Entitlement Process:
The Importance of Transparency and Certainty in Development Regulations

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Transparency and Certainty

- Doesn't Exist !
  - Many Politician's Feel an Obligation to be "Hand's On" in their Decision-Making
  - Often Missing Political, Management and/or Technical (Planning) Leadership
- As Nancy Reagan Taught Us – Sometimes Ya Gotta "Just Say No!"

Typical Conflicts

- Zoning and Subdivision
  - Public Realm Improvements
- Planning and Public Works
  - The “Silo” Effect
- Short Term and Long Term
  - Phasing, Changing Uses Over Time, Intensification


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Is Walkability Enough?

Urban? Suburban?

- PS – this is a town center!

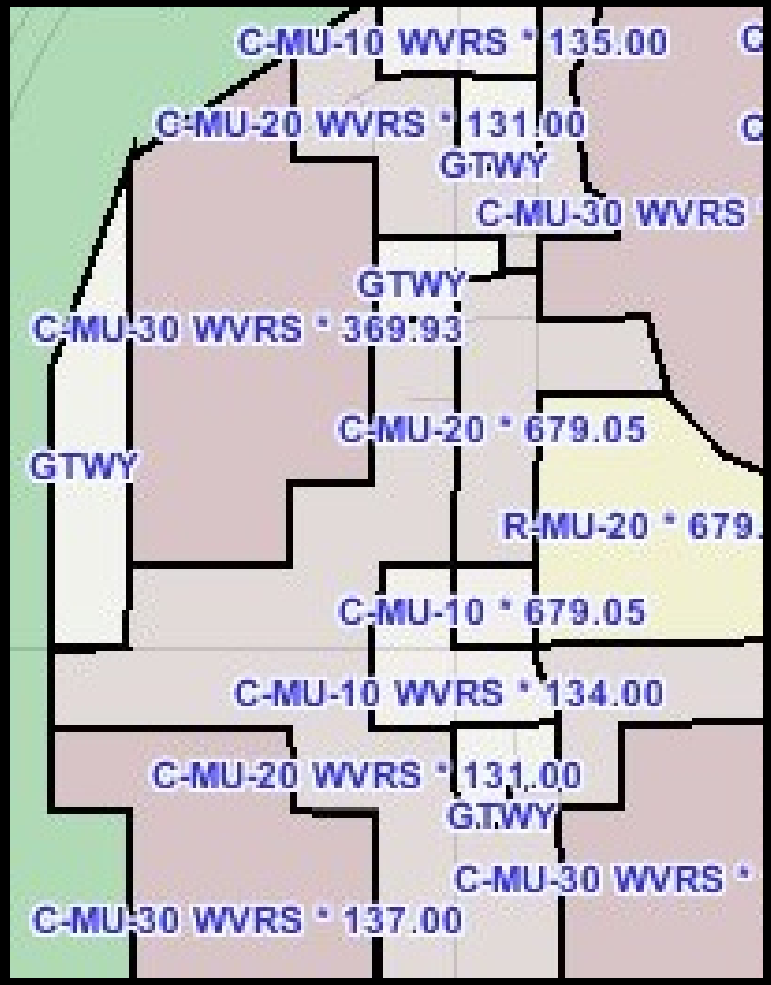
A Common Problem

- Reliance on One-Time Negotiated Solutions
  - Planned Development
  - “Waivers and conditions”
  - Variances (especially ones without “hardship”)

A Common Problem

- If you're not happy with the results of your Code . . .

REVISE THE CODE !



Customized Zoning

- Planned Development
  - Intended to be higher quality, innovative projects that don't fit existing districts
  - NOT intended for circumventing requirements or reducing quality of development
- Developer Gets What They Need
- Neighborhood Has a Hand in Crafting the Solution

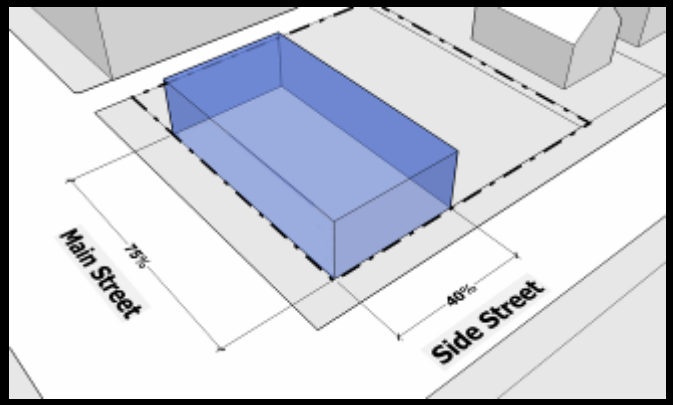
Customized Zoning

- How Could This Possibly be Bad?
  - Fairness and equity questions
  - Consistent treatment of applicants, situations
  - Difficulty in enforcement, tracking
  - Hard-won compromise not available for all
    - Street cross-sections
    - Parking reductions

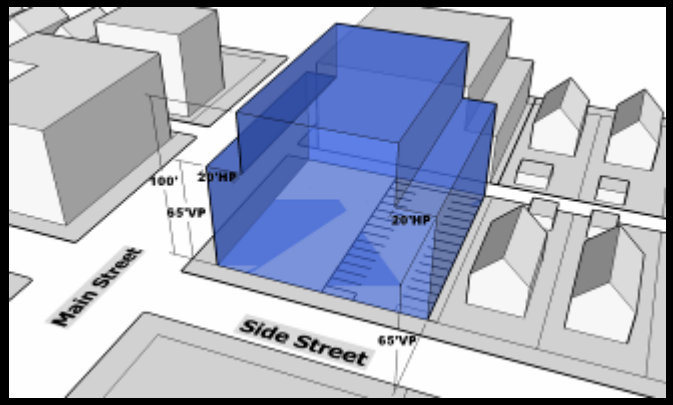
Some Better Examples

- Denver
  - Main Street zoning
- Dallas
  - Cherokee multi-station agreement
  - Trinity River planned development
- Sarasota County
  - Redevelopment area planned development

