable housing for communities in need.⁴

Yet, despite the clear environmental and economic benefits that denser forms of housing offer, the ability to construct this type of housing remains surprisingly elusive. Zoning policies structured to protect the low-density enclaves of the home ownership class and anti-density Not in My Backyard (NIMBY) local coalitions⁵ make the construction of dense housing a near impossibility in jurisdictions across the United States, especially within already built-out or established neighbourhoods. The missing middle housing that is required to realise more sustainable settlement forms and to accommodate a greater diversity of ways of living are typically the focus of NIMBY resistance efforts. As just one example, recent proposals to increase density and to build a more diverse housing stock in the suburbs of New York City have resulted in resistance from local residents and state legislators, with the state's legislature ultimately rejecting the proposals put forth by Governor Kathy Hochul.⁶ Often defended through euphemistic language that refers to a desire to 'retain the unique character'⁷ of communities, resistance to denser forms of housing within established neighbourhoods tends to privilege the idea of retaining the existing homogeneity and uniformity of a neighbourhood, often at the expense of marginalised communities who rely on housing typologies other than the detached single-family house. Historically, these efforts supported

the racialised segregation of American cities, and contemporary instances of anti-density efforts have similar implications for the racial and economic segregation of the built environment.⁸ Resistance to infill development around New York City has become so significant that the speaker of the City Council has even proposed the development of new housing on the green spaces of existing public housing projects, noting that the strategy could help to reduce the cost of the development because the land is already publicly owned.⁹ From petitions against affordable infill housing in Connecticut¹⁰ to lawsuits over a Los Angeles suburb's rejection of affordable housing development proposals,¹¹ municipalities across the United States looking to add affordable housing to their housing stock face the same type of resistance and continue to look for alternative means of realising new projects.

Even in municipalities in which broader zoning reforms have occurred, questions remain about the immediate impacts that such reforms have, especially in relation to efforts to develop infill housing in existing neighbourhoods. In 2019, for example, the Minneapolis City Council's approval of the city's 2040 Comprehensive Plan included provisions that effectively eliminated single-family zoning citywide. The elimination of zoning districts that only allowed for detached, single-family structures was intended to galvanise the development of more missing middle housing typologies across the city. After three years under these revised zoning policies, however, the data coming out of Minneapolis do not appear to show a significant spike in new building permits for missing middle housing – or at least not as significant a spike as some housing advocates were hoping to see. And while the exact reason for this seemingly diminished response is still being investigated, one report suggests that the cause might be tied to the relatively limited reach of the new law.¹² While the reformed zoning policy eliminated single-family zoning districts, it failed to modify many of the underlying zoning requirements that impact on the feasibility of realising denser forms of housing on infill lots. Restrictions such as maximum building heights, minimum lot sizes and generous setbacks were left unchanged by the broader zoning reform. This has the potential to lead to a scenario in which missing middle housing types are, technically, allowed within a particular zoning district. However, the additional restrictions placed on the individual lots of land make it impossible to realise the construction of these types of housing forms. Without more extensive revisions to these supplemental zoning requirements, the creation of larger and more dense forms of housing within existing neighbourhoods remains a challenge.

In the face of all of these challenges, what are we, as architects and designers of the built environment, to do? What influence can architects have on the broader implementation of settlement patterns that contribute to a more sustainable and equitable future? And, perhaps most importantly, given the urgent threats imposed by a rapidly changing climate and the apparent lack of political will within many municipal jurisdictions across the United States, what avenues exist to help us realise the broader implementation of denser forms of housing – not in five or ten years, but now?

Ultimately, this article provides an alternative model for architectural practice that outlines one possible means for realising these denser forms of housing models even within highly constrained or conservative policy environments. Through the analysis of an infill housing proposal for a vacant lot in the centre of Lincoln, Nebraska, this article details how architects might develop greater agency in the design and construction of the built environment by engaging directly with the contingencies of municipal code and zoning ordinances, operating tactically as part of a broader coalition of community members, property owners and non-profit organisations to enact previously unforeseen possibilities within the existing legal and juridical frameworks of municipal zoning policies.

Expanded boundaries

As Jesús Vassallo suggests in a recent essay, 'so many of the ills of our current time [inequality, segregation, resource depletion, environmental degradation] are encoded and can be measured in the physical reality of the built environment that surrounds us'.¹³ The tendency within the architectural profession is to address these ills solely through the design and specification of the physical artefacts that make up the built environment. While valuable, this approach is akin to treating the symptoms rather than the underlying cause of an illness. It remains woefully limited in scope, applying only to the small percentage of buildings over which architects have direct influence, and it does little to challenge the biases embedded within and reaffirmed through normative settlement forms. If the profession is to become a 'force for change',¹⁴ as Vassallo suggests, architects must expand their expertise beyond the building and develop a means of engaging with the underlying codes, policies and juridical frameworks

that stipulate what can and cannot be built. While numerous scholars and practitioners have already begun this work in earnest, the profession as a whole must participate with greater intensity in a broader critical examination of local regulatory and zoning policies, financial frameworks and juridical structures that perpetuate systems of segregation, economic inequality and environmental degradation within the built environment.

