

The primary implementation obstacle contained in the present Durham regulatory system is the rather conventional nature of the Zoning Ordinance, Site Plan Review Regulations, and Subdivision Regulations with detailed distinctions among various uses and multiple permitting requirements. The purpose of Durham’s Zoning Ordinance, as stated in Section 175-3, is largely focused on “ensure[ing] that development is commensurate with the character and physical limitations of the land.” Except for the preservation of “historic sites and structures” and reference to “enhances[ing] the achievement of the town’s economic development goals”, the purpose statement lacks reference to the design or form of development in creating and/or preserving the built character of a vibrant, mixed use downtown or compact, livable neighborhoods.

By their nature, Durham’s Zoning Ordinance, Site Plan Review Regulations, and Subdivision Regulations are reactive to individual proposals, like many conventional zoning and development review systems. This leads to uncertainty in outcome from the perspective of both applicants and decision-making bodies.

Durham’s Zoning Ordinance includes extensive use restrictions and review requirements that make it difficult to create a lively, mixed use center in the commercial core of the community. The Ordinance’s focus on fine distinctions among uses makes review of development proposals cumbersome and time consuming. While a number of standards attempt to shape development, the Ordinance with its prominent focus on managing use, has not been successful in getting to the issue of how the area looks and functions.

The precision with which various use distinctions are made, including the definition of “mixed use”, are unduly restrictive in places and may discourage appropriate development in the commercial core. The Ordinance defines permitted use as “a use specifically permitted or analogous to those specifically permitted as set forth in the Table of Uses or the zoning district standards.” This appears to conflict with the definition of prohibited uses (“A use which is not specifically permitted.”) and §175-11 of the Ordinance, which states that “any use not specifically permitted or permitted by conditional use permit is prohibited.”).

The narrow construction of allowed uses, cited in §175-11 above, forces applicants to go before the Planning Board for an exceptionally large number of conditional uses. Furthermore, the Use Table includes a number of fine distinctions among similar types of uses, such as bed & breakfasts and inns and variations on mixed uses, which are conditional in all retail/commercial zones. This is surprising since these uses are quite appropriate for a mixed use commercial core and the purpose and intent of a conditional use permit is to allow certain uses that are not normally permitted (§175-21). With a requirement of at least five of the seven votes of the planning board to approve a conditional use (§175-22), the Ordinance may create barriers to development of these and other compatible uses. Add to this the requirement of Site Plan Review for any change in the occupancy of an existing building from one of the many categories of uses, including from one nonresidential to another nonresidential use, makes it harder to realize the goals of the Durham Strategic Plan. While concurrent review may save an applicant time and expense, it also requires the applicant to make a substantial investment in the preparation of a site plan. If the conditional use is denied, this expenditure may be for naught.

Without a change in approach, the Ordinance binds the community to extensive review of minute differences in uses without the assurance that the development will actually reflect Durham’s design objectives.

As an example, Durham allows mixed use with residential (office/retail on the ground floor, multiunit residential above) as a permitted use in the Central Business (CB) and Church Hill (CH) districts, as a conditional use in the Professional Office (PO) District, but is excluded in the Courthouse (C) District. The regulations contained in Section 175-23 of the Durham Zoning Ordinance, Section 9 of the Site Plan Regulations, and Section 9 of the Subdivision Regulations do not give either side reasonable certainty in outcome since standards are largely qualitative and compliance requires discretionary interpretation in their application. According to Town Staff and Boards, the current Ordinances do not provide for the type or form of development that reflects the community’s desires and goals.

Section 175-29 establishes 5,000 square feet as the smallest nonconforming lot for a permitted use in a nonresidential district unless permitted by the Zoning Board of Adjustment as a special exception. Development of smaller lots may be desirable in some parts of the plan, but under current regulations will require review by both the Zoning Board of Adjustment and the Planning Board in a complicated process. It is not clear what is gained by engaging both boards.

The Ordinance limits retail stores to a maximum of 20,000 square feet. Recognizing community concern about large scale retail, this standard could discourage desirable, albeit somewhat larger, stores that if sited and designed appropriately might be a welcome addition to the commercial core.

DURHAM COMMERCIAL CORE STRATEGIC PLAN

APPLYING THE CURRENT CODE TO THE ILLUSTRATIVE PLAN

Section 175-38 defines the Residence A District as “high density”, but requires a minimum lot size of 20,000 square feet and identifies conservation subdivisions as the favored development pattern. Neither of these strategies is appropriate for a compact, mixed use neighborhood. The minimum lot size is too large and a more appropriate model for a subdivision is traditional neighborhood design, which encourages small lots, walkable, interconnected streets, and planned open spaces guided by the location of natural features.

Height limits of 30 feet in the retail/commercial districts (§175-54), with the possibility of another story in mixed use buildings, does not provide for either a fifth story envisioned in portions of the Strategic Plan, nor sensitivity about where and when it may be appropriate to site taller structures.

