BOARD OF TRUSTEES AND PLANNING AND COMMUNITY DEVELOPMENT COMMISSION
JUNE 20, 2016
WORKSHOP
ACCESSORY DWELLING UNITS/SHORT TERM RENTALS

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Considering Innovative and Alternative Housing Options in Existing Neighborhoods

Objective:

Create increased density options in existing neighborhoods to encourage private sector, market-rate housing opportunities, while balancing impacts to residents and property owners and protecting the health, safety and welfare of renters, tenants and lodgers.

I. Potential Alternative Long-term Housing and Short-Term Lodging Options
   A. Accessory Dwelling Units
   B. Tiny Homes
   C. Air BnB
   D. V RNBO

II. Existing Residential Zoning
   A. R-1
   B. R-2
   C. R-3
   D. PUD mobile home
   E. ADU
   F. Bed and Breakfast
   G. Motel/Hotel
   H. Boarding house

III. Identified Concerns
   A. Does additional use warrant 2nd tap cost/ can existing cost structure be justified
   B. Should existing single family lots be subdivided for individual ownership
   C. What land use processes will be used
   D. What land use processes need to be changed/updated
   E. Does the Town need to put conditions on condo minimizing
   F. How dense can a single lot become
   G. Addressing emergency access issues for additional dwelling units
   H. Addressing impacts to residential neighborhoods from transient lodging business through regulation
   I. Should the town encourage private ventures such as AirBnB and VRBO, and if so, how
   J. Should the Town enact a pillow tax for short-term lodging (Air BnB, etc.)
   K. How are tenants protected
   L. Should the Town have an overall rental housing license program

IV. Strategies
   1. Create taskforce of stakeholders
   2. Review various processes from other communities
   3. Invite experts to engage public and civic officials for best solutions for lyons
   4. Identify building options for each type of approved housing options
   5. Identify short-term, mid-term and long-term goals

TOWN OF LYONS, COLORADO

ORDINANCE 950

AN ORDINANCE ADDING A NEW CHAPTER 9-2-14 AND AMENDING CERTAIN SECTIONS OF THE LYONS MUNICIPAL CODE REGULATING ACCESSORY DWELLING UNITS

WHEREAS, the Town of Lyons is authorized by C.R.S. Section 31-23-301 to regulate zoning and land use within the Town's boundaries, and the Town has in fact adopted a comprehensive zoning scheme; and

WHEREAS, the Town's Board of Trustees desires to provide for a mix of housing options, including a range of affordable housing, particularly in the aftermath of the devastating flood of September 2013, but also in response to the aging of the population and changing family needs; and

WHEREAS, the Town's Planning and Community Development Commission has studied the question of accessory dwelling units, among other options, and has recommended that the Board of Trustees adopt this Ordinance defining the term Accessory Dwelling Unit and establishing standards for their approval in certain zone districts; and

WHEREAS, the Board desires to allow for the creation of accessory dwelling units in accordance with the provisions of this Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LYONS, COLORADO

Section 1: A new Section 9-2-14 is hereby added to Title 9 of the Lyons Municipal Code to read in full as follows:

9-2-14 ACCESSORY DWELLING UNITS (ADUs)

A. Purpose: This Ordinance is adopted for the following purposes:

1. to provide a mix of housing that is responsive to changing demographics and family needs;
2. to encourage a range of affordability in Lyons housing units and provide a broader range of more affordable housing; and
3. to create new housing compatible with the scale and look of single-family neighborhoods.

B. Definition and Creation of new Accessory Dwelling Units.

1. An Accessory Dwelling Unit (ADU) is a second and subordinate dwelling unit added to or created within a principal detached single-family dwelling that is located in a single family residential zoning district. ADU's are created for the purpose of accommodating a second household that lives separately from the principal household. An Accessory Dwelling Unit is a secondary dwelling occupied by a second family or household that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and

accessory to and subordinate to the principal single family dwelling.