This examination must ultimately be rooted in an understanding of property as a codified means of commodification and exploitation. As Pier Vittorio Aureli writes, 'at the very root of the current climate crisis lies the concept of property: a pervasive apparatus of governance that, for centuries, has dispossessed communities of their sources of sustenance, supplanting the ethos of care with one based on exploitation.'¹⁵ Throughout history, the act of defining and securing one's own bounded parcel of land has served as a legally justified means of dislocation, exclusion, exploitation and colonisation. As Aureli notes, 'geometry is the crucial link between land and money.'¹⁶ This unfortunate practice remains in place today, as the financial and juridical mechanisms surrounding home ownership within the United States make the ownership of private property one of the most common ways of accumulating household wealth, which is subsequently protected through the carefully codified exclusion and segregation of others, enacted through municipal zoning policies. As M. Nolan Gray points out, this tendency to employ legal boundaries as a mechanism for exclusion suggests that, without substantial policy reform, contemporary zoning ordinances will continue to reinforce exploitative practices and 'will always function as a tool of segregation'.¹⁷

Yet this doesn't have to be the case. In her recent analysis of the formation of capital and land ownership, Katharina Pistor notes that the same zoning policies that solidified segregation, exclusion and exploitation over the past century 'might be used for purposes other than private wealth maximization' and that the juridical frameworks of property rights 'might just as well be used to protect collective use rights and sustainable practices'.¹⁸ As Sonia A. Hirt suggests in her own analysis of American zoning policies, zoning is 'a cultural institution' that reflects 'the values of its founders'.¹⁹ Initially established in the early decades of the twentieth century, many municipal zoning policies across the United States reflect the cultural ethos of a generation and an American population that, quite simply, no longer exists. Furthermore, the 'founders' within Hirt's description refer more specifically to the people (mostly white male property owners) whose significant political and cultural capital helped to bring about the formation of local municipal zoning ordinances. Zoning has never been an equitable instrument of a broad public but has, instead, historically advantaged a select few.

In his analysis of the history and early formation of zoning regulations within the United States, M. Nolan Gray offers a summation of the leading forces that galvanised the formation and adoption of the country's early municipal zoning ordinances:

The early zoning movement largely drew from and found a key base of support among, upper-middle-class, Anglo-American property owners. Early Progressive promises of rationally planned cities quickly yielded to a basic pitch designed around this constituency: zoning will maintain your real estate investments, keep your neighborhood as it exists today, keep unwanted groups out of your community, and prioritize – above all else – the protection of your beloved single-family home.²⁰

While this summation includes a number of interrelated factors, perhaps most relevant to the ideas of property discussed in this article is the fact that many early proponents of municipal zoning ordinances were Anglo-American property owners. In an effort to reduce risk and stabilise, or ultimately increase, the value of their real estate, these property owners accepted the land use restrictions that zoning introduced. Within New York City, specifically, commercial landlords who had previously been subject to unpredictable periods of boom and bust due to the rapid and unregulated construction of new office and industrial space came to form an early 'constituency for comprehensive density restrictions'.²¹ With zoning codes setting regulations for where higher levels of density were allowed, it became easier for commercial landlords to predict demand and reduce the risk posed to their real estate investments.

Ultimately, these observations set the groundwork for a reconsideration of the architect's role in design, suggesting a shift away from the physical artefact of the building and towards urban planning and zoning policies. As Sam Jacob points out:

[Architecture] may well be a physical thing, but it's also the place where investment, communications, marketing, and media all come together, where these issues congeal into

built form. For example, the distance between a developer, the investment they need, the architecture they commission, the public permissions and partnerships they require, the vision they create, the publicity they generate, the buy-in of a community, and the market they seek are intrinsically linked – one is nested within the other. Trying to separate ‘architecture’ out of these processes, as a traditional definition of architecture might do, is to defuse architecture’s potential to engage in the very real politics, vision, and social possibility embedded in these relationships. It’s in the interweaving of these concerns where value – social as well as economic – is created, [that] architecture really happens.²²

The current conditions of ever-worsening climate threats, social fragmentation and economic insecurity require architects who are willing to engage with and operate within these diffuse networks of competing interests, fractured publics and regulatory systems. We must be willing to work collaboratively with others to author examples of living and dwelling that do not reflect the normative cultural institution of American zoning policies. Unable to realise alternative housing models in the face of broader public resistance and overly restrictive zoning, architects practising within conservative regulatory environments must learn to operate differently to realise architecture’s full social and economic value.

