# Auditing Your Way to "Clearer, Faster, Better" Zoning

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# Three Perspectives

- ## Lakewood, CO
  - Code audit (and rewrite) performed with in-house staff and consultants over 19 months.

- ## Denver, CO
  - Extensive Code Diagnosis prepared by consultant and task force over 12-18 months

- ## Elsewhere
  - Audit approaches from Philadelphia, PA, Calgary, MB, and Lake Oswego, OR

# Lakewood Planning History

- 1969 – Jefferson County Ordinance
- 1980 – Amended Ordinance
- 1982 – Remapping complete
- 2003 – New Comprehensive Plan
- 124 Amendments between 1969 and 2009
- 238 Planned Developments
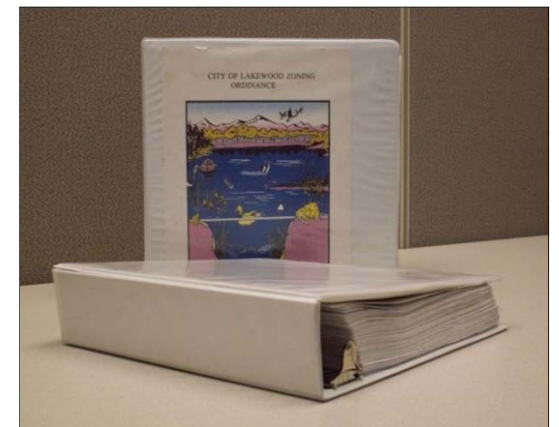
# Why Revisit the Zoning Ordinance?

- The Lakewood! Zoning Improvement process began with three staff defined goals:
    - Simplify organization of the zoning ordinance and clarify the various approval processes
    - Incorporate standards to address changes in technological advances, unnamed land uses, and best practices
    - Align the zoning ordinance with vision of the Lakewood Comprehensive Plan, sub-area plans and corridor plans

# Beginning the Lakewood! Zoning Improvement Process

- City staff initiated process – June 2009
- Project support from Mayor and City Council
- Identification of the Professional Work Group which is comprised of City staff
- Creation of a Community Advisory Group to assist staff with issue identification and ordinance development
  - Citizen Planning Academy, 300 graduates
  - 60 members, now at 28 participants
  - Staff developed introductory program and schedule for introducing new concepts
  - Ambassadors for the Lakewood! Zoning Improvement process

# Lakewood Audit

- Planning staff research program and identification of issues
- Professional Work Group identification of issues
- Community Advisory Group
- Industry Focus Group surveys
- Intake of public feedback and comments
  - Website (www.playyourpart.org)
  - Community Events
  - Open Houses and Workshops
  - Public surveys distributed at open houses and workshops

# Lakewood Process

- Address inconsistencies, introduce best practices and new land use concepts
- Identify what is working well and what needs to be modified in the zoning ordinance
- Public and staff comments assisted in developing of policy objectives and creating an ordinance change list
- Report 1 – Project Background, Objectives, and Preliminary "Bullet Code" presented to Planning Commission and City Council

# Lakewood Process

- Anticipated 36 months to complete
- Original goal of 18 months
- Consultant participation
  - Speakers at Community Events
  - Industry Focus Groups
  - Graphic support
  - Ordinance testing

# Public Involvement as of March 2011

- Website (www.playyourpart.org)
- E-News blast, KLTV, Looking at Lakewood, Friday Report, newsletters, postcards
- **20** Community Advisory Group meetings
- **4** Staff presentations at neighborhood and HOA meetings
- **5** Staff presentations at business association meetings
- **9** Industry Focus Group meetings with 40 firms and businesses
- **3** Community Events
- **6** Workshops and **3** Open Houses

# Surprises in the Process

- Dedication and continuing support of the Community Advisory Group

- Planning staff interactions with other City staff  (Professional Work Group)

- Redirecting the focus of the Professional Work Group

- Community support for expanding allowances for the Urban Agriculture concept

# What We Would Do Differently

- Designate a full time project manager for the zoning improvement process
- Complete the research and analysis portion earlier in the process or before beginning the public outreach process
- Provide for an external review of the research and analysis process and staff findings
- Make better use of branding and website

# Denver Project Phases

**Phase 1: Analysis and Problem Definition**

Phase 2: Alternative Approaches

Phase 3: Drafting New Code

Phase 4: Code Adoption and Implementation

# Deciding What to Fix

- Analysis and Problem Definition
- Plan-driven approach
  - "Implementing Blueprint Denver" = refrain
- Key players
  - City staff
  - Zoning Code Task Force
  - Consultant team
  - Collaborative of all players in this phase

# Deciding What to Fix – Step #1: Public Listening Sessions

- Stakeholder interviews (consultants interviewed staff, code users, organizations, city council)
- 5 public listening sessions throughout city
  - What type of development do you like / not like in your neighborhood?
  - What type of development would you like to see?