In each of the districts that make up the commercial core, there are a number of standards that are intended to guide development to reflect a walkable, downtown pattern. While the purpose of the Central Business District is generally consistent with the Strategic Plan, the outcome of current Ordinance standards have reportedly been less effective than desired, particularly from an economic development perspective.

Sometimes the standards prohibit things that might be acceptable under specific conditions. In other cases, the standards require things that might not be necessary or appropriate. The Ordinance does provide for waiver of standards by special exception, but there is no firm standard to guide when and how standards should be waived. The applicant is left to guess what the Planning Board is seeking and the Board must decide what an appropriate design response is and assure that it treats each applicant fairly. This attempt to provide flexibility is very time consuming, but without it the Town risks endorsing cookie-cutter development. Flexibility comes at the expense of uncertainty in outcome and increased time and work load for both the applicant and Town boards.

Current landscaping standards only partially address the treatment of public spaces and do not require the planting of shade trees (§§175-116 and 175-120).

Currently, the Zoning Ordinance breaks the commercial core into five districts (§§175-41, 175-43 through 175-48) – Professional Office (PO), Central Business (CBD), Church Hill (CH), Courthouse (C) and Coe’s Corner (CC), again focused on fine distinctions in use. The Strategic Plan places greater emphasis on form over fine distinctions in use. With a shift in emphasis from use to form, these five districts could be combined into one district with an overlay district for historic standards and another overlay for automobile and marine sales and service. Combining the first four districts will allow businesses that tend to generate foot-traffic, but that are not currently allowed in the PO and CC districts, such as restaurants and retail uses.

Section 175-110 requires an applicant to provide a set number of parking spaces for each use. Mixed use development typically generates less parking demand than separated uses; however, the current Ordinance does not offer a separate parking standard for mixed use development. Excessive parking standards require unnecessary asphalt, which competes for desirable green space. The current standard for the maximum size of parking areas is well intended, but bears examination, especially if the Town is able to procure structured parking.

FORM-BASED CODES: AN ABSTRACT

The following paragraphs are excerpts from the “Form-Based Codes Institute” one of the leading agencies working to advance the Planning Profession and communities world-wide towards more sustainable zoning practices.

Form-based codes foster predictable built results and a high-quality public realm by using physical form (rather than separation of uses) as the organizing principle for the code. These codes are adopted into city or county law as regulations, not mere guidelines. Form-based codes are an alternative to conventional zoning.

Form-based codes address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in form-based codes, presented in both diagrams and words, are keyed to a regulating plan that designates the appropriate form and scale (and therefore, character) of development rather than only distinctions in land-use types. This is in contrast to conventional zoning’s focus on the micromanagement and segregation of land uses, and the control of development intensity through abstract and uncoordinated parameters (e.g., FAR, dwellings per acre, setbacks, parking ratios, traffic LOS) to the neglect of an integrated built form. Not to be confused with design guidelines or general statements of policy, form-based codes are regulatory, not advisory.

Form-based codes are drafted to achieve a community vision based on time-tested forms of urbanism. Ultimately, a form-based code is a tool; the quality of development outcomes is dependent on the quality and objectives of the community plan that a code implements.

Eight Advantages to Form-Based Codes

1. Because they are prescriptive (they state what you want), rather than proscriptive (what you don’t want), form-based codes (FBCs) can achieve a more predictable physical result. The elements controlled by FBCs are those that are most important to the shaping of a high quality built environment.

2. FBCs encourage public participation because they allow citizens to see what will happen where-leading to a higher comfort level about greater density, for instance.

3. Because they can regulate development at the scale of an individual building or lot, FBCs encourage independent development by multiple property owners. This obviates the need for large land assemblies and the megaprojects that are frequently proposed for such parcels.

4. The built results of FBCs often reflect a diversity of architecture, materials, uses, and ownership that can only come from the actions of many independent players operating within a communally agreed-upon vision and legal framework.

5. FBCs work well in established communities because they effectively define and codify a neighborhood’s existing “DNA.” Vernacular building types can be easily replicated, promoting infill that is compatible with surrounding structures.

6. Non-professionals find FBCs easier to use than conventional zoning documents because they are much shorter, more concise, and organized for visual access and readability. This feature makes it easier for non-planners to determine whether compliance has been achieved.

7. FBCs obviate the need for design guidelines, which are difficult to apply consistently, offer too much room for subjective interpretation, and can be difficult to enforce. They also require less oversight by discretionary review bodies, fostering a less politicized planning process that could deliver huge savings in time and money and reduce the risk of takings challenges.

8. FBCs may prove to be more enforceable than design guidelines. The stated purpose of FBCs is the shaping of a high quality public realm, a presumed public good that promotes healthy civic interaction. For that reason compliance with the codes can be enforced, not on the basis of aesthetics but because a failure to comply would diminish the good that is sought. While enforceability of development regulations has not been a problem in new growth areas controlled by private covenants, such matters can be problematic in already-urbanized areas due to legal conflicts with first amendment rights.