Tactical practice

Rather than relying on the autonomy of the architectural profession, this alternative method of practice operates from a place of provisional uncertainty. Operating not from a place of power but from a position of weakness, architects engaged in the creative interpretation or hacking of municipal regulatory policy must instead operate opportunistically, or tactically. Unable to assert enough political will or legislative power to directly change the broader regulatory landscape, architectural practices engaging with issues of housing affordability and access are left to work within the margins, identifying opportunities for change at a local level while simultaneously advocating for broader reforms. Neeraj Bhatia describes the approach of his own practice as ‘simultaneously bottom-up and top-down, we are interested in how tactics aggregate into strategies, and how strategies could empower human and non-human subjects who have historically been overlooked by designers’.²³ This approach reflects a desire to use design practice as a means to challenge and restructure systems of historical subjugation and oppression, working tactically to build the agency necessary to live and dwell otherwise.

Yet, while Bhatia’s description offers a clear example of a design practice positioning its own work within the realm of ‘tactics’, what exactly does this mean? What distinguishes a tactical approach to design and zoning from a broader, more direct or strategic approach? A more detailed understanding of a tactical approach to zoning is perhaps best developed through a careful examination of the writing of Michel de Certeau.

Strategies and tactics

In *The Practice of Everyday Life*, Michel de Certeau outlines a conceptualisation of tactical operations that are defined in juxtaposition to strategic operations. To begin, Certeau describes strategies as originating from a position of power and notes that a strategy ‘postulates a *place* that can be delimited as its own and serve as the base from which relations with an *exteriority* composed of targets or threats ... can be managed ... it is an effort to delimit one’s own place in a world bewitched by the invisible powers of the Other’.²⁴ This description of strategies immediately establishes a connection between notions of delimited space or property, and practices of control, exploitation and Othering. Certeau continues to outline this connection further, writing that strategies can be understood as ‘the calculation (or manipulation) of power relationships that becomes possible as soon as a subject with will and power (a business, an army, a city, a scientific institution) can be isolated’.²⁵ Perhaps no clearer physical manifestation of this attitude of isolation and managing of the Other exists than that of the suburban settlement form so prevalent throughout the United States. Fundamentally strategic in nature, this particular conceptualisation of property serves as a mechanism of segregation and exploitation that relies on the clear delimiting of space to control and manage disadvantaged populations.

This definition of strategies might also sound familiar to many architects as its emphasis on operating from an isolated position of power recalls the profession’s historic insistence on disciplinary

autonomy and expertise. The romanticised notion of the lone, heroic architect working to address the ills of society maps quite seamlessly onto Certeau's descriptions of strategic powers and institutions. Yet, when facing the juridical powers of municipal zoning districts and development reviewers, the temptation to retreat to an autonomous field of expertise can lead to a direct loss of agency within the design process. By choosing to remain isolated within a traditional conceptualisation of architectural practice and ceding the ability to influence earlier steps within the design process, such as planning and regulatory frameworks or policies, architects lose out on the opportunity to have a more meaningful impact on the built environment, one that transcends individual buildings and operates on the larger scale of the neighbourhood or city. This, ultimately, is where Certeau's conceptualisation of tactics becomes helpful.

Tactics, according to Certeau, are never enacted with the same autonomy or distance associated with strategies. Always deployed within hostile territory, tactics require one to operate more opportunistically and through incremental action and, as a result, are described as 'an art of the weak'.²⁶ A tactic aims to 'vigilantly make use of the cracks that particular conjunctions open in the surveillance of the proprietary powers. It poaches them. It creates surprises in them. It can be where it is least expected. It is a guileful ruse.'²⁷ Set in contrast to the delimited, situated power of strategic actions, tactics emerge through more decentralised efforts that seek to mine the edges of the proprietary powers for unexpected opportunities.

In the case of infill housing development, the proprietary powers in question take the form of local zoning ordinances and the various legal processes that have been established to enforce them. Only by vigilantly engaging with zoning policy are architects able to uncover and ultimately take advantage of opportunities to realise alternative models of building and living. Architecture becomes an act of legal reinterpretation, a subversive act of projective storytelling that opens up new possibilities within a system designed to limit them. While never able to radically change the system in which it operates, a tactical approach to architecture allows for immediate, if incremental, results that can establish a foothold for further exploration. As Timothy Love notes, regaining architectural agency in this way requires 'a conscious decision to trade the radical but typically unrealisable position of the new avant-garde for the ability to effect real if incremental innovation within conventional culture'.²⁸

Formation of a regulatory island

An infill housing project serves as a case study for the type of tactical practice described above. Sited in Lincoln, Nebraska, the project proposes the development of a vacant parcel of land and the implementation of a mixed-income housing community within the city's central core. Through a description of the site's regulatory context and a review of the mechanisms used to subvert the city's municipal zoning ordinance, a tactical approach to infill development that can achieve immediate, meaningful results comes into view.

