

Sidewalk Skirmish

THERESE KELLY, AIA

Santa Monica, CA

With the Monopoly board game as a prompt, this paper examines the contested territoriality of the sidewalk, in light of the sudden influx of dockless scooters and bikes into this typically pedestrian space. The use and nature of the sidewalk is transforming, altering the civic life of the commons, and demands that we re-evaluate the role of sidewalks in our cities. An analysis of scooter usage and sidewalk regulation in the City of Santa Monica provides a case study for exploring the constraints and opportunities of this new mobility technology.

Take a stroll around the Monopoly board properties and you won't find a single public park, public sidewalk, public plaza, or even public transportation system. Marvin Gardens and Park Place may sound like public spaces, but they're private, as are the railroads. The only truly public property on the board is the jail. And then there's the "Free Parking" space. Cities have developed and transformed in many ways since the Monopoly board was first designed in the early twentieth century, and yet, with its emphasis on private property and the subsidization of space for automobiles, this game lays bare contemporary assumptions about urban spaces that still plague the city of today.

Who owns the ground? Specifically, who has a right to the sidewalk? Take an actual stroll around Downtown Los Angeles' financial district, and you will find brass plaques and markers embedded in the sidewalk paving warning, "Right to pass by permission of owner," "Private Property. Passage revocable at will." Midcentury zoning regulations tasked private developers with building the public realm, in exchange for increased development rights. The resultant open spaces occupy a disjointed, liminal zone between public and private, leaving the adjacent sidewalk a disconcerting place of unease, unclear ownership, and arbitrary regulation of behaviors.¹

More recently, sidewalks around the country again have become a renewed space of contested territoriality with the explosion of alternative transportation methods such as dockless bikes and electric scooters.

This sudden, massive influx of dockless scooters and bikes is transforming the use and nature of the sidewalk, and demands that we re-evaluate the role of sidewalks in our cities. I argue that the civic life of the commons is at stake. The very business model of these new transport technologies relies on their appropriation of the commons for private



Figure 1: Sidewalk plaque in L.A.'s financial district, Bunker Hill. (Therese Kelly).

means. Cities are struggling to keep up with these new "disrupters," ordering temporary regulations (Santa Monica) and filing cease and desist lawsuits (San Francisco) against the start up companies. Other cities have outright banned their use (West Hollywood). This paper will focus on the City of Santa Monica, the founding place for e-scooter pioneer Bird and one of the very first cities in the U.S. to experience the inundation of dockless bikes and scooters.

THE SIDEWALK, AN INTRODUCTION

Since the mid 1800s, as poet Charles Baudelaire's flaneur strolled the streets of Paris, the sidewalk emerged as the sacred place for the pedestrian. And whether genteel flaneur or common badaud, walking is arguably the one mode of transport that is free and accessible to all. While sidewalks have been documented as early as 2000 B.C.E in what is now Turkey, and again in Greek and Roman times, it wasn't until the mid-1800s that sidewalks became a more regularized element of urban form.² In 1885 the California Supreme Court established sidewalks as an extension of the public street, distinct from private property. Since then, sidewalks have become the domain of the public realm, and pedestrians have been recognized as "the sidewalks' priority user."³

As cities developed, sidewalks became so much more than a conduit for movement. They became spaces of civic interaction and passive face-to-face encounters, a place to participate in society. Jane Jacobs called sidewalks "the main

public place of the city,” describing them as “its most vital organs.”⁴

As for walking itself, Michel de Certeau, in his essay “Walking in the City,” called pedestrians “the ordinary practitioners of the city.”⁵ To walk is to experience the city rather than simply a means of transportation. He points out that our urban “spatial practices secretly structure the determining condition of social life.”⁶ In other words, walking on the sidewalk is not only about reaching a destination; sidewalkers actively participate in the life of the city.

CASE STUDY: SANTA MONICA

Fighting the stereotype that “nobody walks in L.A.,” the region has made impressive strides in both public transit and pedestrian improvements over the past decade.⁷ And Santa Monica, at 8-square miles and surrounded by Los Angeles on three sides and the Pacific Ocean, is imminently more walkable than its larger and more famous neighbor.⁸ With a healthy local bus network, the arrival of the Expo light rail in 2016, newly implemented “scramble” crosswalks—where pedestrians can cross intersections diagonally—and planned “signature streetscapes,” Santa Monica’s already robust walking culture is growing.