# Deciding What to Fix – Step #1: Public Listening Sessions

- Short list of similar comments distilled
  - Bulk/scale of residential infill development
  - Mismatch between existing character on the ground & zoning entitlement
  - Transitions between more/less intense development;
  - Code format and usability concerns
  - Over-use of "custom" zoning and complexity of rezoning process
  - Public participation in zoning changes and project review

# Deciding What to Fix – Step #2: Code Diagnostic Report

- Analysis, problem definition and identification of next steps
- Organized by Blueprint Denver's "Areas of Stability" and "Areas of Change"
- Additional general analysis of AOS "character" and forces of change
  - Neighborhood typologies
  - Typical building types
  - Demolition and rebuild patterns/trends
- Next steps:  Further definition of neighborhood "character" or "context" for zoning purposes

# Deciding What to Fix – Step #2: Code Diagnostic Report

- Additional general analysis of AOC zoning disconnect from adopted plan objectives:
  - Comparison of current zoning vs. Blueprint plan:
    - Capacity
    - Land use mix
    - Return on investment

- Significant zoning changes recommended
  - Allow greater intensity, density by-right
  - More mixed-use zoning needed
  - Reduce parking
  - Legislative rezonings

# Prioritizing the Fixes

- Led by Zoning Code Task Force with staff support
- Derived from Diagnostic Report
- Written Statement of Top 3 Problems to Fix:
  ◦ Vision and code alignment
  ◦ Complexity and consistency of code procedures
  ◦ Code format and usability

# Why Go Through All That?

- **One** year to conduct listening sessions, complete diagnostic report, and present to public; plus
- **One** year to draft and finalize problem statements [*Note:* other update activities occurred during this time]
- **Benefits:**
  - Clear roadmap - referred to repeatedly during following years of drafting and public outreach
  - Kept team focused – tool to deflect many of the "while you're at it, fix it" suggestions so that momentum remained targeted on priority problems

# As Time Passes, Flexibility to Revisit the Fix-It List

- Problem Statements in 2008 – 3 years since project start

- Denver community demands renewed focus on Sustainability and Affordable Housing

- Challenge = How assure zoning code fixes can and will address these issues without losing momentum?

- Audits completed using first drafts of new code
  - Consultant comparison of old code, new code draft and best practices – identify gaps and opportunities to address in zoning
  - Staff and ZCTF reviewed broad menu of consultant recommendations
    - Staff identified fixes already in progress
    - Staff recommended additional fixes that fit into project timeline
    - Staff recommended issues to "take up later" in partnership with other agencies

# Experience Elsewhere

**Philadelphia**

- 1 year process with consultant to develop 200 page Road Map and TOC for new code
- Assessment of Problems
- Best Practices Report on new / tough issues
- Recommendations and TOC for new Code

**Calgary**

- 4 month process with consultants to develop four-part "Audit"

| Short-Term Code Fix | Long-Term Code Fix |
|---|---|
| Short-Term Admin Fix | Long-Term Admin Fix |

# Experience Elsewhere

## Lake Oswego, OR

- 4 month process with consultants to develop "Audit" addressing 8 topics
  - System of Zoning and Use Regulation;
  - Development Standards;
  - Readability/Clarity/Graphics
  - Land Use Decision Process;
  - Exceptions, Adjustments, and Interpretations;
  - Technology; and
  - Content and Policy Issues
- Integrated into "Annotated Outline"
  - Builds support and momentum

# Common Techniques

- Survey of staff & stakeholders
  - Increasingly on-line survey
- Survey of the public
  - Almost always an on-line survey
  - Requires skill to pose question the public can understand