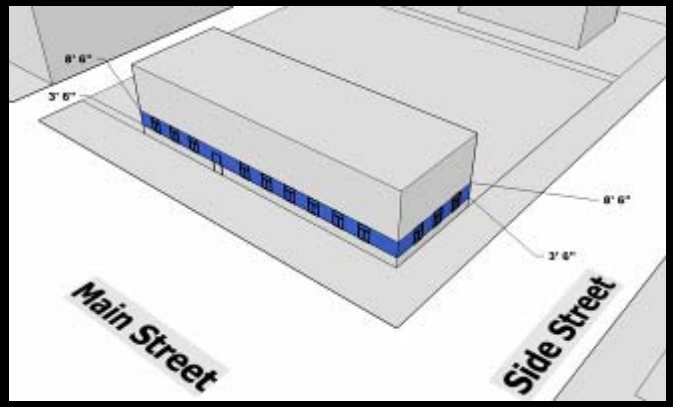
Main Street Zoning



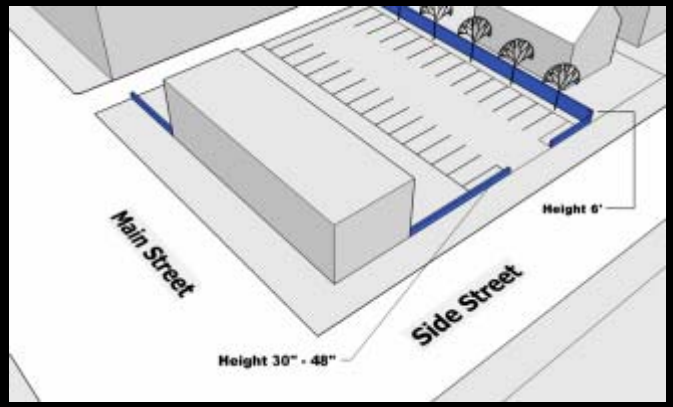
Placement



Height



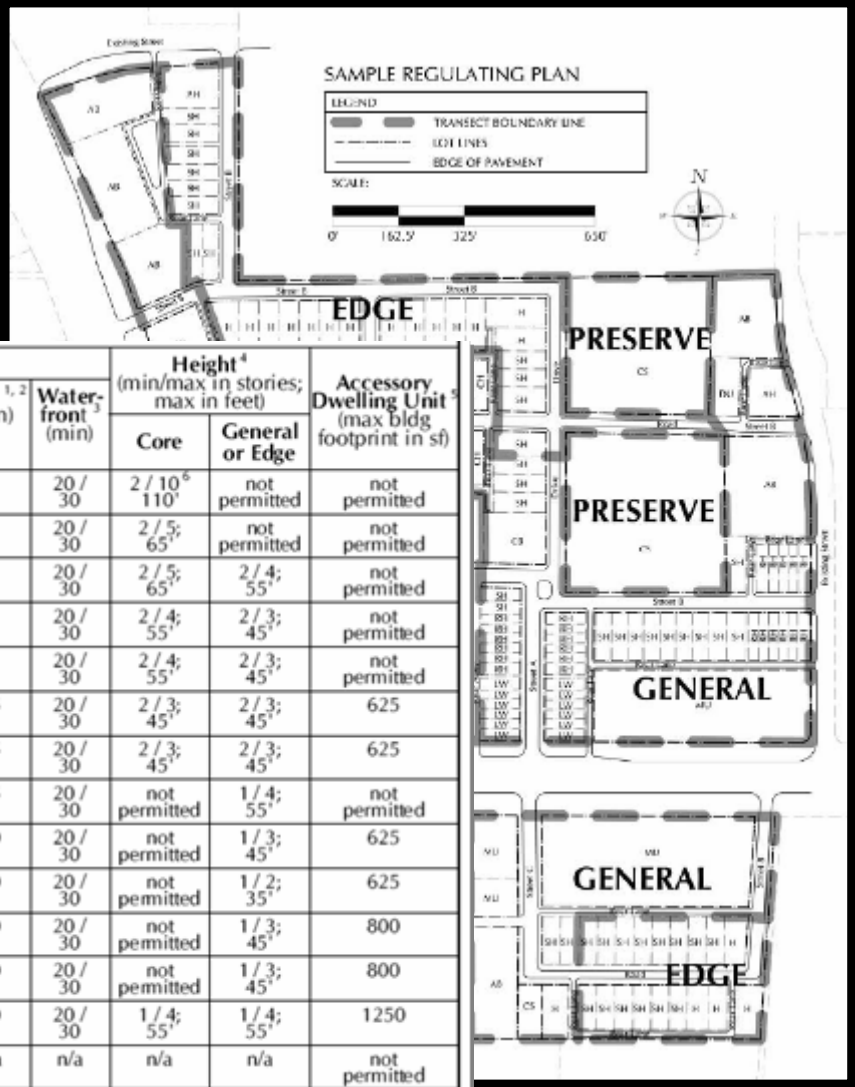
Transparency



Screening

Planned Mixed Use Infill

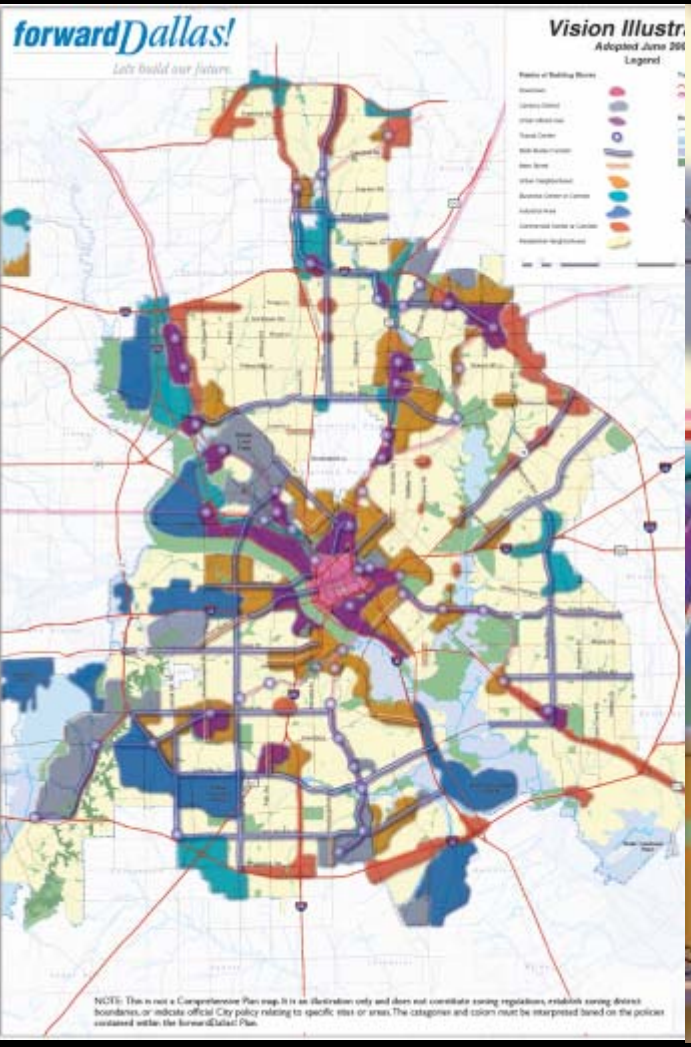
Lot Type	Lot Area (min / max in sf)	Lot Width (min / max)	Frontage Percentage (min / max)	Lot Coverage by all bldgs (max)	Yards: Street (min / max) Core	Yards: Street (min / max) General or Edge	Yards: Side (min)	Yards: Rear [1, 2] (min)	Yards: Water-front [3] (min)	Height [4] (min/max in stories; max in feet) Core	Height [4] (min/max in stories; max in feet) General or Edge	Accessory Dwelling Unit [5] (max bldg footprint in sf)
Pedestal Building Lot	no min / no max	no min / 600	90% / 100%	100%	0 / 10	not permitted	0	0	20 / 30	2 / 10 [6] 110'	not permitted	not permitted
Lined Building Lot	no min / no max	no min / 600	90% / 100%	100%	0 / 10	not permitted	0	0	20 / 30	2 / 5; 65'	not permitted	not permitted
Mixed-Use Building Lot	no min / no max	no min / 300	90% / 100%	100%	0 / 10	5 / 10	0	0	20 / 30	2 / 5; 65'	2 / 4; 55'	not permitted
Apartment Building Lot	4,000 / no max	40 / 300	80% / 100%	100%	0 / 10	5 / 10	0	0	20 / 30	2 / 4; 55'	2 / 3; 45'	not permitted
Courtyard Building Lot [7]	10,000 / no max	125 / 300	50% / 90%	80%	0 / 10	5 / 10	0	0	20 / 30	2 / 4; 55'	2 / 3; 45'	not permitted
Live-Work Building Lot	1,800 / 7,200	16 / 60	80% / 100%	80%	0 / 10	5 / 10	0	15	20 / 30	2 / 3; 45'	2 / 3; 45'	625
Rowhouse Lot	1,800 / 3,840	16 / 32	90% / 100%	80%	0 / 10	0 / 10	0	15	20 / 30	2 / 3; 45'	2 / 3; 45'	625
Apartment House Lot	4,800 / 18,000	48 / 120	70% / 90%	80%	not permitted	10 / 25	5	15	20 / 30	not permitted	1 / 4; 55'	not permitted
Duplex Lot	5,000 / 10,800	35 / 90	60% / 90%	80%	not permitted	10 / 25	5	10	20 / 30	not permitted	1 / 3; 45'	625
Cottage House Lot	2,400 / 4,800	24 / 40	70% / 90%	60%	not permitted	5 / 25	3	10	20 / 30	not permitted	1 / 2; 35'	625
Sideyard House Lot	3,000 / 7,200	30 / 60	60% / 90%	50%	not permitted	5 / 10	0/ 10 [8]	10	20 / 30	not permitted	1 / 3; 45'	800
House Lot	4,000 / 8,400	40 / 70	60% / 80%	50%	not permitted	10 / 25	5	10	20 / 30	not permitted	1 / 3; 45'	800
Civic Building Lot	no min / no max	no min / no max	no min / no max	100%	no min / no max	no min / no max	0	10	20 / 30	1 / 4; 55'	1 / 4; 55'	1250
Civic Space Lot	no min / no max	no min / no max	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	not permitted