Examining the current regulatory context

Like many cities across the United States, the vast majority of Lincoln's residential land is zoned exclusively for single-family housing. The most recent annual report released by the City of Lincoln shows that 91.3 per cent of the city's residentially zoned land is in zoning districts that only permit detached single-family homes or duplexes.²⁹ These zoning districts, designated R1 to R4 in the Lincoln Municipal Code, also carry large minimum lot area requirements and, while the city's zoning ordinance technically permits the construction of duplexes in the R1 to R4 districts, the minimum lot area requirements often make this impossible.

An example of this condition can be seen in Figure 1. The illustration on the left shows all residential properties within an R2 residential zoning district in one of Lincoln's core neighbourhoods. The illustration on the right shows all residential properties within the same R2 zoning district that have a large enough lot area to meet the requirements necessary for the construction of a duplex. The stark difference between these drawings should be evident and, while this illustrates just a small portion of the city, similar conditions are prevalent throughout Lincoln.

Figure 1. Comparison of the total number of properties within an R2 zoning district (left) with the number of properties able to accommodate the development of a duplex (right)



Ultimately, only 4.7 per cent of Lincoln's residential land is zoned to permit the development of townhouses, walk-up apartment buildings or any other types of missing middle housing typologies that are desperately needed to address the city's ongoing housing affordability crisis.³⁰ The zoning districts that do permit these housing types, designated R5 to R8 within the city's zoning ordinance, also tend to be limited to the city's historic core and to the edges of the central business district, making access to alternative models of housing difficult for those living outside the city centre. To understand what possibilities might exist for realising alternative housing models within such a restrictive zoning environment, the remainder of this article will describe the strategies utilised to create a unique infill housing proposal for a vacant parcel of land within the centre of Lincoln.

Project site and possibilities

The project site is a vacant parcel of land within Lincoln's Malone neighbourhood. Situated within an R6 residential zoning district, the site is legally permitted to host any residential housing typology, from a detached single-family house to a multi-unit apartment building. However, with a site area of only 7,100 square feet, the actual development possibilities for the site remain limited.

With the minimum lot area for a detached single-family structure set at 4,000 square feet per unit within the R6 zoning district, the parcel is only able to support the development of one detached single-family house. Similarly, with the minimum lot area for a duplex set at 2,500 square feet per unit (or 5,000 square feet for a single duplex structure), only a single duplex can be constructed on the site, as shown in Figure 2. Ultimately, this limited site potential reflects a development density far below the threshold envisioned for the project, one still almost indistinguishable from single-family sprawl.

Tactics for density and the redrawing of boundaries

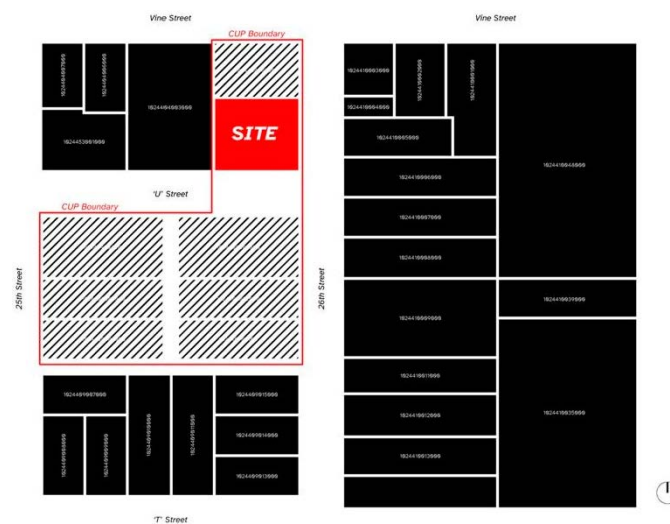
Realising greater density on the site ultimately requires the careful analysis of a chapter of the city's municipal zoning code that details the characteristics of the zoning mechanism known as a Community Unit Plan (CUP). In this context, a CUP functions as a zoning overlay intended to 'permit and encourage the creative design of new living areas'.³¹ The CUP does this by permitting greater development densities within its boundaries and variances to the standard setback, minimum parking and minimum lot area requirements. While appealing, the CUP comes with one significant drawback: its creation requires a minimum site area of at least one full acre. As a result, most CUPs within Lincoln are established at the edges of the city, where it remains easy to assemble large tracts of land that meet the one-acre minimum area requirement.