~ Peter Katz, President, Form-Based Codes Institute

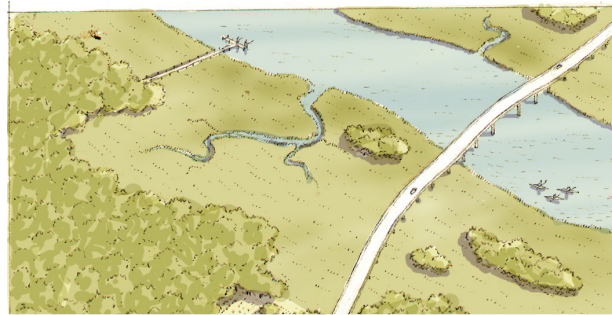
Given general dissatisfaction with the physical results of regulations like Durham’s, local governments around the country are increasingly turning to an alternative method of land development regulation. This method, known as a form-based code, is a particularly efficient and effective way to translate the ideals of a plan (achieved through consensus) into regulations.

A form-based code is a land development regulatory tool that places primary emphasis on the physical form of the built environment with the end goal of producing a specific type of “place”. The aim is to ensure development that is compact, mixed-use, and pedestrian-oriented.

The fundamental principle of form-based coding is how a building relates to the street (public realm), which becomes more important than use. In contrast to conventional land development regulations, form-based codes focuses on public spaces – including streets – shaped by individual private buildings.

Simple and clear graphic prescriptions for building height, building placement, and building elements (such as location of windows, doors, etc.) are used to ensure development respects the street. Land use is not ignored, but regulated using broad parameters that can better respond to market economies.

More information on this technique can be found at www.formbasedcodes.org and www.smartcodecentral.com.



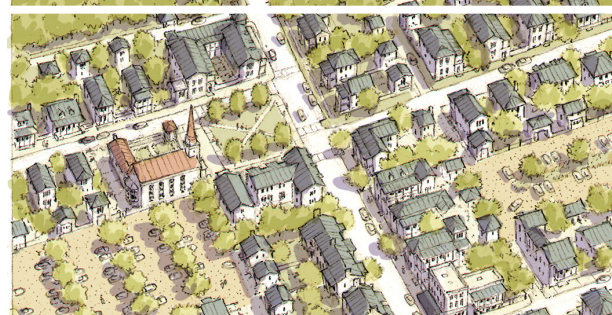
T-Zone T-1 (Natural) encompasses areas that are permanently protected from development, in most cases either by having been purchased or by protection of conservation laws. Very few man-made structures exist in these wilderness areas, although there may be a limited number of farms or ranching operations and campground areas.



T-Zone T-2 (Rural) provides a more rural lifestyle, with more open or natural space and few homes other than those related to farming or conservation.



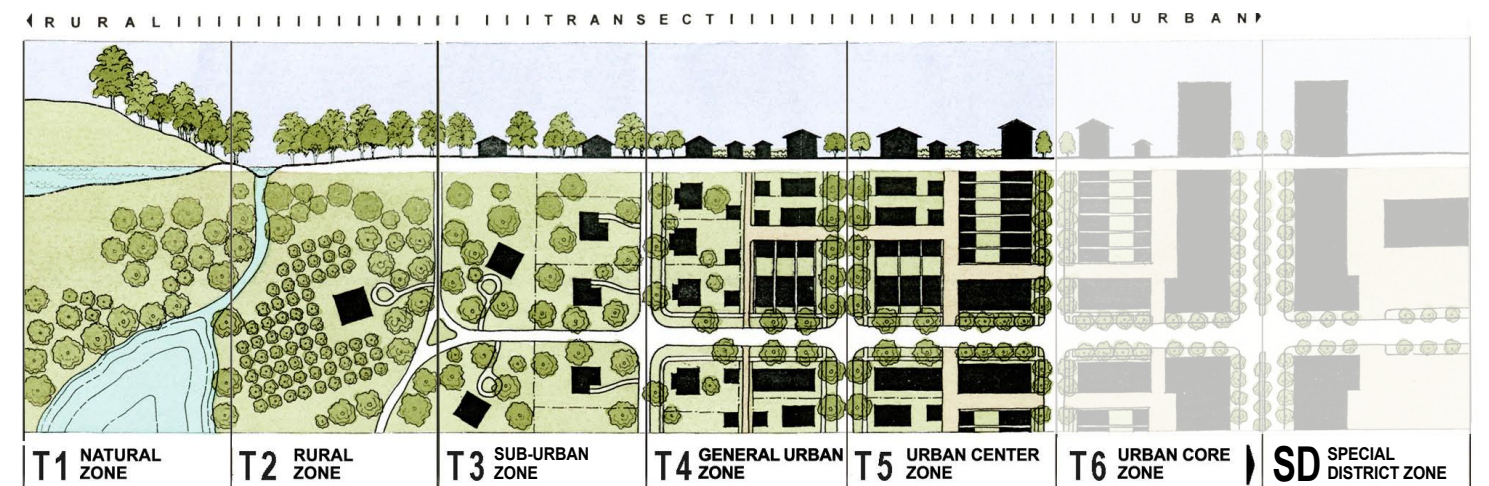
T-Zone T-3 (Sub-urban) is predominantly single family residential with homes situated on moderate sized lots that are situated more closely than those in the T-2 Rural Zone. While still requiring driving, residences are closer to daily needs than in T-2. In T-3, streets lie more naturally relative to the topography, and lighting, sidewalks and other urban components are less common than in more urban areas.