Initially deployed with no input from the city’s planning, mobility, public works or safety departments, dockless mobility company Bird flooded Santa Monica with 1,500 e-scooters a little over a year ago. By June 2018 there were 3,000 scooters from two competing providers. As of this writing, four companies are currently operating e-scooters and e-bikes in Santa Monica: Bird, Lime, Jump, and Lyft. All four private companies appropriate the public sidewalk for their daily operations: vehicle deployment, customer access, and customer parking.

These dockless transportation options differ from the city-wide bike share programs popularized by Paris’ Vélib in 2007, which swept cities throughout the world, revolutionizing green transport. In contrast to their predecessors, dockless bikes and e-scooters can operate without the infrastructure of docking stations; they can be parked and picked up anywhere. They are app-enabled, based on the geo-location technologies of car-based ride-hailing companies.⁹

They differ also in that they are not a public-private partnership; they are a private appropriation of the public realm. In contrast, Paris’ Vélib was implemented by that city, and paid for by marketing giant JCDecaux in exchange for advertising, at no cost to tax payers.¹⁰ New York’s Citibike, Santa Monica’s Breeze Bikes, and other city bike shares operate with a similar corporate sponsorship model or public-private infrastructure.



Figure 2: Scooters line the sidewalk on Santa Monica’s Main Street. (Therese Kelly)

As these technology companies enter the micromobility sector, we are all entering a new era in city making, a city making that prioritizes the individual over the collective, and a city making that is product-driven and reactive rather than networked and master planned. Venture dollars chasing to market the next unicorn investment create immediate physical consequences for the design of cities, and affect all city users, not just e-scooter users. The rules are changing while we’re in the middle of the game. These innovators’ primary motivations, at least according to marketing and lobbying materials, are to solve the first- and last-mile problem for commuters accessing mass transit, and to create more environmentally sustainable transportation options. These are admirable goals. Of all the negative chatter, Letters to Editor, tirades on social media and comments at City Council meetings, no one is arguing with the idea of alternative transportation (although many argue that these companies fall short of these goals).

Detractors of the scooters argue for common sense, a common decency, a common understanding of “the commons.” Unfortunately for the public life of the city, the e-scooters especially appeal to an individual’s worst selfish nature. Riders tend to leave them anywhere they want: obstructing the sidewalk, impeding accessible ramps, blocking crosswalks. Worse, despite regulations prohibiting sidewalk riding, users typically ride on the sidewalks, and at 15 miles per hour, expect pedestrians to move out of the way, sometimes barreling into and injuring them.



Figure 3 (left): Riding on the sidewalk past fallen scooters.

Beyond individual behaviors, the poor design of the scooters themselves contributes to this sidewalk contest. For a tech sector innovation flush with venture capital funding, the product's design is surprisingly poor: the scooters' tiny wheels make them prone to falling over, and the one-sided mini kickstand often crumples under the weight of the heavy objects. At upwards of 25 lbs each, the scooters are also difficult to move if not engaged. Riders whose scooters have run out of charge, and Good Samaritans wishing to clear the sidewalk for other pedestrians, find them arduous to budge. This design flaw only further exacerbates the sidewalk obstruction problem.

The other systemic design flaw is deployment. The scooters are parked on the sidewalk, making the sidewalk the de facto user interface. It is hardly surprising, then, that users assume they are meant to ride on the sidewalk. Although Santa Monica has tried to counter sidewalk riding with a plethora of additional pavement markings, temporary signage, and bus ad campaigns, users seem not to read or heed these instructions. All this extra signage amounts to a general graphic visual noise that only adds to the sidewalk clutter.