Figure 2. Development and subdivision possibilities of the existing lot under current zoning regulations: a single-family dwelling (left) or a two-family dwelling (right)



However, the language within the CUP regulations establishes no clear restriction on either the type of properties or the number of different ownership entities that can be included within the CUP boundary. Using this knowledge, the design proposal establishes a CUP boundary, shown in Figure 3, that includes the property of multiple owners, encapsulating existing homes as well as the vacant parcel to be developed – a first for the city of Lincoln. By literally redrawing the boundaries of the project in this way, the design establishes a sense of common ownership not typically associated with a single development site, and in doing so the project addresses one major challenge often encountered by infill housing developments. By including neighbouring property owners as partners within the CUP proposal, the project provides these individuals with agency in the design process and, in effect, secures a network of neighbourhood advocates for the project from its inception, helping to prevent the risk of negative perception among the neighbourhood or a coordinated NIMBYism effort that could stall or ultimately kill the project.

Figure 3. Site context plan illustrating the project site (red fill) in relation to the larger CUP project boundary (red line)



In addition to simply establishing a supportive contingent of neighbours, the CUP mechanism also introduces a novel approach to authorship and the formation of an alternative culture of dwelling. Returning to Hirt's description of zoning as a 'cultural institution', it might be argued that the CUP allows property owners within the CUP overlay district to establish an alternative cultural ethos through the modified zoning allowed through the establishment of the CUP.

In this case, many of the property owners living within the proposed CUP boundary are intensely dedicated to urban farming. Rather than standard turf grass lawns and flower beds, many of these property owners have converted every inch of open area on their lots to edible garden space. Affectionately known as the 'Hawley Hamlet', this cluster of neighbours use their property, including public right-of-way areas, to produce carrots, strawberries, raspberries, tomatoes and a variety of other fruits and vegetables. This urban garden is also made available to the entire neighbourhood, with specific plots set aside to allow neighbours living outside the immediate block to plant and harvest their own vegetable gardens. Due to this interest in urban farming and 'productive' or 'edible' landscapes, many within the proposed CUP boundary also hold a particular view regarding parking requirements. Rather than seeing off-street parking as a positive contribution to the neighbourhood, this particular cohort of residents understands off-street parking to be nothing more than a waste of otherwise productive garden space. As a result of this unique cultural disposition, the property owners included in the proposed CUP boundary are supportive of reducing parking requirements for any new residential structures and are also excited to pursue higher levels of density as a way of bringing more people into the neighbourhood (and into the garden).

While this project represents a very specific and quite unique set of circumstances, it nevertheless exemplifies a general process that architects and designers can employ to build support for any infill project within an existing neighbourhood. By forming a coalition that includes neighbours and existing property owners, the project team can enter into a conversation with the neighbourhood constituency much earlier in the design process. Property owners within the proposed CUP boundary can express their concerns from the outset and work with the design team to address such concerns. Rather than the neighbourhood seeing the property for the first time only upon the developer's initial filing of a building permit, this collaborative process of establishing a CUP with existing property owners allows for a significantly more transparent process. In addition, because the realisation of the project requires the inclusion of their property within the CUP, property owners enjoy a level of agency or design 'capital' within the broader design team. While the process described here cannot avoid a scenario in which all existing neighbours or property owners refuse to participate in the formation of a CUP, it does provide tangible ways in which to address neighbourhood fears or misconceptions through a transparent and collaborative design process.

Ultimately, the surrounding neighbours, project developers and designers can identify a set of shared interests that inform the specific details of the zoning waivers included within the proposed CUP. In this case, the standard property setbacks of the underlying zoning district are reduced significantly to support a larger buildable area on the site, and the standard parking requirements of the underlying zoning district are reduced from a ratio of 1.5 off-street parking stalls per dwelling unit to a ratio of just 1.0 off-street parking stalls per dwelling unit. Collectively, these waivers reshape the character of the existing zoning and help to establish a new 'culture' or a new 'island' within an otherwise normative regulatory landscape.

Through this collaborative effort between designers, developers and neighbours, the creation of the CUP allows for the construction of five houses on a lot that, under normative zoning standards, could support only two. The CUP zoning language allows for an increase in overall development density up to a predetermined limit. For the R6 zoning district in which the project site sits, new development can be constructed up to a density of 48.4 dwelling units per acre,³² which far exceeds the average density of standard residential neighbourhoods across Lincoln. In addition, this maximum density represents a maximum average across the entire CUP overlay district. In this case, it means that the vacant lot can feasibly be developed to a density even higher than the 48.4 dwelling units per acre due to the relatively low density of the existing single-family lots included in the CUP, as long as the overall average remains below the maximum density outlined in the zoning ordinance.