T-Zone T-4 (General Urban) provides a bridge between T-3's suburban character and T-5's more urbanized character. Areas of development are organized in a more identifiable grid than in T-3. Residences are on smaller lots with more shallow setbacks. On the extreme edges of T-4, there may be development that is similar to T-3 Sub-urban at one end and a pattern similar to T-5's Urban Center at the other end. T-4 is predominantly residential in use and is attractive to those who value a more urban lifestyle, with residences on smaller lots or, perhaps, adjoining their neighbor's home, and daily needs are nearby.



T-Zone T-5 (Urban Center) is more diverse than earlier T-Zones and is characterized by more mixed use than T-4. It is characterized by shops, offices and live-work units in its center, townhouses and apartments slightly further out and a few single family residences at its edge. T-5's Urban Center is for people who prefer an even more urban lifestyle than is offered by T-4 and the higher activity level of a more bustling place, with grocery, restaurants, theatres, hardware stores and shops all within a short walk*.



When considering a form-based code, the first step is to identify existing Transect zones, sometimes referred to as “T-Zones”. The Transect is an ordering device based on a geographical cross-section of an area that can be used to identify a range of environments based on their distinctive characteristics. In form-based coding, this organizing method is used instead of use-based pods to promote a more fine-grained type of environment, reflective of our most-loved places.

Though this type of organizing tool was first applied to the natural environment and the study of ecosystems, the Transect can be extended to the human habitat as well. By ordering aspects of the built environment according to intensity of human use, the Transect helps to achieve the appropriate range and application of elements from natural through urban.

For example, a street is more urban than a road, a curb more urban than a swale, a brick wall more urban than a wood wall, and an allee of trees more urban than a cluster. This gradient when rationalized and subdivided, becomes the urban Transect, the basis of a common zoning system.

Use of the Transect makes it possible to identify, retain and create desirable development patterns that provide a full array of authentic immersive human habitats. Again, this is compared to the current system that generally calls for specific responses regardless of the context.

The first step when preparing a form-based code is to measure the best existing examples of each zone within the community. This information can then be used to create the rules for each Transect Zone, which would then govern new development.

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APPLICATION OF A FORM-BASED APPROACH IN DURHAM

To the right is an example of a Regulating Plan created for Jamestown, Rhode Island, with the Transect Zones indicated in shades of purple, lightest being T3 and darkest being T5. The natural and rural areas are shown in green. This transect-based zoning map has replaced the former use-based zoning map.

The table below shows the dimensional differences between Jamestown’s former zoning ordinance and this calibrated and newly approved form-based code.



Given the various character areas in Durham and the degree to which they are positioned to attract small or large-scale development proposals, a combination of methods for applying a form-based approach to specific parcels in town are appropriate – be it mapped, floating, or overlay. Given the complexity and conventional nature of Durham’s Zoning Ordinance and Site Plan and Subdivision regulations, however, the most effective and recommended approach would likely require the creation of a new zone or zones, rather than “surgical” repair of the existing regulations.

The decision about whether to adopt an overlay or floating zone or to create new mapped districts depends on Durham’s level of comfort with requiring conformance to very specific standards. The simplest approach would be for the Town to replace the current CBD, PO, CH, C, and CC districts with a new zone that reflects the Illustrative Master Plan generated in the charrette. A form-based code could encourage more vitality in the downtown by guaranteeing a mix of uses, desired character of buildings, green spaces, and an interconnected network of streets. In the CH and C districts, a form-based code could determine the type, shape, and character of new housing to define Main Street and protect Park Court. It could also promote infill development that fills in the gaps along the street and fits seamlessly into the historic fabric. In the Main and Newmarket Gateway area, a form-based code could be used to indicate what new buildings should look like and where they should be placed in relation to the street to help repair the historic fabric and create a walkable center. In CC, a form-based code could require new buildings and additions to be built closer to the road with improved sidewalks and street trees to improve the look and feel of development at this important gateway to Durham.

If, however, the Town is not prepared to adopt a form-based code outright, it could provide the option of developing in the desired form through overlay or floating zones, assuming that most developers might prefer to meet the standards of the overlay or floating zone because it could allow increased development intensity and a more certain and streamlined permitting process.