2. ADU's may either be created in converted space in an existing principal dwelling or in new space attached to the principal dwelling as a use by right in all single- family residential zoning districts.

3. Detached ADU's are allowed subject to Conditional Use review in new or existing space detached from the principal dwelling or created in new or existing space situated in or over an existing detached garage or other detached accessory building.

4. Mobile Homes, recreational vehicles and travel trailers shall not be used as accessory dwelling units.

C. Standards.

1. Districts permitted as attached use by right or as detached subject to Conditional Use review.

   Accessory dwelling units shall be allowed as accessory uses to single-family residential uses in the R-1, E, EC, and A residential districts.

2. Minimum lot area required for a detached

   ADU is 6,000 sq. There shall be no

   minimum lot area required for attached

   ADU's.

3. Design Standards

   a. An accessory dwelling unit shall comply with all applicable site design and building design standards, access standards, and other standards applicable to principal dwelling units in the zoning district where the accessory dwelling unit will be located.

   b. An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water, cooking and food storage facilities and sleeping quarters to accommodate a second household living independently and separately from the principal singe family dwelling and the principal household residing therein.

   c. A separate entrance into an accessory dwelling unit shall not be located on a street facing exterior building façade.

   d. Attached ADU's shall share a common building wall with the principle dwelling that is at least ten feet in length with indoor living space or enclosed garage space on either side of the common wall.

   e. An Accessory Dwelling Unit shall comply with the locally adopted building code and all other applicable local, state and federal regulations.

4. Size of an accessory dwelling unit (habitable floor area). There is no minimum ADU size set by this ordinance. The maximum ADU size for principal dwellings with habitable floor area of 1600 square feet or larger shall be 800 square feet or 50% of the principal dwelling unit, whichever is less. The maximum ADU size for principal dwellings smaller than 1600 square feet but bigger than 1200 square feet shall be 600 square feet or 50% of the size of the habitable floor area, whichever is less. For principal dwellings smaller than 1200 square feet the ADU may be as large as 600 square feet, but shall not exceed 600 square feet. These size limitations shall not apply to ADUs located in a basement for which there is no size limit.

5. There shall be no more than one accessory dwelling unit on a lot.

6. Parking Requirements. One off street parking space is required for the accessory dwelling unit.

7. Maximum height

   a. If the accessory dwelling unit is attached to the principal dwelling it shall conform to the maximum building height limit of the underlying zoning district.

   b. If the accessory dwelling unit is detached from the principal dwelling it may be restricted to a lower height as determined through a Conditional Use Review.

8. Conditional Use Review Criteria for Detached ADU's.

   a. Detached ADU's shall be oriented towards existing alleys and use alley access where that is available, except where created over or within an existing detached garage or other detached accessory building.

   b. Detached ADU's shall not be sited to minimize negative impacts to the principal residence where that results in greater negative impacts to adjacent property.

   c. Detached ADU's shall demonstrate architectural compatibility with the principal dwelling and the existing neighborhood.

D. **Unity of Ownership.** The fee ownership of the principal dwelling and accessory dwelling unit shall not be separated.

E. **Utilities.** All accessory dwelling units shall be served with municipal water, municipal sanitary sewer and municipal electric service.

F. **Appeals.** The final administrative determination of the Staff may be appealed to the BOT. The decision of the Board of Trustees may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Introduced and passed on first reading this 3rd day of March 2014. Adopted, approved and ordered published by the Board of Trustees of the Town of Lyons, Colorado, upon a motion duly made & seconded and passed at its meeting held on the 7th of April 2014.

TOWN OF LYONS

By: _____
John E. O'Brien, Mayor

ATTEST:

By: _____
Debra Anthony, MMC, Town Clerk

Sec. 16-10-70. - Accessory dwelling units.

(a) Purpose. This Section is adopted for the following purposes:

(1) To provide a mix of housing that is responsive to changing demographics and family needs;

(2) To encourage a range of affordability in Town housing units and provide a broader range of more affordable housing; and

(3) To create new housing compatible with the scale and look of single-family neighborhoods.