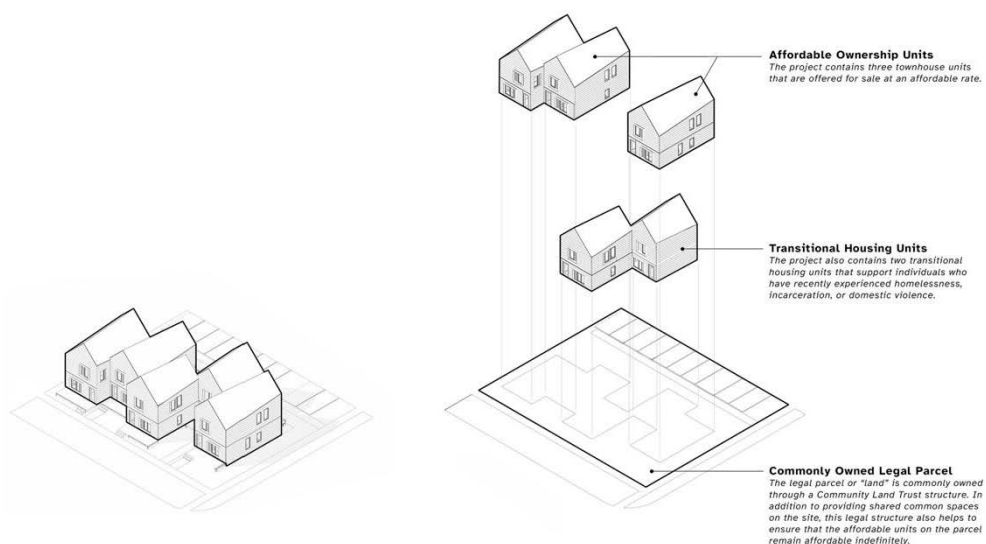
In addition to the creation of a higher number of dwelling units than otherwise allowed, the project also reconsiders normative questions of ownership. To do so, the project combines the regulatory framework of the CUP overlay district with the legal structure of a Community Land Trust (CLT). The CLT operates a separate non-profit organisation, retaining ownership of the land on which the new development is constructed in order to better control the long-term development and use of the property. Distinct from standard property ownership models, a CLT effectively separates ownership of a house or an apartment from the ownership of the land on which the dwelling sits. The CLT retains ownership of the land and then leases the land to the owners of homes or apartments built on the land.

This separation of ownership allows the CLT to implement deed restrictions or resale formulas into each lease agreement that help to ensure all (or, in some cases, a certain percentage) of the dwelling units on the site remain affordable indefinitely. While the exact characteristics of resale formulas vary widely across different CLTs, one common approach is to restrict the resale of a dwelling based on the original buyer's relative income. In other words, if the original buyer of a subsidised, affordable unit earns an income that is 50 per cent of the area's medium income (AMI), this buyer would, upon sale of the unit, be required to sell to a buyer with the same level of relative income, namely 50 per cent AMI.

The important distinction here is that, while resale formulas like the one outlined above do place limitations on resale, the CLT structure still allows individuals to build equity through the ownership of a home. Equity is built in two ways: through the consistent paying down of the principal balance of the mortgage and through increases in the market value of the home. Upon the sale of the home, all direct equity realised through the paying down of the mortgage is retained by the original homeowner or 'seller', and a predetermined percentage of the equity realised through market value increases is also typically allocated to owners under the CLT's resale formula. While this model is not intended to replace more traditional forms of home ownership within the United States, it does offer a compelling alternative or additional option, especially for lower-wage earners.

In addition to preserving aspects of traditional home ownership, the CLT accommodates affordable rental options as well. The hybrid character of the project can be understood as an exception to historical norms within American zoning, which tends to privilege the detached single-family housing typology and to separate it from other forms of housing through exclusionary zoning practices or policies.³³ Rather than a sole emphasis on single-family development, the CLT structure allows owner-occupied, rental and transitional or supportive housing units to be located on the same parcel of land, as shown in Figure 4, making it possible for all types of housing to benefit from the unique features of the CLT. Once again, this specific zoning mechanism operates as a tactical element within the broader municipal zoning code, one that permits the intentional densification and diversification of the proposed development site.