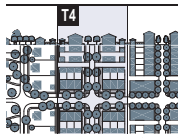
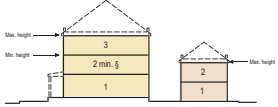
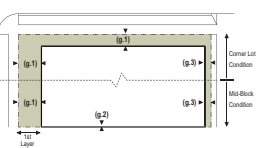
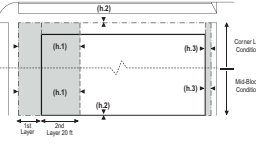
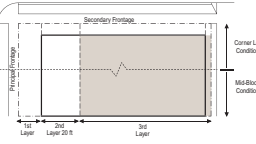
A streamlined permitting process could employ a number of variations on delegated review authority. For example, it could expand on the current system of delegation under Section 175-17 of the Zoning Ordinance to direct reviews to a Technical Review Committee, made up of specific town staff, to ensure compliance with the Town’s Site Plan Review Regulations. As in the current Ordinance, the Technical Review Committee could approve, disapprove, or make a recommendation to the Planning Board, with appeals sent to the Planning Board. Alternatively, the delegated review might be sent to the Zoning Administrator for a determination of substantial conformance with the specific standards, which could then be passed onto the Planning Board for an affirmation of conformance.

Whatever mechanism is chosen, the success of implementation is tied to three overarching tenets:

1. To the extent practicable, the regulations should not look and function so differently from the existing Ordinances as to attract negative criticism on that ground alone;
2. The regulations and mapping should contain a degree of flexibility to account for changing real estate development market conditions over time; and
3. The procedures applicable to individual development proposals should contain clearly-described, streamlined, administrative approval mechanisms.