(b) Definition and creation of new accessory dwelling units.

(1) An accessory dwelling unit (ADU) is a second and subordinate dwelling unit added to or created within a principal detached single-family dwelling that is located in a single-family residential zoning district. ADUs are created for the purpose of accommodating a second household that lives separately from the principal household. An ADU is a secondary dwelling occupied by a second family or household that enjoys spatially segregated living space that provides for cooking, sanitation and sleeping that is separate from and accessory to and subordinate to the principal single-family dwelling.

(2) ADUs may either be created in converted space in an existing principal dwelling or in new space attached to the principal dwelling as a use by right in all single-family residential zoning districts.

(3) Detached ADUs are allowed subject to conditional use review in new or existing space detached from the principal dwelling or created in new or existing space situated in or over an existing detached garage or other detached accessory building.

(4) Mobile homes, recreational vehicles and travel trailers shall not be used as accessory dwelling units.

(c) Standards.

(1) Districts permitted as attached use by right or as detached subject to conditional use review. Accessory dwelling units shall be allowed as accessory uses to single-family residential uses in the R-1, E, EC and A residential districts.

(2) Minimum lot area required for a detached ADU is six thousand (6,000) square feet. There shall be no minimum lot area required for attached ADUs.

(3) Design standards.

a. An accessory dwelling unit shall comply with all applicable site design and building design standards, access standards and other standards applicable to principal dwelling units in the zoning district where the accessory dwelling unit will be located.

b. An accessory dwelling unit shall contain private sanitary facilities with hot and cold running water, cooking and food storage facilities and sleeping quarters to accommodate a second household living independently and separately from the principal single-family dwelling and the principal household residing therein.

c. A separate entrance into an accessory dwelling unit shall not be located on a street facing exterior building facade.

d. Attached ADUs shall share a common building wall with the principal dwelling that is at least ten (10) feet in length with indoor living space or enclosed garage space on either side of the common wall.

e. An accessory dwelling unit shall comply with the locally adopted building code and all other applicable local, state and federal regulations.

(4) Size of an accessory dwelling unit (habitable floor area). There is no minimum ADU size set by this Section. The maximum ADU size for principal dwellings with habitable floor area of one

thousand six hundred (1,600) square feet or larger shall be eight hundred (800) square feet or fifty percent (50%) of the principal dwelling unit, whichever is less. The maximum ADU size for principal dwellings smaller than one thousand six hundred (1,600) square feet but bigger than one thousand two hundred (1,200) square feet shall be six hundred (600) square feet or fifty percent (50%) of the size of the habitable floor area, whichever is less. For principal dwellings smaller than one thousand two hundred (1,200) square feet, the ADU may be as large as six hundred (600) square feet, but shall not exceed six hundred (600) square feet. These size limitations shall not apply to ADUs located in a basement for which there is no size limit.

(5) There shall be no more than one (1) accessory dwelling unit on a lot.

(6) Parking requirements. One (1) off-street parking space is required for the accessory dwelling unit.

(7) Maximum height.

a. If the accessory dwelling unit is attached to the principal dwelling, it shall conform to the maximum building height limit of the underlying zoning district.

b. If the accessory dwelling unit is detached from the principal dwelling, it may be restricted to a lower height as determined through a conditional use review.

(8) Conditional use review criteria for detached ADUs.

a. Detached ADUs shall be oriented towards existing alleys and use alley access where that is available, except where created over or within an existing detached garage or other detached accessory building.

b. Detached ADUs shall not be sited to minimize negative impacts to the principal residence where that results in greater negative impacts to adjacent property.

c. Detached ADUs shall demonstrate architectural compatibility with the principal dwelling and the existing neighborhood.

(d) Unity of ownership. The fee ownership of the principal dwelling and accessory dwelling unit shall not be separated.