Figure 4. Diagram illustrating the multiple ownership models possible within the site as a result of the CLT ownership structure



And while the inclusion of income-restricted units within the CLT has the potential to provoke a response from local NIMBY coalitions, the CLT ultimately operates outside the policing powers of the local planning department, effectively buffering or reducing the political power typically associated with such NIMBY responses. In other words, as long as the structures built within the CLT adhere to all local zoning regulations and building codes, the city has no ability to regulate the land trust's inclusion of income-qualifying units or the associated resale or rental formulas. Furthermore, because the CLT is managed by a board of CLT residents, neighbourhood advocates and local business or organisational leaders, a diversity of interests is represented within the CLT, and any concerns can be balanced through

caps on the total number of income-restricted units in a particular area or development. Again, while this approach cannot rule out all opposition from NIMBY groups, its strength lies in the ability to form local coalitions of property owners, community residents and non-profit leaders who can serve as advocates for and participants within the project from the outset. Able to reflect the interests of the entire community (both property owners and those who do *not* own property), the CLT operates as a viable response to issues of housing affordability, one that emerges from within the community rather than from the outside. In the end, the project embodies the characteristics of a settlement island defined by Aureli. He writes that such islands are 'a project of commoning, a practice that emerges out of the effort of a community to pool its resources and share them equitably' and that these types of practices offer the opportunity for a community to 'not only share but also to govern common resources in a way that ensures their reproduction or renewal'.³⁴ The proposal ultimately offers a means of creating a form of housing whose sole function is not the private accumulation of wealth but the shared, responsible management of land and housing as a public good. In combination, the tactical implementation of the two separate policy mechanisms outlined above establishes a regulatory island that stands in contrast to the normative settlement forms around it.

Conclusion

While the design proposal presented here offers no formal, typological or material innovation, it does serve to illustrate the fact that alternative settlement forms are immediately attainable – that 'it is possible to live *otherwise*'.³⁵ Through its documentation and visualisation, the project lends a sense of veracity to these alternative urban settlement forms. In this way, the project challenges the ubiquity, apparent naturalness or superiority of the single-family housing typology and offers up a realistic alternative in its place. As Sam Jacob states, 'architecture is fundamentally unnatural ... constructed conceptually just as it is constructed physically. It is an entirely synthetic invention with no intrinsic core other than one that we might invent.'³⁶ If nothing else, this proposal serves as a reminder of this synthetic quality of the built environment and the need for architects to continue to play an expanded and more meaningful role in its continual reinvention and reimagining.

Declarations and conflicts of interest

Research ethics statement

Not applicable to this article.

Consent for publication statement

Not applicable to this article.

Conflicts of interest statement

The author declares no conflicts of interest with this work. All efforts to sufficiently anonymise the author during peer review of this article have been made. The author declares no further conflicts with this article

Notes

¹ Zhong, 'Earth's warmest month'.

² Fountain, 'How bad is the western drought?'.

³ Flavelle, 'Great Salt Lake dries up'.

⁴ Chakrabarti. 'A solution to our global housing'

⁵ NIMBY is a widely understood reactionary movement that resists change in the urban environment.

⁶ Gay, 'NIMBYs'.

⁷ Gay, 'NIMBYs'.

- ⁸ Gray, *Arbitrary Lines*, 81.
- ⁹ Zaveri, 'Build on public housing's open spaces'.
- ¹⁰ Prevost, 'Town after town'.
- ¹¹ The Times Editorial Board, 'Wealthy La Cañada Flintridge'.
- ¹² Minott, 'Comprehensive zoning reform'.
- ¹³ Vassallo, 'Broad spectrum architecture', 139.
- ¹⁴ Vassallo, 'Broad spectrum architecture', 139.
- ¹⁵ Aureli and Guidici, 'Islands', 175.
- ¹⁶ Aureli, 'Appropriation, subdivision', 149.
- ¹⁷ Gray, *Arbitrary Lines*, 86.
- ¹⁸ Pistor, *The Code of Capital*, 24.
- ¹⁹ Hirt, *Zoned in the USA*, 12.
- ²⁰ Gray, *Arbitrary Lines*, 21.
- ²¹ Gray, *Arbitrary Lines*, 18.
- ²² Jacob, 'Architecture'.
- ²³ Bhatia, *New Investigations*, 28.
- ²⁴ de Certeau, *Practice of Everyday Life*, 35, emphasis in original.
- ²⁵ de Certeau, *Practice of Everyday Life*, 35.
- ²⁶ de Certeau, *Practice of Everyday Life*, 37.
- ²⁷ de Certeau, *Practice of Everyday Life*, 37.
- ²⁸ Love, 'Double-loaded', 47.
- ²⁹ City of Lincoln and Lancaster County, 'LB866/Statute 19-5504', 3.
- ³⁰ City of Lincoln and Lancaster County, 'LB866/Statute 19-5504', 3.
- ³¹ City of Lincoln and Lancaster County, 'Chapter 27'.
- ³² City of Lincoln and Lancaster County, 'Chapter 27'.
- ³³ Hirt, *Zoned in the USA*, 57–8.
- ³⁴ Aureli and Guidici, 'Islands', 186.
- ³⁵ Aureli and Guidici, 'Islands', 187, emphasis in original.
- ³⁶ Jacob, *Make It Real*, 51.