	T1 NATURAL ZONE	T2 RURAL ZONE	R-30 DISTRICT	R-8 DISTRICT	T3 VILLAGE RESIDENTIAL ZONE	CL DISTRICT	T4 VILLAGE MIXED ZONE	CO DISTRICT	T5 VILLAGE CENTER ZONE	SD SPECIAL WATERFRONT DISTRICT
a. ALLOCATION OF ZONES per community (applicable to Article 3 only)										
HABSET requires	50% min T1 and/or T2	50% min T1 and/or T2			10 - 30%		20 - 40%		not permitted	(see Table 13)
b. BASE RESIDENTIAL DENSITY (see Section 16)										
By Right	N/A	1 unit / 20 ac. max.	varies by building type	varies by building type	6 units / ac. gross	varies by building type	12 units / ac. gross	varies by building type	24 units / ac. gross	
Other Function (Article 3 only)	by Variance				10 - 20% min		20 - 30% min		N/A	
c. BLOCK SIZE										
Block Perimeter	no maximum	no maximum	no maximum	no maximum	3000 ft. max.	no maximum	2400 ft. max.	no maximum	N/A	
d. THOROUGHFARES (see Table 3A and Table 3B)										
DR	not permitted	not permitted			permitted		permitted		permitted	
ST	not permitted	not permitted			permitted		permitted		permitted	
RD	permitted	permitted			permitted		not permitted		not permitted	
Rear Lane	permitted	permitted			permitted		not permitted		not permitted	
Rear Alley	not permitted	not permitted			required		required		required	
Path	permitted	permitted			permitted		permitted		not permitted	
Passage	not permitted	not permitted			permitted		permitted		not permitted	
Bicycle Trail	permitted	permitted			permitted		not permitted		not permitted	
Bicycle Lane	permitted	permitted			permitted		permitted		not permitted	
Bicycle Route	permitted	permitted			permitted		permitted		permitted	
e. CIVIC SPACES (see Table 10)										
Park	permitted	permitted	Civic Space types not regulated by context	Civic Space types not regulated by context	permitted	Civic Space types not regulated by context	by Special Permit	Civic Space types not regulated by context	by Special Permit	
Green	not permitted	not permitted			permitted		permitted		permitted	
Square	not permitted	not permitted			permitted		permitted		permitted	
Plaza	not permitted	not permitted			not permitted		not permitted		permitted	
Playground	permitted	permitted			permitted		permitted		permitted	
f. LOT OCCUPATION										
Lot Width	N/A	by Special Permit	100 or 150 ft. min.	80, 90 or 100 ft. min.	40 ft. min 100 ft. max*	80, 90 or 100 ft. min.	30 ft. min 100 ft. max.	40, 60, 80 or 70 ft. min.	10 ft. min 90 ft. max.	
Lot Coverage	N/A	by Special Permit	20% max.	25% or 30% max.	40% max. *	20% or 30% max.	50% max. *	30% or 50% max.	80% max. *	
g. SETBACKS - PRINCIPAL BUILDING										
Front Setback (Principal)	N/A	40 ft. min.	30, 40 or 100 ft. min.	15 or 30 ft. min.	10 ft. min 50 ft. max.	30 or 50 ft. min.	10 ft. min 24 ft. max.	0 ft. min.	0 ft. min 12 ft. max.	
Front Setback (Secondary)	N/A	40 ft. min.			12 ft. min.		0 ft. min 18 ft. max.	0 ft. min.	0 ft. min 12 ft. max.	
Side Setback	N/A	50 ft. min.	10 or 25 ft. min.	7, 10, or 30 ft. min.	10 ft. min.	7, 10, 30 or 50 ft. min.	0 ft. min.	0 ft. comm., 15 ft. min.	0 ft. min 24 ft. max.	
Rear Setback	N/A	30 or 100 ft. min.	30 or 100 ft. min.	30 or 50 ft. min.	20 ft. min.	30 or 50 ft. min.	12 ft. min.	15 or 30 ft. min.	12 ft. min.	
Frontage Buildout	N/A	N/A			N/A		40% min.		60% min.	
h. SETBACKS - OUTBUILDING										
Front Setback	N/A	20 ft. min-ridg setback			20 ft. min-ridg setback		20 ft. min-ridg setback		20 ft. min-ridg setback	
Side Setback	N/A	10 ft. min.	10, 15, 20 or 50 ft. min.	7, 15, or 20 ft. min.	10 ft. min.	7 or 20 ft. min.	10 ft. min.	0 or 10 ft. min.	10 ft. min.	
Rear Setback	N/A	3 ft. min.			10 ft. min.	10, 20 or 30 ft. min.	10 ft. min.	0, 10 or 20 ft. min.	3 ft. min.	
i. BUILDING PLACEMENT (see Table 6)										
Elderyard	permitted	permitted	Building Placement types not regulated by context	Building Placement types not regulated by context	permitted	Building Placement types not regulated by context	permitted	Building Placement types not regulated by context	permitted	
Sideryard	not permitted	not permitted			permitted		permitted		permitted	
Rearyard	not permitted	not permitted			not permitted		not permitted		not permitted	
Courtyard	not permitted	not permitted			not permitted		not permitted		permitted	
j. PRIVATE FRONTAGES (see Table 4)										
Common Yard	N/A	not regulated, regardless of context	not regulated, regardless of context	not regulated, regardless of context	permitted	not regulated, regardless of context	permitted	not regulated, regardless of context	permitted	
Porch & Fence	N/A	not permitted	not permitted	not permitted	permitted	not permitted	permitted	not permitted	permitted	
Terrace or Boardwalk	N/A	not permitted	not permitted	not permitted	not permitted	not permitted	permitted	not permitted	permitted	
Fencecourt	N/A	not permitted	not permitted	not permitted	not permitted	not permitted	permitted	not permitted	permitted	
Sleep	N/A	not permitted	not permitted	not permitted	not permitted	not permitted	permitted	not permitted	permitted	
Shedyard & Hauling	N/A	not permitted	not permitted	not permitted	not permitted	not permitted	permitted	not permitted	permitted	
k. BUILDING HEIGHT (see Table 8)										
Principal Building	N/A	35 ft. max.	2 Stories max.	35 ft. max.	35 ft. max.	2 Stories max.	35 ft. max.	2 Stories max.	35 ft. max.	
Outbuilding	N/A	25 ft. max.	2 Stories max.	25 ft. max.	25 ft. max.	2 Stories max.	25 ft. max.	2 Stories max.	2 Stories max.	
l. BUILDING FUNCTION (see Table 7 & Table 9)										
Residential	N/A	restricted use	no mixed use buildings allowed by right	no mixed use buildings allowed by right	restricted use	no mixed use buildings allowed by right	open use	no mixed use buildings allowed by right	open use	
Lodging	N/A	restricted use			restricted use		restricted use		restricted use	
Office	N/A	restricted use			restricted use		open use		open use	
Retail	N/A	restricted use			restricted use		open use		open use	

ARTICLE 6. STANDARDS AND TABLES
TABLE 15C. FORM-BASED CODE CHART & GRAPHICS - T4 GENERAL URBAN ZONE

	T4
BUILDING CONFIGURATION 1. Building height shall be measured in number of stories, excluding Attics and raised basements. 2. Stories may not exceed 14 feet in height from finished floor to finished ceiling, except for a first floor Commercial function which must be a minimum of 11 feet and may exceed 14 feet. A first floor Commercial function that exceeds 14 feet shall be treated as 2 stories. 3. Height shall be measured to the eave or roof deck as specified on Table 6.	
	
SETBACKS - PRINCIPAL SLUG 1. The Facades and Elevations of Principal Buildings shall be distanced from the Lot lines as shown. 2. Facades shall be built along the Principal Frontage to the minimum specified width in the table.	
	
SETBACKS - OUTBUILDING 1. The Elevations of the Outbuilding shall be distanced from the Lot lines as shown.	
	
PARKING PLACEMENT 1. Uncovered parking spaces may be provided within the Third Lot Layer as shown in the diagram (see Table 17d). 2. Covered parking shall be provided within the Third Lot Layer as shown in the diagram (see Table 17d).	
	