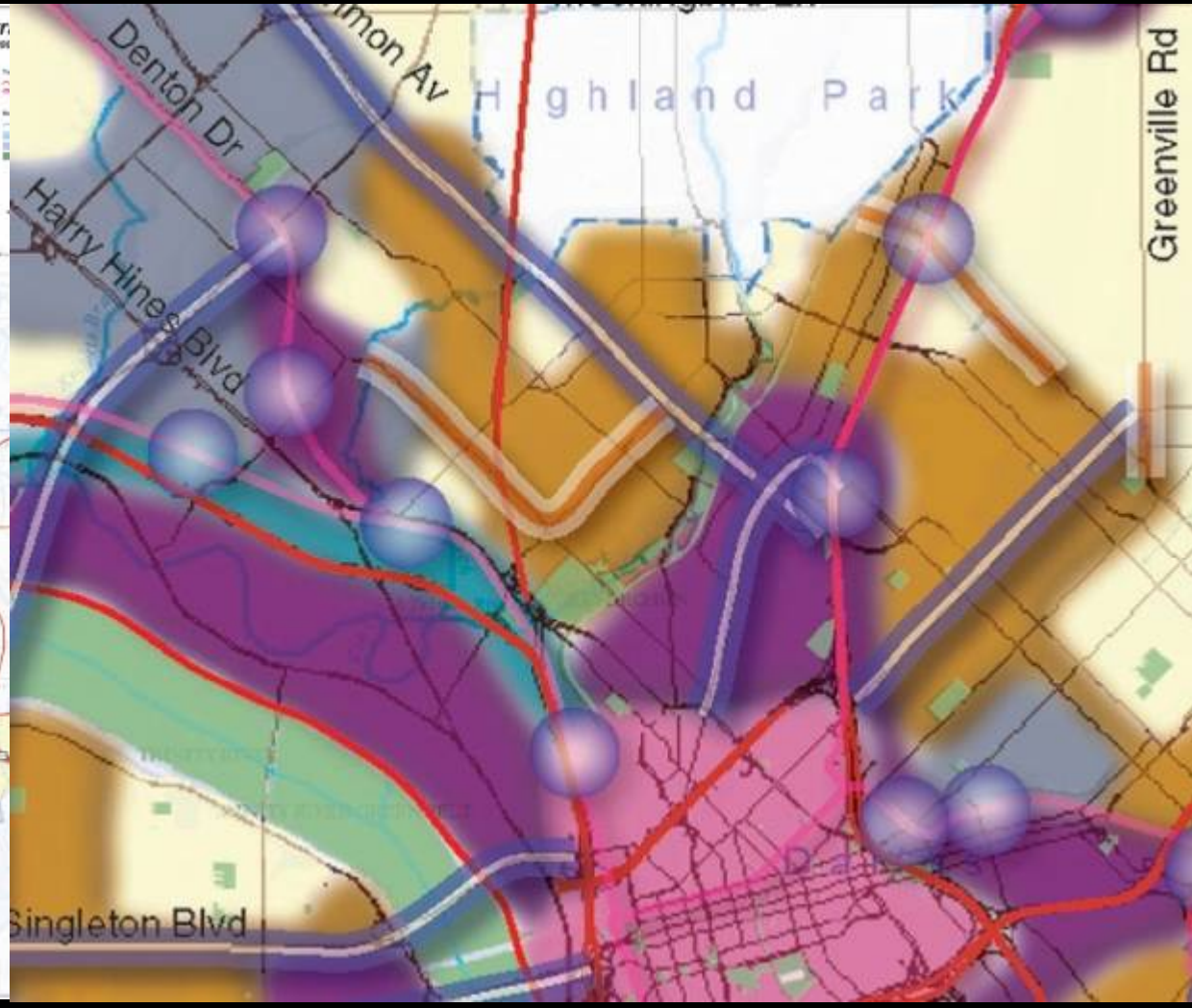


The Problem

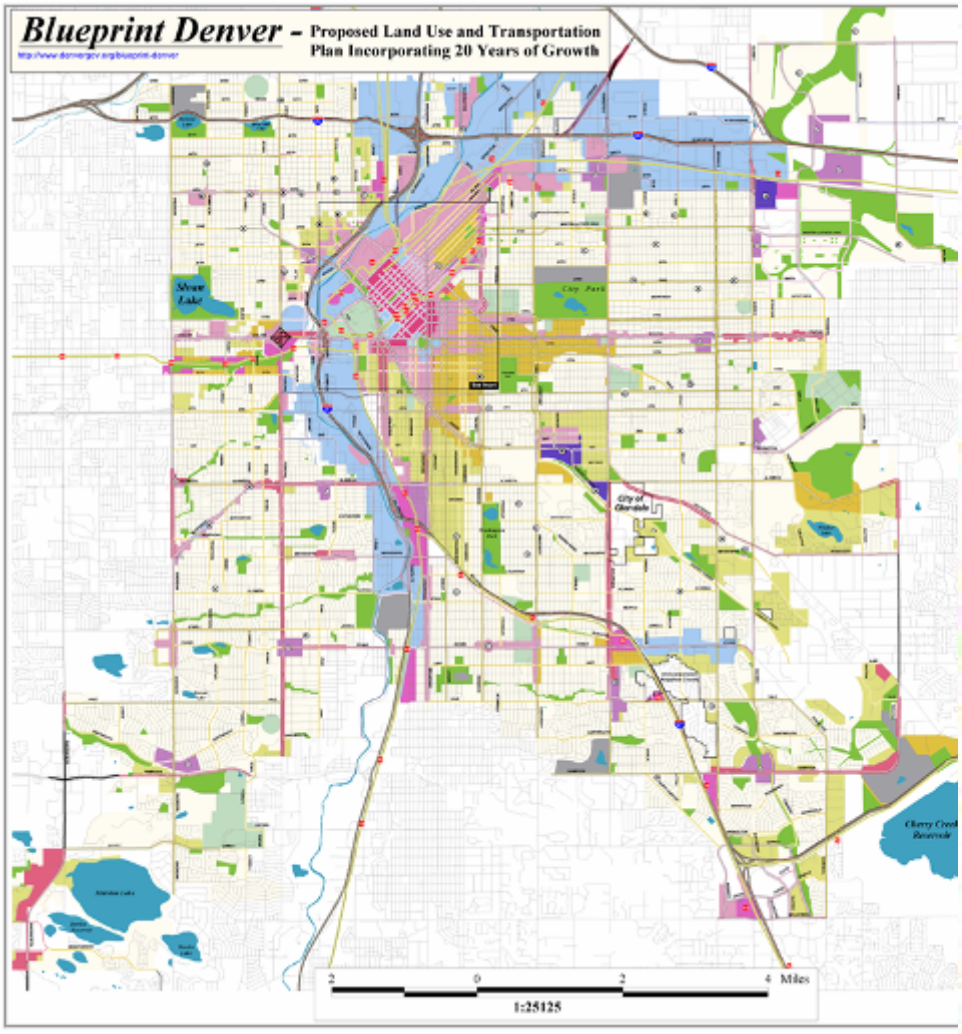
- Balancing neighborhood interest in protection of perceived character with the need for reinvestment, intensification

Planning at 30,000 Feet





Planning at 20,000 Feet



Planning at 10,000 Feet

Code Approaches

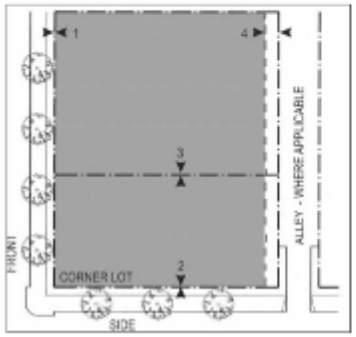
- USE SEPARATION
  - Original Euclidean Codes
- PERFORMANCE
  - Impact mitigation
- FORM
  - Long-term view of mixed use
- ARCHITECTURE
  - Design guidelines, pattern books

Coded Outcome

ARTICLE II. URBAN STANDARDS

2.30.070 T6.1 URBAN CORE

A. Building Placement



Plan Diagram

1. SETBACKS

a. Primary Buildings shall be placed within the shaded area as shown in the diagram above (unless specified otherwise by a permitted Building Type).

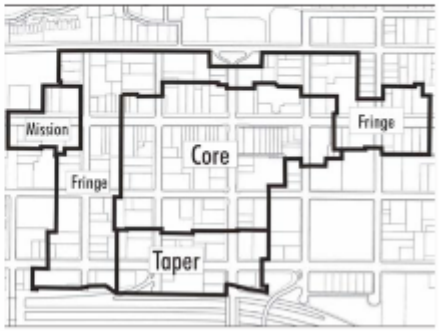
1. Street Build-to Line: 0' to 5' min.
2. Side Street Build-to Line: 0' to 5' min.
3. Side Yard Setback: 0' min.
4. Rear Yard Setback: 5' min.

2. ARCHITECTURAL ENCROACHMENTS