References

- Aureli, Pier Vittorio. 'Appropriation, subdivision, abstraction: A political history of the urban grid'. *Log Journal* 44 (2018): 139–67.
- Aureli, Pier Vittorio and Maria Shéhérazade Guidici. 'Islands: The settlement from property to care'. *Log Journal* 47 (2019): 175–99.
- Bhatia, Neeraj. *New Investigations in Collective Form: The open workshop*. San Francisco: AR+D Publishing, 2023.
- Chakrabarti, Vishaan. 'A solution to our global housing and climate problem is hiding in plain sight'. *DeZeen*, 16 May 2022. Accessed 7 May 2023. <https://www.dezeen.com/2022/05/16/goldilocks-housing-vishaan-chakrabarti-opinion/>.
- City of Lincoln and Lancaster County. 'Chapter 27.65-Community Unit Plan, Lincoln Municipal Code'. n.d. Accessed 7 May 2023. <https://online.encodeplus.com/regs/lincoln-ne/doc-viewer.aspx#secid-12144>.
- City of Lincoln and Lancaster County. 'LB866/Statute 19-5504: Biennial Affordable Housing Report, Lincoln, NE'. Submitted to the State of Nebraska, Urban Affairs Committee, 30 June 2023.
- de Certeau, Michel. *The Practice of Everyday Life*. Translated by Steven Rendall. Berkeley: University of California Press, 1984.
- Flavelle, Christopher. 'As the Great Salt Lake dries up, Utah faces an "environmental nuclear bomb"'. *New York Times*, 22 June 2023. Accessed 22 June 2023. <https://www.nytimes.com/2022/06/07/climate/salt-lake-city-climate-disaster.html>.
- Fountain, Henry. 'How bad is the western drought? Worst in 12 centuries, study finds'. *New York Times*, 14 February 2022. Accessed 21 May 2023. <https://www.nytimes.com/2022/02/14/climate/western-drought-megadrought.html>.

- Gay, Mara. 'NIMBYs threaten a plan to build more suburban housing'. *New York Times*, 22 March 2023. Accessed 21 May 2023. <https://www.nytimes.com/2023/03/22/opinion/new-york-housing-crisis-kathy-hochul.html>.
- Gray, M. Nolan. *Arbitrary Lines: How zoning broke the American city and how to fix it*. Washington, DC: Island Press, 2022.
- Hirt, Sonia A. *Zoned in the USA: The origins and implications of American land-use regulation*. Ithaca: Cornell University Press, 2014.
- Jacob, Sam. 'Architecture might have to become less architectural'. *DeZeen*, 16 January 2014. Accessed 23 April 2023. <https://www.dezeen.com/2014/01/16/opinion-sam-jacob>.
- Jacob, Sam. *Make It Real: Architecture as enactment*. Moscow: Strelka Press, 2014.
- Love, Timothy. 'Double-loaded: Everyday architecture and windows for improvement'. *Harvard Design Magazine* 21 (2004): 42–7.
- Minott, Owen. 'Comprehensive zoning reform in Minneapolis, MN'. *Bipartisan Policy Centre*, 3 October 2023. Accessed 17 April 2024. <https://bipartisanpolicy.org/blog/comprehensive-zoning-reform-in-minneapolis-mn/>.
- Pistor, Katharina. *The Code of Capital: How the law creates wealth and inequality*. Princeton: Princeton University Press, 2019.
- Prevost, Lisa. 'Town after town, residents are fighting affordable housing in Connecticut'. *New York Times*, 4 September 2022. Accessed 21 May 2023. <https://www.nytimes.com/2022/09/04/realestate/connecticut-affordable-housing-apartments.html>.
- The Times Editorial Board. 'No, wealthy La Cañada Flintridge shouldn't be allowed to block affordable housing'. *Los Angeles Times*, 15 December 2023. Accessed 21 May 2023. <https://www.latimes.com/opinion/story/2023-12-15/la-canada-flintridge-block-affordable-housing-newsom-bonta-lawsuit>.
- Vassallo, Jesús. 'Broad spectrum architecture'. *PLAT Journal* 9.0 (2020): 138–9.
- Zaveri, Mihir. 'Build on public housing's open spaces, N.Y.C. Council speaker says', *New York Times*, 8 March 2023. Accessed 21 May 2023. <https://www.nytimes.com/2023/03/08/nyregion/affordable-housing-nycha.html>.
- Zhong, Raymond. 'This looks like earth's warmest month. Hotter ones appear to be in store'. *New York Times*, 27 July 2023. Accessed 27 July 2023. <https://www.nytimes.com/2023/07/27/climate/july-heat-hottest-month.html>.