PRIVATE FRONTAGES (see Table 7) Common Lawn: not permitted Porch & Fence: permitted (Porch 30' max. H) Terrace or L.C.: permitted Forecourt: permitted Driveway: permitted Shopfront & Awning: permitted Gallery: permitted Arcade: not permitted	
PARKING PROVISIONS See Table 10 & Table 17 * or 15 ft. from center line of alley	

Above left is an example of building form standards used to clarify building rules under form-based codes. Instead of searching through sections of a code, that basic requirements for a piece of property are contained on a single page. Above right is an example of a code “module” which clearly shows the rules for food production, or any other item that needs to be coded. Standards are set along the continuum of the Transect, with rural to urban applications.

ARTICLE 6. STANDARDS AND TABLES
TABLE 20. SUSTAINABILITY - FOOD PRODUCTION

This table shows ways of incorporating types of food production along the Transect. To the extent used in a project the following elements shall comply with this Table.

	T1	T2	T3*	T4	T5	SD	Specific
Farm		*				*	
Agricultural Plots		*	*			*	
Vegetable Garden		*	*	*			
Urban Farm			*	*	*		
Community Garden			*	*	*		
Green Roof		*	*	*	*	*	
- Extensive		*	*	*	*	*	
- Semi Intensive		*	*	*	*	*	
- Intensive		*	*	*	*	*	

* Includes Transect Zones T3, T3-E and T3-L

Benefits of a Form-Based Code in Durham

Adoption of a form-based code would provide the Town with a simpler and quicker review process which results in development that is more in keeping with the form and character desired by the Town. A brief summary of possible improvements include:

- Eliminating the requirement that all allowed uses be specified as either permitted or conditional. If an unspecified use that looks and functions virtually the same as a permitted one is inadvertently left off the Town’s list or is unanticipated by fast paced changes in today’s market place, the Town does not have to lose a desirable economic development opportunity or go through a zoning text change to accommodate it.

- Refining and/or expanding development standards in the CB, PO, CH, C, and Coe’s Corner (CC) districts to reflect the Illustrative Master Plan generated in the charrette, including the treatment of public spaces, making the outcome more certain, and eliminating the convoluted focus on increasingly finer definitions of uses.
- Eliminating the requirement for Board of Adjustment review of compact lots (5,000 square feet or less) in areas covered by and in conformance with the Illustrative Master Plan generated in the charrette. If smaller lots are called for in the Master Plan and form-based code, additional review as a special exception would not be necessary.
- Eliminating the need for a separate district for Church Hill by applying historic standards as an overlay district.
- Eliminating the requirement for site plan review for changes in use as long as the proposed development complies with the Illustrative Master Plan generated in the charrette.

Master Plan

Whichever regulatory approach the Town pursues, it will need to provide the legal basis for its approach in the Town’s Master Plan, which will be updated shortly.

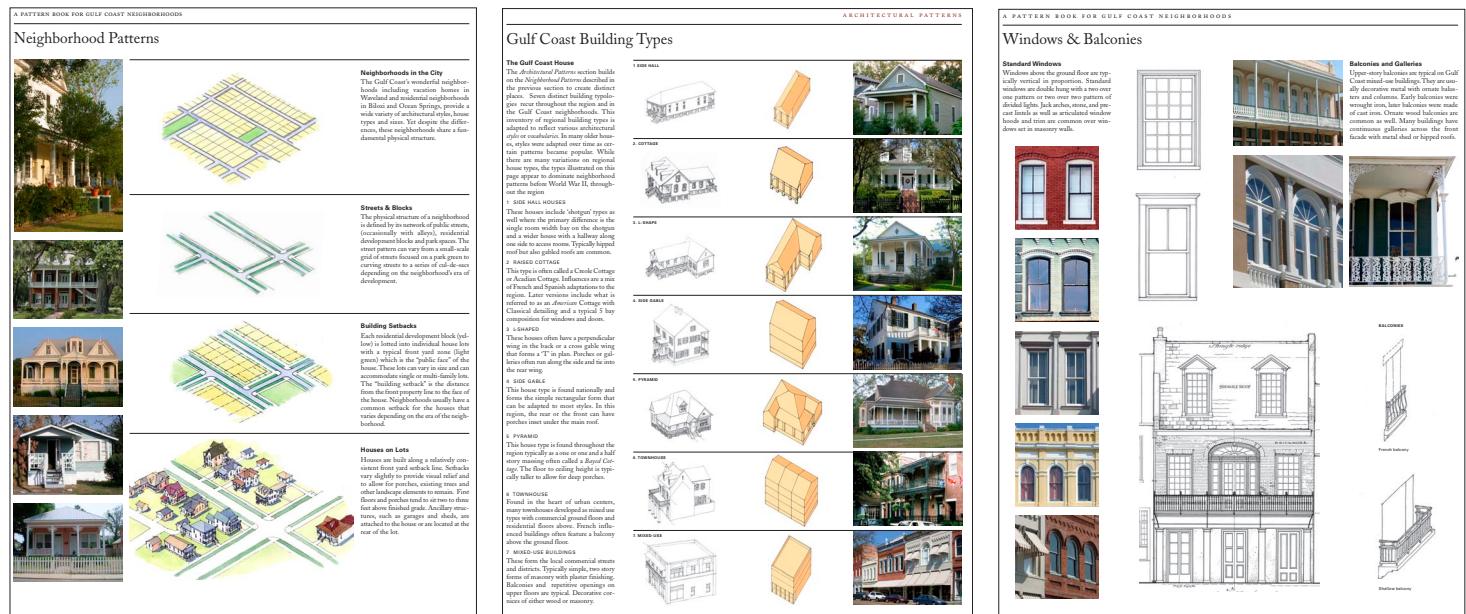
If Durham wants to amend its land use regulations relatively quickly, the simplest approach is to amend the existing Master Plan to support those regulatory changes at the same time it adopts the amended regulations. If, however, the Town chooses to adopt amended regulations more slowly, the new or updated Master Plan should be drafted to include the outcome of the charrette and its recommendations.