**Overall Opinion of Key Changes**
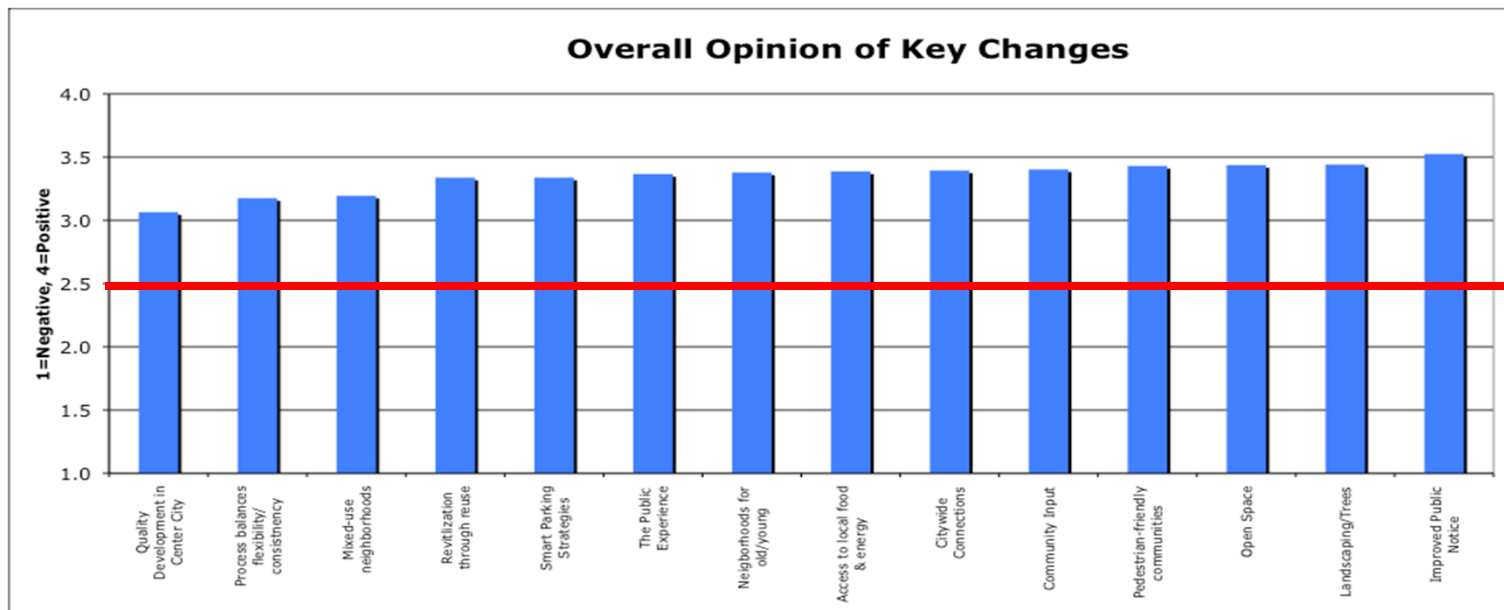
# Getting Beyond the Obvious

- It's not that hard to list the things in the current code that you know are wrong and that should be done

- The difference between a routine and truly helpful Audit is in taking two additional steps:

  - **Seeing what is not there** – the topics and tools that are not in the code because no one knows about them, and no dispute has ever come up in that area

  - **Seeing what you can do without** – being able to imagine a better result with fewer regulations or fewer review steps

# Common Issues - General

- Consolidating/eliminating districts
- Consolidating/eliminating uses
- Deconstructing reliance on PUDs
  - Replacing/addressing negotiated approvals?
- Ensuring consistency with federal law
  - Federal Telecommunications Act
  - Manufactured Housing Act
  - Fair Housing Act Amendments (affordable and other)
  - Americans With Disabilities Act
  - Religious Land Use and Institutionalized Persons Act
- Ensuring consistency with state law
  - Vested rights
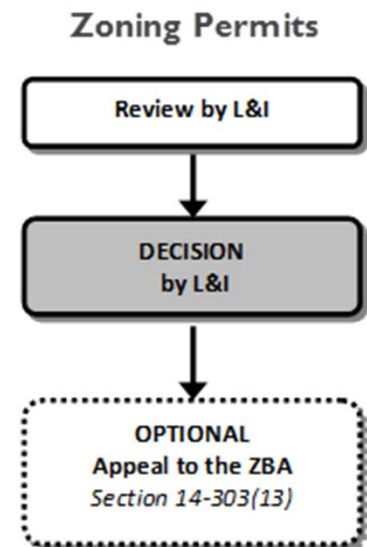  - Regulatory impairment of property rights

# Common Issues - Substance

- Residential lot requirements
  - Leading source of regulatory inflation of housing prices
- New / unfamiliar housing types
  - Accessory Dwelling Units (ADUs)
  - Small lot / zero lot line products
- Allowing appropriate mixes of use
  - Doesn't necessarily require new districts
- Getting parking right
- Allowing sustainability features
  - Accessory and primary wind, solar, geothermal
- Allowing urban agriculture
  - Farmers markets and supported farms

# Common Issues - Procedures

- Address common variances
  - Just permit them with conditions
- Identify specific local bottlenecks
  - Provide objective standards to avoid review hearings
- Reduce the number of review steps
  - Delegate decisions from CC to PC, or PC to staff
  - Allow rights of appeal back to current decision-maker
- Reduce the number of discretionary decisions
  - Winnow out conditional uses that could be by-right with conditions from that actually require judgment

**Zoning Permits**

Review by L&I

↓

DECISION by L&I

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OPTIONAL
Appeal to the ZBA
*Section 14-303(13)*

# Questions and Discussion