(e) Utilities. All accessory dwelling units shall be served with municipal water, municipal sanitary sewer and municipal electric service.

(f) Appeals. The final administrative determination of the staff may be appealed to the Board of Trustees. The decision of the Board of Trustees may be appealed to the District Court pursuant to Colorado Rules of Civil Procedure Rule 106(a)(4).

Memo

To: Lyons BoT and PCDC

From: Bob Joseph, Consulting Planner

Date: 6/14/16

The subject of this workshop is Housing and Short Term Rentals. Although these are potentially related they might best be dealt with as separate subjects as follows.

Short Term Vacation Rentals (e.g. AirBnB, VRBO). With the advent of the internet the ability for an individual residential land owner to successfully market short term rental accommodations in single family residential neighborhoods has emerged. This is typically a very controversial and polarizing topic that can pit neighbor against neighbor. Because it is a relatively new creature of the internet age the Lyons zoning and land use regulations are largely silent as to this use, except to the extent that it is not permitted as a principal or *primary* use of the property. For communities like Lyons with little or no existing hotel/motel infrastructure this use can readily fill an unmet demand for commercial accommodations providing the related economic benefits normally associated with Hotel/Motel infrastructure.

A question for the BoT and PCDC is whether or not this use should be allowed to be established as an expressly permitted *accessory* use in existing residential neighborhoods in Lyons, and if so, with what limitations and regulations. *If* the Town decides to allow this use in residential neighborhoods with the intent of collecting an as yet to be established "pillow tax" then it will be necessary to strictly enforce a more robust business license program that includes the suspension and potentially revocation of a business for owners that fail repeatedly to comply, this typically also entails the levy of fines if warranted.

If this use is to be regulated as an *accessory* use then limitations on duration (calendar days in a year) or on home floor area dedicated to the use, or both, might come into play. Under the Town's existing zoning regulations the full time/100% floor area principal use of a home in a residential zone district for short term rental (less than 30 days) is not allowed because it is considered a purely commercial use (i.e. hotel/ motel). BnB's are a particular subset of this use where the home is *always* owner occupied. The Town's code already regulates BnB's as ***"Bed and breakfast* means an establishment operated in a private residence or portion thereof, which provides temporary accommodations to overnight guests for a fee and which is occupied by the operator of such establishment"**. The BnB use is presently allowed subject to conditional use review in all residential districts and this could be adapted to fit other forms of short term rentals.

The Town may want to consider an amendment to the existing ADU regulations expressly prohibiting the use of ADU's as short term commercial rentals (e.g. AirBnB, VRBO). Otherwise the economic returns for use as short term rentals will prevail.

Accessory Dwelling Units, ADU's

The Town recently adopted a workable ADU regulation. The issuance of permits for detached ADU's has been deterred by the cost of a separate water tap. It is not expected that the permitting of detached ADU's will grow unless and until this tap fee is relaxed or removed as an economic barrier.

The current ADU regulations prohibit the use of RV's or HUD manufactured housing units as ADU's. This was done to protect the visual character of existing single family neighborhoods and the property values that follow from that character. "Tiny Homes" are a specific subset of RV's that are also not now allowed as ADU's. If it is desired to allow "Tiny Homes" outside of approved campgrounds as ADU's it will be necessary to define "Tiny Homes" not just by the building code, but also by some more specific design guidelines that fit the concept of "custom built cottages". This would take the Town into the realm of very tailored and potentially subjective design guidelines to provide a regulatory framework that allows the desired "Tiny Homes" but prohibits the more generic RV's that are widely available as a mass produced product not intended for use as permanent housing. Such an approach would also require a tailored local amendment to the adopted building code (that would otherwise prohibit tiny homes as permanent housing because they do not comply with and have not been inspected for compliance with either the adopted building code or the HUD code for manufactured housing).

Expansion of Market Rate Rental and Ownership Housing in existing neighborhoods.