As a transportation option, there are flaws here, too. The scooter companies claim to provide an alternative for commuters, yet their user agreements prohibit riders from carrying a briefcase, backpack, or bag. Further, although the fine print indicates riders must wear a helmet—and some of these companies have given away free helmets—in practice, it is rare to see a rider wearing one. In fact, Bird's own marketing images show riders without helmets, riding on the Santa Monica beach path, where electric scooters are prohibited.



Figure 4: Bus ad campaign to promote more civic-minded use of e-scooters.

To-date, Santa Monica has developed the most detailed regulations for these vehicles in the country.¹¹ Even so, it seems that despite user agreements, aggressive public safety campaigns, and even citations and enforcement, neither the scooter companies, nor the City of Santa Monica has been able to control how individuals use the scooters or use the public space of the sidewalk. Now that this Pandora's box is open, is there any hope to achieving both a vibrant sidewalk life and an eco-friendly transit alternative?

REASSERTING CIVIC LIFE

Can this new era of individualized, product-driven, reactive city making provide a “both/and” scenario? It's worth a try, since the life of the civic commons will depend on this outcome. I think it's possible to overcome many of the sidewalk obstruction challenges with tools we already know: with technology, regulation, and urban design.

First, the very same technology innovations that brought the scooters to cities are also capable of solving many of these problems. For instance, to prohibit ridership on sidewalks, the scooter companies vehemently claim they can't geofence such a sinuous path that is contiguous with the legitimate roadway. But other technologies are already available. For instance, the sidewalk surface, typically made of concrete and with a regular rhythm of control joints, is a very different surface from an asphalt bike lane or roadway. Cycle computers on the market since 2016 can easily detect road surface changes in real time.¹² And most smart phones already contain gyroscope sensors that could simply detect the regular disturbance of rolling over the sidewalk's control joints, and render the scooter inoperable. Similarly, to require helmets, since a QR-enabled phone is needed to access the product already, users could be required to take a photo of their helmet, just like they are required to scan a diver's license. Finally, user's behaviors could be rated by the system, offering



Figure 5: A pedestrian with stroller navigates around a parked scooter on one of Santa Monica's typically narrow sidewalks. (Therese Kelly)

perks or rewards for civic-minded behaviors such as parking the scooter near a bus stop, for instance, or consequences for the opposite behaviors. These issues are not insurmountable.

Second, technology alone can't solve all of these problems, and it would be naive to expect these companies to self-regulate. City policy makers need more forcefully to regain control and oversight over their own sidewalks and streets. Operating in the public sphere should obligate full participation in public society. The tech sector's innovation mantra to "move fast and break things" just doesn't work when applied to city making—and when referring literally to the sidewalk, it's completely unacceptable. Some cities have banned the vehicles outright, such as Coronado, West Hollywood, Newport Beach, and until recently, Denver and San Francisco. But the scooters are here to stay. Cities should demand accountability and mandate private operators to give and not just take. In Monopoly terms, it's time to pay into the "Community Chest." This regulatory approach should produce public benefits such as funded bike lanes, wider sidewalks, data collection, and non-proprietary management tools.

The partnership model should be done systematically and with follow through, not privileging any one product. Santa

Monica just launched a 16-month pilot program,¹³ to develop policies based on firsthand experience with a limited number of providers, experiment with mobility device "drop zones," and quantify the benefits and impacts on the city holistically.

As a requirement, companies must share their data, which will allow the City to evaluate, for instance, whether these devices really do solve the first- and last-mile problem, or if they simply replace walking, and whether they are actually used by city dwellers or only tourists. They can also evaluate accessibility to underserved areas and populations. (Lime does offer a work around for users who don't have smartphones, but it's a little clunky.) In addition, these companies rely on a fleet of independent contractors driving around vans and SUVs to collect and deploy the scooters, recharge their batteries, and now offer direct delivery to individuals who've reserved them; collected data should substantiate whether the total emissions impact of the system, including contractors driving around, truly is carbon neutral, as proponents claim.

Finally, beyond technology fixes and regulation, these sidewalk skirmishes are essentially a fight over a few feet of concrete. In many places in Santa Monica, sidewalks are only five feet wide. As the "Free Parking" space on the Monopoly board portends, we need to stop making streets that are dominated by the automobile. If scooter users felt safer riding on the road, they likely wouldn't ride on the sidewalk. We need to design inclusive streets not only for scooters and bikes, but for families, the elderly, the disabled, dog owners, the tree canopy, and all human and non-human inhabitants of our cities. Plus, we need microtransit options for all sectors of the population, not just the able-bodied.