a. Balconies, bay windows, chimneys, cantilevered rooms, and eaves may encroach into required setbacks as identified below and as may be further limited by the California Building Code (CBC).

1. Balconies: 6' max. into Street Build-to Line, Side Street Build-to Line and Rear Setback.
2. Bay windows, chimneys, cantilevered rooms, and eaves: 3' max. into all Setback areas identified in Diagram A. Building Placement, above.

B. Building Profile and Frontage



Maximum Height Diagram

1. HEIGHT

a. Maximum:

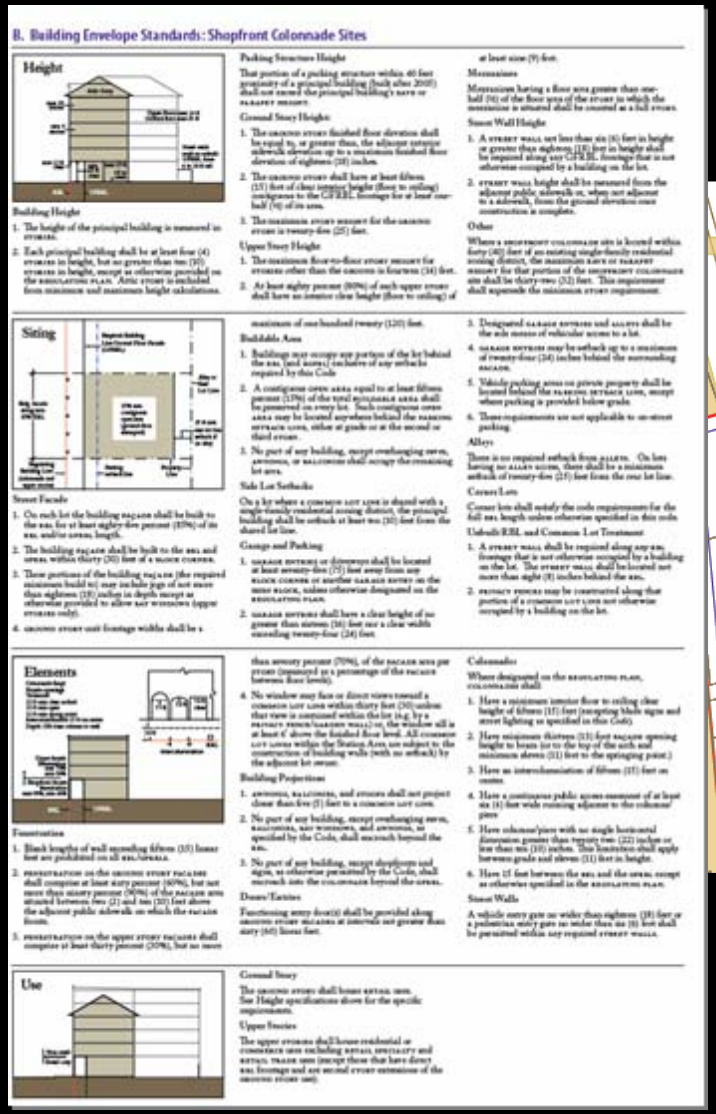
1. **Core Area:** 4 stories for Primary Building (20% of building footprint may be 5 story).
2. **Fringe Area:** 3 stories for Primary Building (25% of building footprint may be 4 story).
3. **Taper Area:** 3 stories for Primary Building (25% of building footprint may be 4 story) + 25' setback for fourth story from Oak and California Streets. Taper area height limits apply to all T6.1 properties South of Hwy 101 (not shown in Maximum Height Diagram).
4. **Mission Area:** 3 stories for Primary Building (15% of building footprint may be 4 story).