It will be extremely difficult to make any significant headway to provide more housing units in existing residential neighborhoods outside of the existing ADU framework. The zone district minimum lot areas could be reduced in the regulations, or single family districts could be re-zoned to duplex or R3 districts, but as a practical matter of physical development (i.e. construction of vehicular access and layout of utility service lines, compliance with building setbacks, Fire safety and emergency access, storm water drainage, etc.) the land use pattern of one home on one existing lot as historically platted (that is now built and established) will be very expensive and difficult to alter. (There are only a handful of vacant lots left that could be planned from the beginning to accommodate more housing units).

Draft PCDC Work List for 2016

Priorities

- Zone buyout properties
- Annexation and zoning of enclave parcels
- Zoning of dog park and Hains properties
- Clarifying and streamlining PUD regulations
- Creating downtown design standards
- Creating a timeline to update the Comp. Plan
- Processing land use applications as needed

Other items

- Update the zoning map (workshop topic)
- Re-visit and update land uses in the R-3 zone district
- Change Downtown zoning designation north of High Street
- Considering Lyons Primary Planning Area future land uses (as the current process plays out and brings recommendations)
- Monitoring the Parks Master Plan Update (as needed)
- Review C-Commercial Setbacks

Items discussed but agreed upon that the PCDC wouldn't work on without direction from the BOT

- Update the Town's noise ordinance
- Annexation of the 10 acres south of the Dog Park
- Address the "Silver Tsunami" phenomenon
- Address VRBO or Air BnB

Form Based Codes

THE BASICS

BOT | PCDC

Joint Meeting

June 20, 2016

Matthew Manley, AICP

WHAT ARE FBCs?

A method of regulating development to achieve a specific urban form. Form Based Codes create a **predictable** public realm by controlling physical form primarily and land uses secondarily.

Establishes a sustainable balance between public responsibilities and private rights.

Concepts Related to FBCs

- Smart Growth
- New Urbanism
- Traditional Neighborhood Design
- Transit-Oriented Development
- Design Guidelines
- Design Standards99
- Pattern Books

CHARACTER

- What makes a PLACE?
    - The Use inside a Building?

Or

    - The Design of the Built Environment?

The way that private buildings are shaped and how they relate to public spaces can be regulated to create the type of places were people like to be.

WHY FBCs?

- Disconnect between the policy goals of the comprehensive plan and the municipal codes
  - FBCs help to connect Policy Goals to Outcomes
- Establishes Principles of Good Urban Design:
  - Connected Framework of Well-Defined Urban Spaces
  - Coherently placed Buildings
  - Facades that Respond to the Pedestrian Environment
  - Arrangement of Entrances and Fenestration on Lower Stories
- Criticized for being “nostalgic”