CONCLUSION

Let's face it, the sidewalk may be the commons, but it's also the catch-all for anything we don't make room for in the rest of the city, not just alternative transportation, but affordable shelter, economic opportunity, and mental health. This battle over a few feet of public space is a symptom that points to much larger and interconnected urban issues that question who has a right to the city. We need to scrutinize the current state of our sidewalks, and design them as more than the leftover space at the side of the road. With the demise of traditional retail challenging our notions of what animates a sidewalk, we also need to think critically and creatively about how and where people participate in and practice civic life. In an era where our public forum is no longer a physical space but virtual silos of social media echo chambers and partisan news sources, we need sidewalks now more than ever. If we rewrite the rules of sidewalk design, maybe the last-mile "problem" will become instead an invitation to walk.

ENDNOTES

1. The Los Angeles Urban Rangers, the interdisciplinary group I co-founded, creates urban hikes of these liminal landscapes, offering critical interpretation and public activation of these zones, including “Bunker Hill Expedition” and “Corporate Peaks and Meadows.” See www.laurbanrangers.org. See also Stephanie LeMenager, “The Los Angeles Urban Rangers, Trailblazing the Commons,” in *American Studies, Ecocriticism, and Citizenship: Thinking and Acting in the Local and Global Commons*, eds. Joni Adamson and Kimberly Ruffin (Routledge, 2013), 220-235.
2. Spiro Kostof, *The City Assembled: the Elements of Urban Form through History*. (New York: Brown, 1992).
3. Anastasia Loukaitou-Sideris and Renia Ehrenfeucht, “Introduction: The Social, Economic, and Political Life of Sidewalks” in *Sidewalks: Conflict and Negotiation over Public Space* (Boston: MIT Press, 2009), 24, 33.
4. Jane Jacobs, *The Death and Life of the Great American Cities*. (New York: Random House, 1961).
5. Michel de Certeau, “Walking in the City” in *The Practice of Everyday Life*. Trans Steven Rendall. (Berkeley: University of California Press, 1984), 93.
6. *Ibid.*, 96.
7. Among several initiatives, the group Los Angeles Walks has been advocating for pedestrian improvements such as wayfinding and kid-friendly and senior-friendly sidewalks since 2011; CicLAvia, founded in 2010, creates car-free street events to celebrate public space; and since 2014, the “Great Streets” initiative by Los Angeles Mayor Eric Garcetti pilots improved neighborhood corridors in each of the City’s 15 council districts by coupling community groups with city services to create plazas, parklets, and improve curbs, street lighting, trees and street furniture.
8. Santa Monica scored a remarkable 83 on Redfin’s “WalkScore” analysis, and tied with Berkeley for the fourth most walkable city in California, behind West Hollywood and San Francisco.
9. Bird was founded by former Uber and Lyft executive, Travis VanderZanden. In addition, both Uber and Lyft operate their own e-scooter options.
10. Angelique Chrisafis, “The city’s gone cycling mad,” *The Guardian*, Aug 16, 2007. <https://www.theguardian.com/environment/2007/aug/16/ethicalliving.france>
11. Alissa Walker, “Bird, Lime, Lyft, Uber will all be allowed to operate scooters in Santa Monica,” *LA Curbed*, Aug 30, 2018. <https://la.curbed.com/2018/8/30/17800498/scooters-santa-monica-bird-lime-lyft-uber>.
12. The Powerpod cycle computer, available since 2016, measures road vibration with its accelerometer in real time. <http://velocompforum.com/viewtopic.php?t=3695>
13. <https://www.smgov.net/Departments/PCD/Transportation/Shared-Mobility-Services/>
14. The 16-month pilot launched in September 2018, in a license agreement with the four operators it selected (out of 12 applicants). Up until now, the City has had to play catch up with regulation, safety, and enforcement.