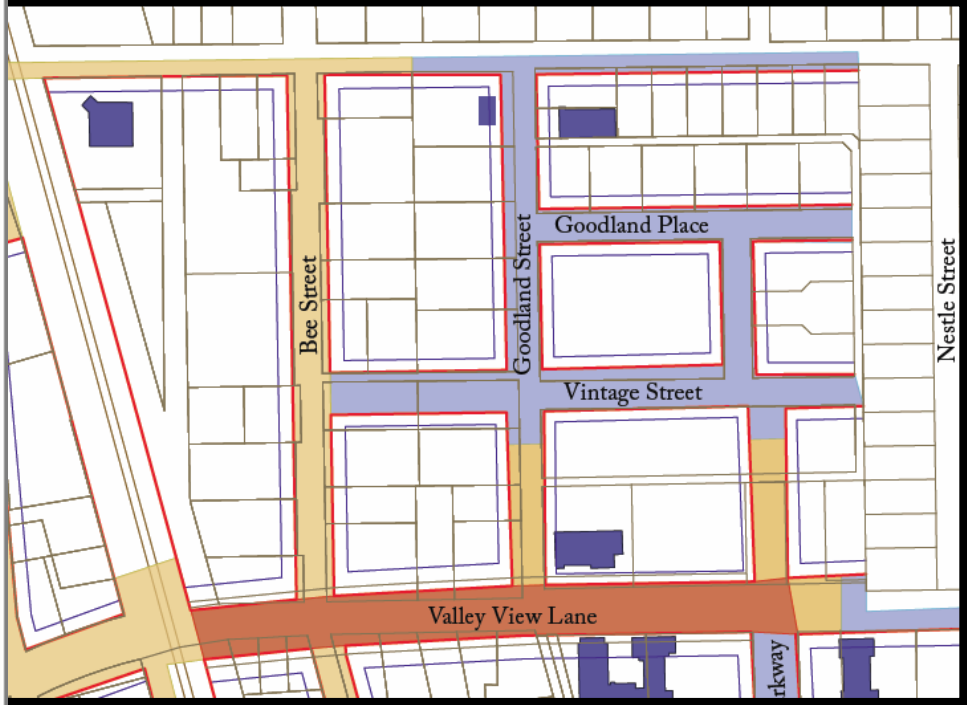
b. Floor to Floor: 18' max. ground floor; 12' max. second floor and above

2. FRONTAGE TYPES

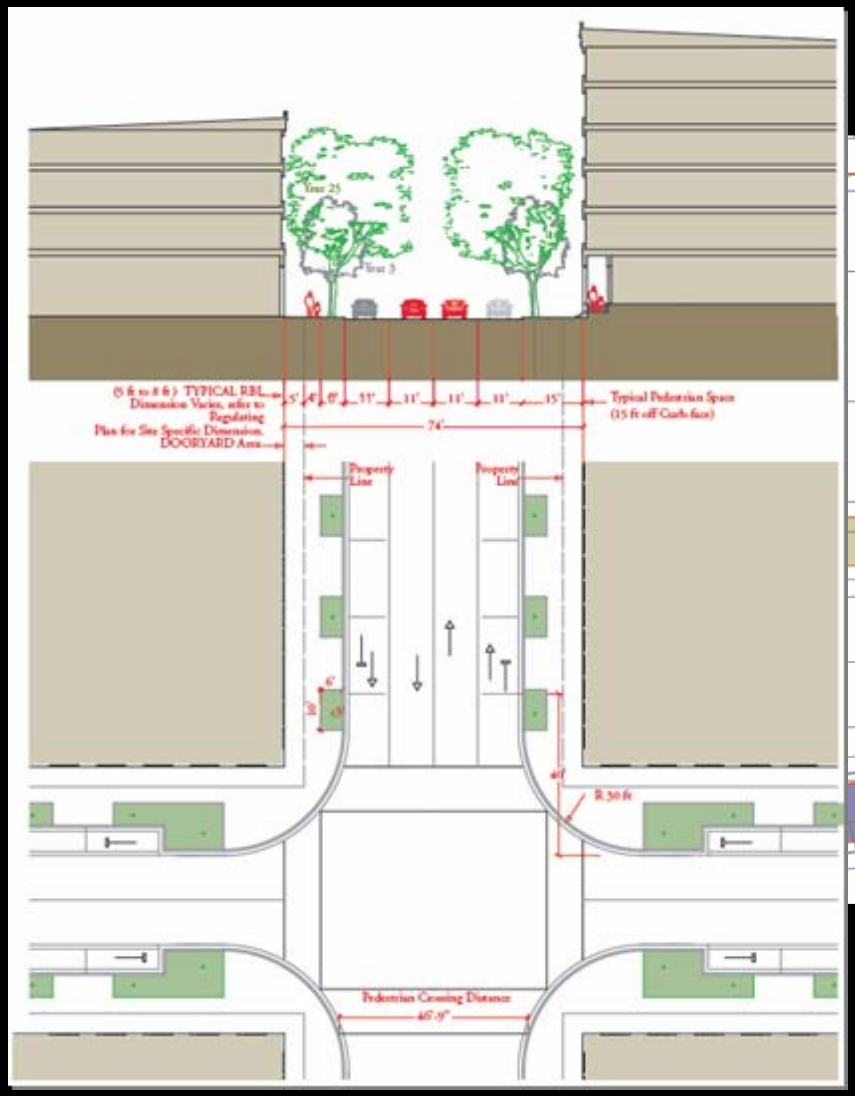
a. Shopfront
b. Forecourt
c. Stoop
d. Porch (along Poli Street only)
e. Lightcourt
f. Dooryard (along Poli Street only)