Conventional Zoning

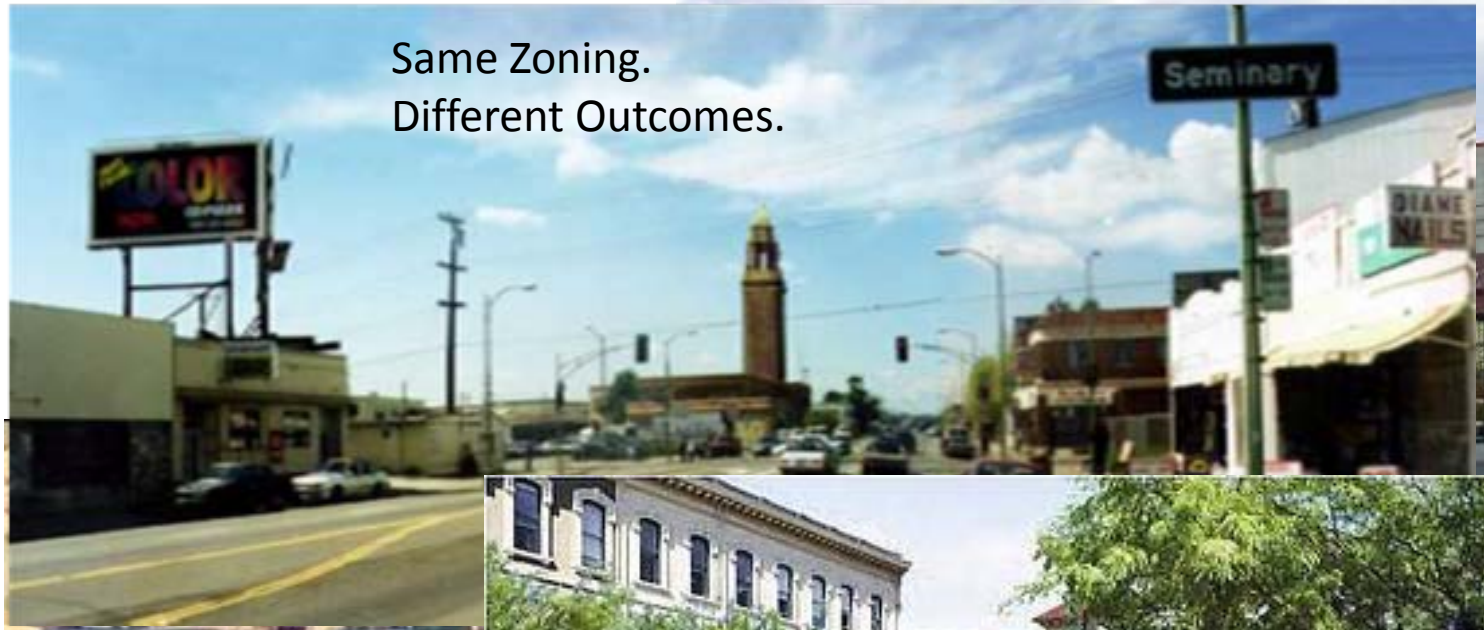
- DOES:
  - Regulates Density = Units/Acre
  - Measures Quantities – Min/Max Sq. Ft, Parking Spaces, Density, etc… Rather than design principles – ratios, context and building-to-street relationships.
  - Focuses on Set Backs rather than Build-to Lines
  - Allows for a corporate uniformity which favors developers and automobiles
- DOES NOT:
  - Value Character, Sense of Place, Context, Natural Landscapes or History
  - Dictate Livability = Quality of Life; Connectivity; Walkability; Rich Habitats; Access to Parks, Schools, Shopping, Church, Work, Transit, Etc…