DURHAM COMMERCIAL CORE STRATEGIC PLAN

APPLICATION OF A FORM-BASED APPROACH IN DURHAM



Above is an example of design guidelines (these pages are from Jamestown Rhode Island) to further assist homeowners and developers in creating buildings that reflect local character and building traditions.



Above is an example of a pattern book. These pages are from the pattern book developed for the Gulf Coast following hurricane Katrina. This Pattern Book serves as an optional resource for neighborhoods, homeowners, and developers who want to better understand strategies for making additions to existing buildings or constructing new buildings that reflect time-tested best practices in construction techniques and construction details from the local region.

Quick Fixes to the Current Code

The charrette team recommends a form-based code as the most effective way to implement the Strategic Plan. A form-based code would provide clearer standards and make the review process more understandable, reducing both time and expense. As the Town considers its commitment to form-based codes and capital planning, it might also consider the following list of “fixes” to the existing Zoning Ordinance. While some of the fixes may be “quick”, others will require careful contemplation and investigation commensurate with preparing a form-based code.

- Amend the purpose of the Zoning Ordinance (§175-3) to include language about “creating a vibrant, mixed use downtown and compact, livable neighborhoods”.
- Amend the definition of permitted and prohibited uses and §175-11 of the Ordinance to replace the current strict definition of permitted uses with more permissive language that includes uses similar to permitted (analogous) uses.
- Amend the definition of mixed use and review various conditional uses, particularly the fine distinctions among similar types of uses, such as bed & breakfasts and inns and variations on mixed uses, which are conditional in all retail/commercial zones. Some uses may, in fact, be appropriate for a mixed use commercial core and should be permitted, especially since the Ordinance describes a conditional use as one not normally permitted.
- Amend §175-22 to require a simple majority to approve a conditional use.
- Review the requirement of Site Plan Review for changes in occupancy of existing buildings with the intent of removing the requirement from conversions that reflect the mixed use goals of the Strategic Plan.
- Amend §175-29 to allow at least 3,000 square foot lots in the commercial core.
- Amend §175-38 to allow smaller lot sizes (5,000 to 10,000 square feet) in portions of the Residence A District that are part of the Strategic Plan when they are developed using traditional neighborhood

design of small lots, walkable, interconnected streets, and planned open spaces guided by the location of natural features.

- Amend the definition of retail store to provide a mechanism to exceed the 20,000 square foot limit under conditions that reflect the Strategic Plan.
- Amend the 30 foot height limit in retail/commercial districts (§175-54) to allow four and five story structures envisioned in the Strategic Plan. See discussion of code modifications for mixed use structures on page C.18 of this report to guide part of this fix. Other components, such as when and where taller buildings are best located will require greater study and would be best reflected in a regulating plan and form-based code.
- Review and revise specific standards in the retail/commercial districts to require waivers to reflect the Strategic Plan. It will be difficult to generate more specific design guidelines without preparing a regulating plan.
- Amend §§175-116 and 175-120 to require the planting of shade trees.
- Amend §§175-41, 175-43 through 175-48 to create a single downtown district with a historic overlay in Church Hill and an automobile and marine sales and service overlay in the portions of Courthouse.
- Add a mixed use parking standard to §175-110.
- Review state authorized innovative land use controls such as Title LXIV Planning and Zoning §674:21 to assess whether the Town might use any particular control to implement the Strategic Plan, particularly various incentives, density bonuses for workforce housing, performance standards, flexible, inclusionary, and discretionary zoning, and impact fees.

Policy Recommendations

Through the course of the charrette, a number of policy issues were identified. Some generated recommendations that the Town could begin implementing right away. Other, more complex, issues will require additional study. As Durham updates its Master Plan, it should explore a variety of implementation strategies, many of which are outlined in Section E, and work with the community to build consensus around its goals to clarify appropriate strategies.