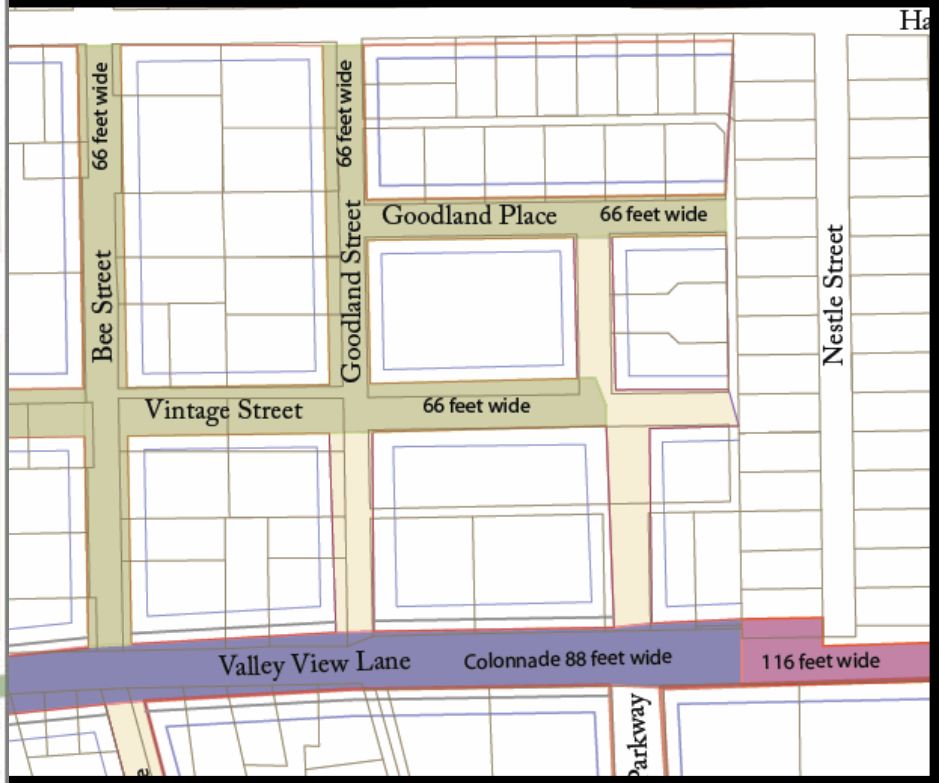
Form Standards





Public Realm Improvements





Floor Area Ratio

- “Pat of Butter”

Form versus Incentives

Zoning District	Max. Base Height	Max. Public Benefit Height
DC1	15	18
DC2	15	30
DC3	25	42

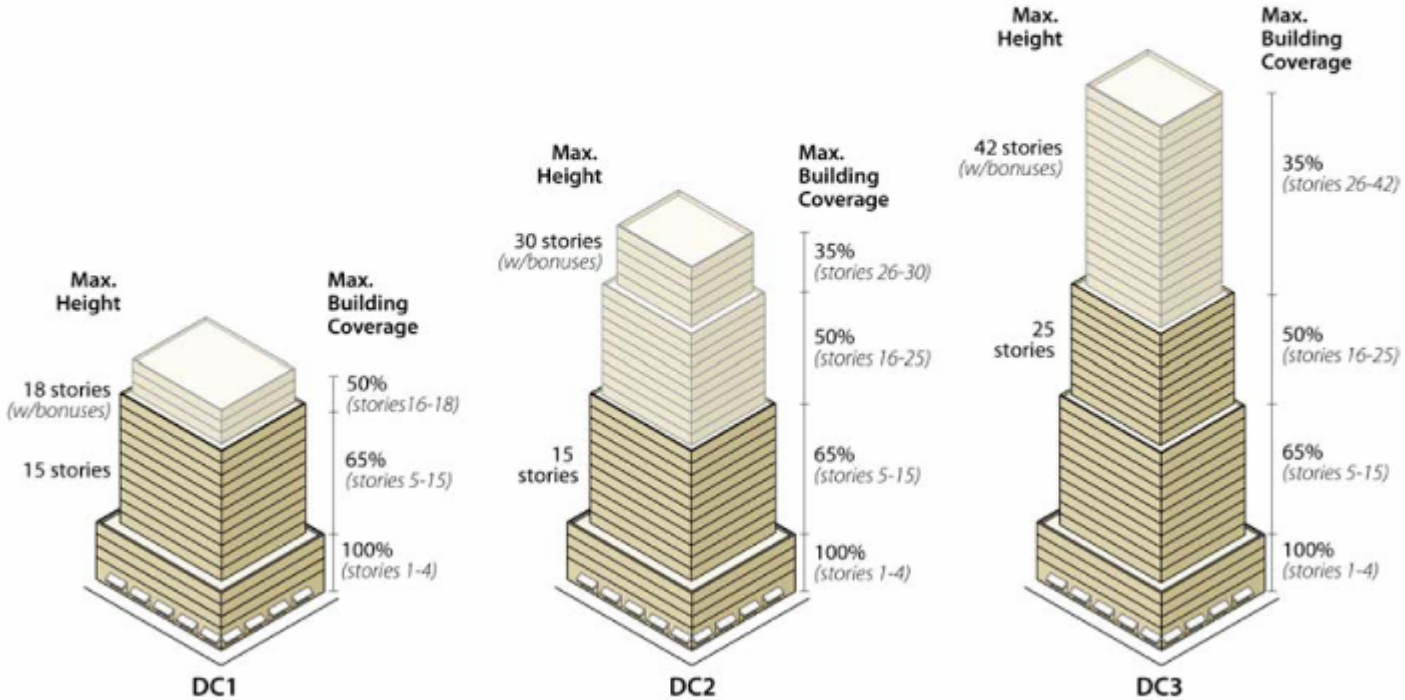
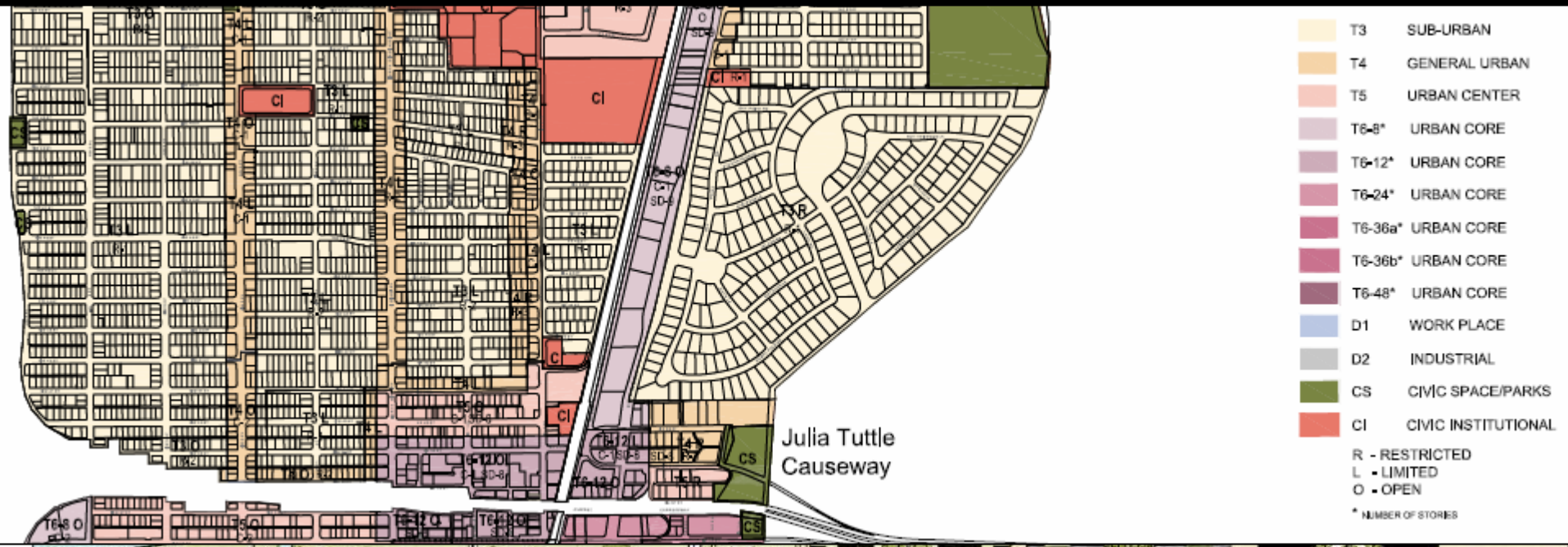