Conventional Suburban Development

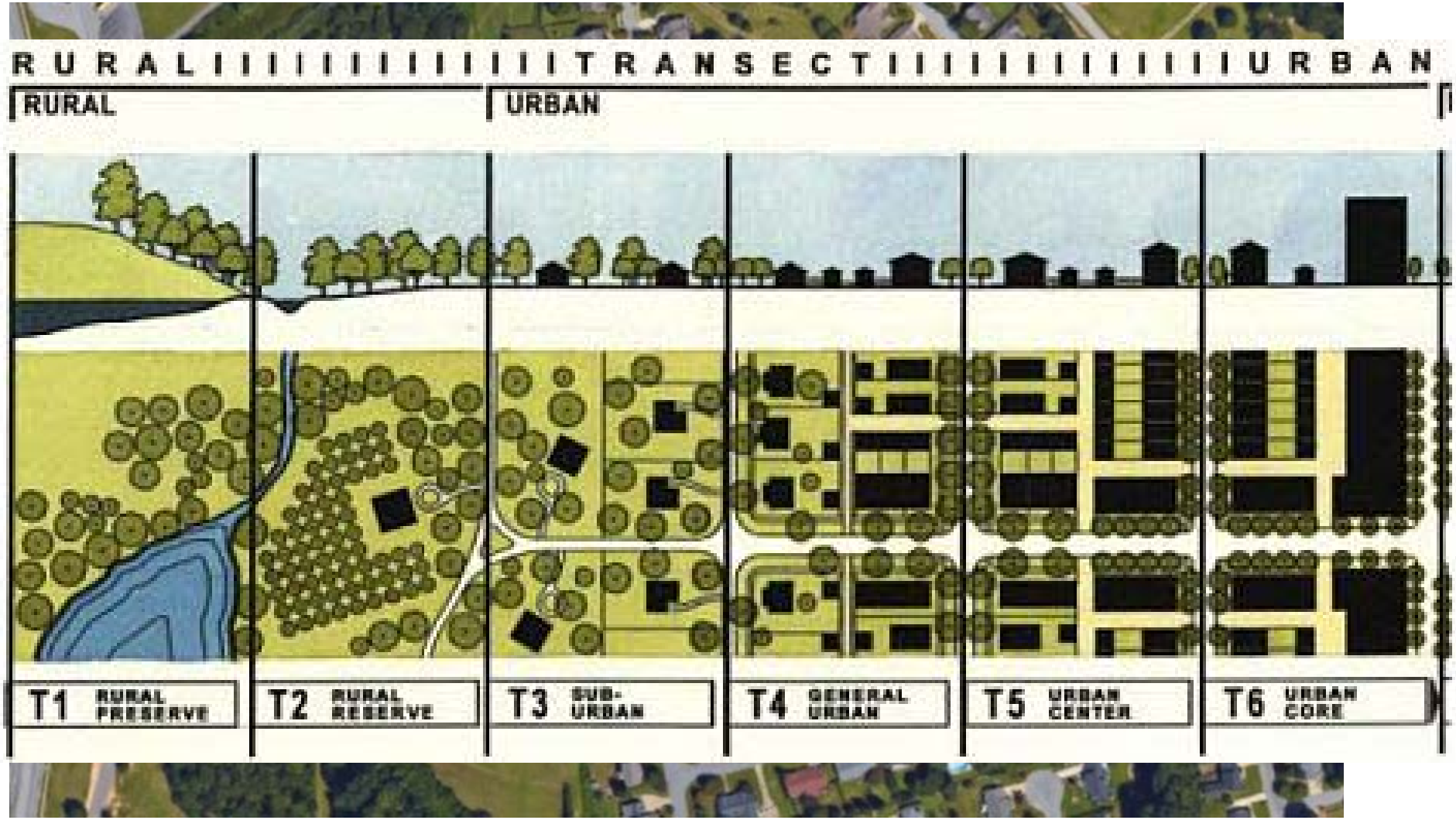
Residential Zoning.

Traditional Neighborhood Design

Commercial/Mixed-Use



Zoning Code vs. Form Based Code



Elements of FBCs

Identification of Design Features (Huntersville, NC)

1. **Delineate Town & Country**
2. **Build a Public Realm**
3. **Connect Pedestrian-Friendly Streets**
4. **Enclose Streets with Buildings to create the Public Space of the Streets**
5. **Maintain Compatible Building Relationships along Streets.**