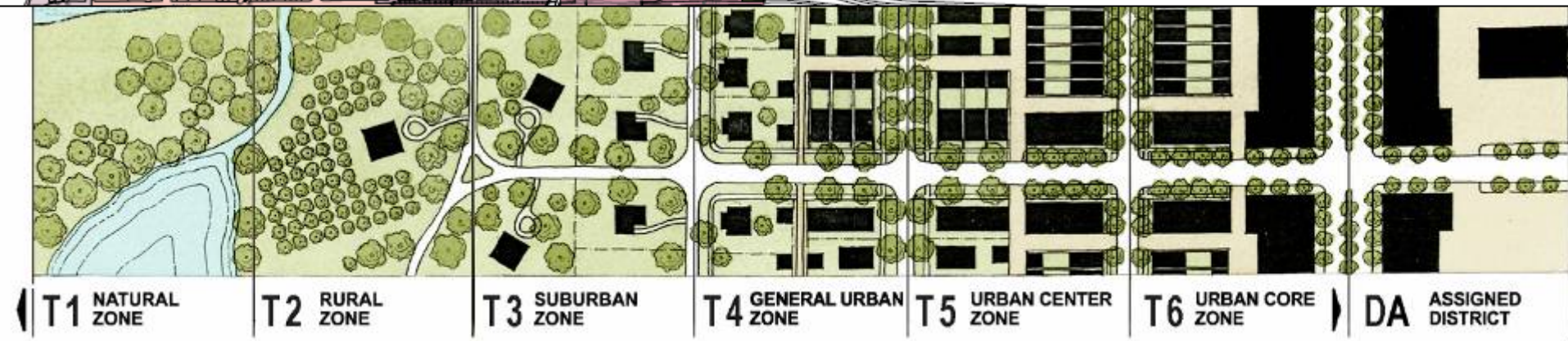
Figure 4.2

Theory versus Reality

- Plans Often Cover Too Large an Area
- Plans (and even Codes) Sometimes Do Not Include Adequate Public Involvement
- Simple Planning Concepts Often Get Complex When Forced to Deal With:
  - Property rights
  - State and federal legislation

Theory versus Reality





Zoning "Value"

- Downzoning
  - Appearance versus reality
- Zoning can create value while protecting character
  - Historic districts
  - McMansion ordinances

Timing/Extent of Involvement

- Neighbors?
  - Up front during planning
- Policy-makers
  - Confirmation of planning
- Technical Staff
  - Throughout, including application approval following planning stage

Preparing New Zoning

- Need to Model Outcomes: in 3-D, if possible
  - Height, building placement, bulk planes
  - Financial pro forma
  - Parking
- One Reason All Sides Like Form-Based Codes is Their Detailed Planning of Results – With Codes That Match

Pro Forma Testing

Microsoft Excel - New ROI with aff and condo

REDEVELOPMENT PROFORMA

PHYSICAL INPUTS

SCENARIO NAME	Scenario 1	(ENTER NAME OF ZONE)
GROSS-TO-NET RATIO	100%	(ENTER PERCENTAGE)
ENTER LOT AREA	43,560	SQUARE FEET
MAXIMUM HEIGHT	2	STORIES
LANDSCAPING PERCENT	5%	(ENTER PERCENTAGE)
UNDERBUILD	90%	(ENTER PERCENTAGE)*
AREA PER PARKING SPACE	350	SQUARE FEET
LEVELS OF ABOVE GROUND PARKING	1	STORIES
LEVELS OF BELOW GROUND OR STRUCTURED PARKING	0	STORIES

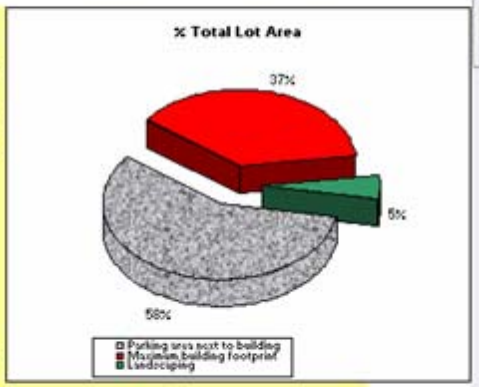
*AMOUNT OF DENSITY LIKELY TO BE ACHIEVED RELATIVE TO ALLOWED

PERCENT OF BUILDING SQUARE FEET		
RESIDENTIAL	80%	(ENTER PERCENTAGE)
AFFORDABLE RESIDENTIAL	0%	(ENTER PERCENTAGE)
RETAIL	20%	(ENTER PERCENTAGE)
OFFICE	0%	(ENTER PERCENTAGE)
INDUSTRIAL		(ENTER PERCENTAGE)
PUBLIC		(ENTER PERCENTAGE)
OTHER		(ENTER PERCENTAGE)

AVERAGE SQUARE FEET PER RESIDENT OR EMPLOYEE BY SECTOR		
RESIDENTIAL	1150	SQUARE FEET
AFFORDABLE RESIDENTIAL	600	SQUARE FEET
RETAIL	450	SQUARE FEET
OFFICE	400	SQUARE FEET
INDUSTRIAL	1000	SQUARE FEET
PUBLIC	350	SQUARE FEET
OTHER	400	SQUARE FEET

PHYSICAL OUPUTS

PARKING AREA NEXT TO BUILDING	25,090	SQUARE FEET
MAXIMUM BUILDING FOOTPRINT	16,292	SQUARE FEET
LANDSCAPING	2,178	SQUARE FEET
TOTAL LOT AREA	43,560	SQUARE FEET
	1.0	ACRES
USEABLE FAR	0.67	
USEABLE BUILDING TOTAL	29,326	SQUARE FEET

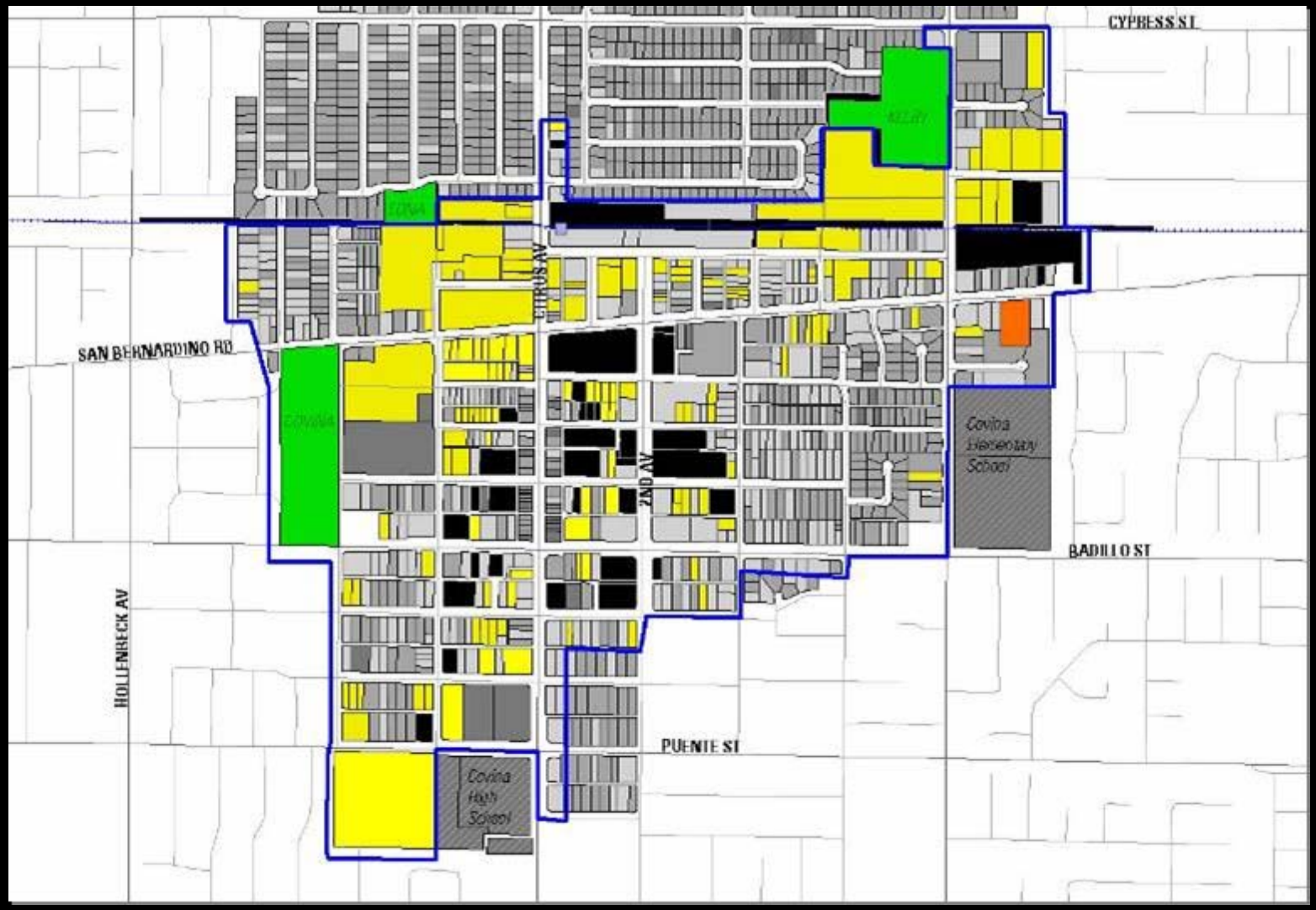


	SQUARE FEET	DWELLING UNITS	JOBS	DU/ACRE	JOBS/ ACRE
RESIDENTIAL	23,461	20.40		20.40	
AFFORDABLE RESIDENTIAL	0	0.00		0.00	
RETAIL	5,865		13.03		13.03
OFFICE	0		0.00		0.00
INDUSTRIAL	0		0.00		0.00
PUBLIC	0		0.00		0.00
OTHER	0		0.00		0.00
			13.03		13.03

ROI = 12.0%

Physical 1 / Parking 1 / Financial 1 / calculations 1

Pro Forma Testing



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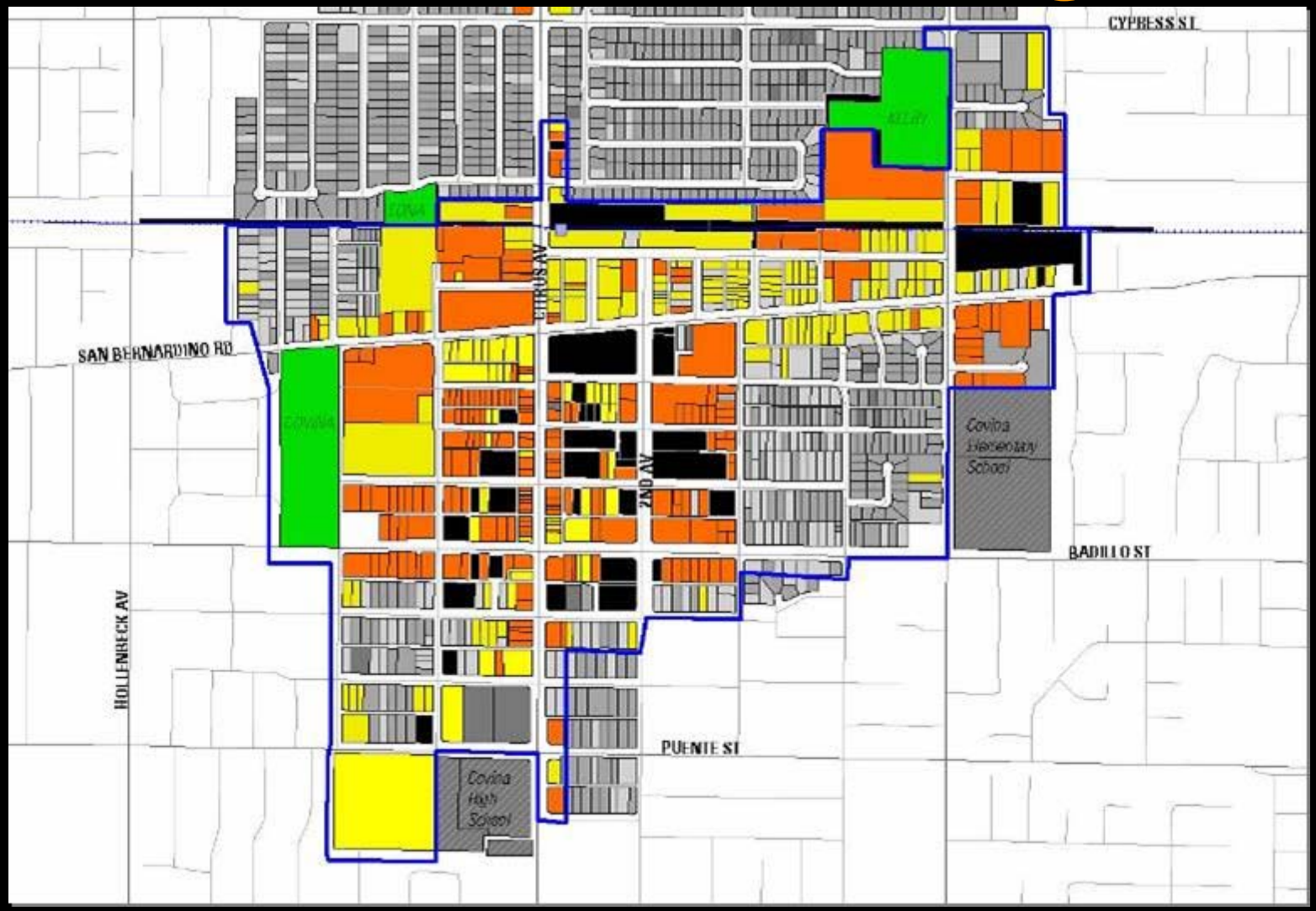

Common Mistakes

- Expecting a Miracle . . .
  - Montgomery County TOD and mixed use zones established in the 70'/80's – 20+ years ago
- Planning Through Zoning
  - Zoning should IMPLEMENT plans, not make them
- Borrowing Code From Others
  - Good Code is PLACE-SPECIFIC

Contact Information

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