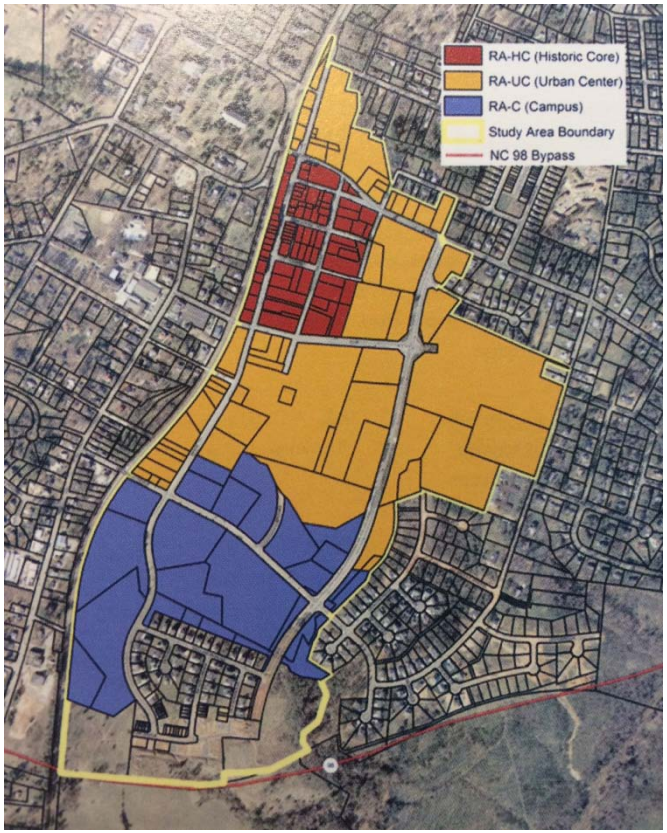
Elements of FBCs

Identification of Design Features (Huntersville, NC)

6. **Screen Unattractive Uses Thoroughly**
7. **Mix Housing Types** – *Infrastructure cost is offset and affordable housing is encouraged by allowing a broad mixture of lot sizes and housing types.*
8. **Design Buildings to Respect Human Scale**
9. **In the Rural District, Preserve Natural Features which reflect the Rural Heritage of the Community**
10. **Thoroughly Buffer Uses that Disregard the Human Scale**

Elements of FBCs

- **<u>Regulating Plan</u>** – translates Master Plan to a Map which uses symbols and colors to identify and various districts and density zones



Elements of FBCs

- **Building Form Standards** – provide predictability for buildings, open space, parking, etc…
- **Public Realm Standards** – addresses streets or parks - spaces between buildings
- **Building Types** – provides menu of options
- **Frontage Types** – options for various street types (porches, stoops, yards, buffers)
- **Architectural Standards** – Optional depending on the degree of distinct historical character which is already in place
- **Permitted Uses** – As used in a typical zoning code

Common Misconceptions

- Does Not Address Land Use
- Only Uses Graphics
- Too Expensive
- Dictates Architecture
- Requires High Density & Mixed-Use
- Creates A Template that Community Must Fit

Common Mistakes

- Applying in a Suburban Context
- Using Less Effective Approaches
- Adding Design Guidelines w/o changing Zoning
- Adding Mixed-Use District to Zoning Code
- Not Vetting Development Standards
- Not Refining Use Table
- Adding to the Transect
- Confusing Building Types with FBCs
- Not Saying “NO” to Projects that DO NOT meet Code

Application

- Wide Range – Both Large and Small Applications of FBCs can have a Big Impact
- Largest
  - #1 Miami, FL – 100/0 – All Parcels covered by FBCs
    - 326 Square Miles Population 418,000
  - #2 Beaufort, SC – 100/0 – All Parcels covered by FBCs
    - 28 Square Miles Population 12,000
- Smallest
  - Petaluma, CA – 3/97 – FBCs only along River Corridor
    - 14.5 Square Miles Population 58,000

FBCs in Lyons?

- 2010 Comprehensive Plan
  - "Sustainable Design and Development Principles" – pgs. 81-88
  - Identifies key Design Opportunities and Gateways
- Could be Applied Town-wide
  - Classify each distinct district within the Town and create codes based on their character – Downtown, North Old Town, Lyons Valley Park, River Park, Stone Canyon, Eastern Corridor…
- Could be Focused on Specific Areas that are most likely to experience near-term change…
  - Eastern Corridor – FBCs for Corridors – Retail likes Nodes

Eastern Corridor

- Design will be critical for success…
  Needs to be:
  - Acceptable to Current Residents
  - Attractive to Developers
  - Provide Active Transportation Connectivity to Downtown
  - Account for Natural Surrounding/Views
  - Accessible for Motorist passing through Lyons
  - Will require additional planning effort to codify form based on the LPPA Master Plan
    - May call for another Moratorium on Development