



# ZONING CODE ASSESSMENT

City of Concord, New Hampshire

*Prepared by:*  
**Code Studio**

**CONCORD  
NEXT**



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# Introduction

# PLANNING FRAMEWORK

In 2001, the Concord Vision 20/20 Plan characterized Concord as a “City of Villages” with five unique neighborhoods that were intended to function as focal points for growth, while preserving the extensive high quality natural resources outside its Urban Growth Boundary.

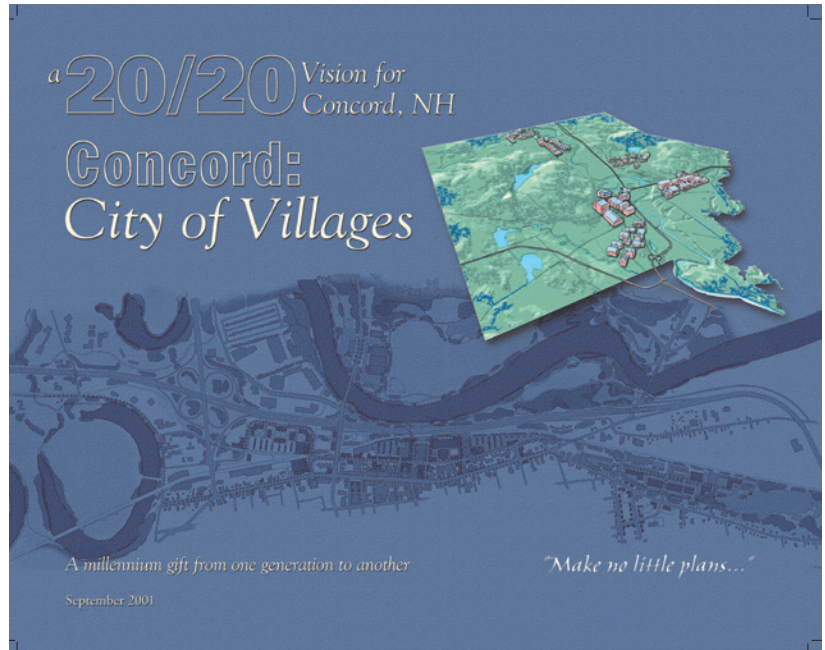
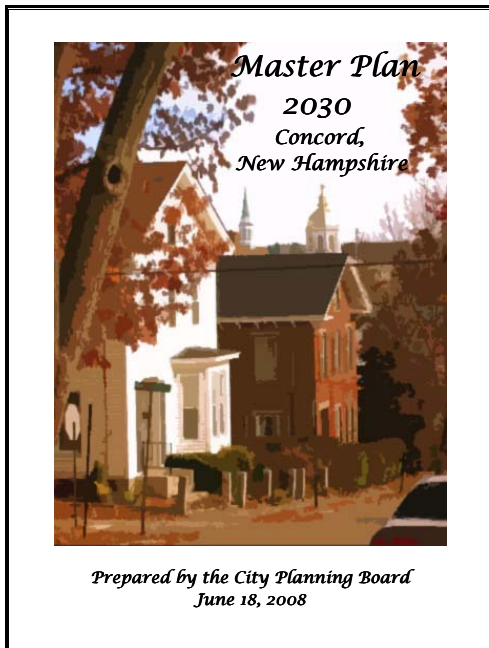
The creation of the Concord Vision 20/20 Plan provides the foundation for much of the visioning that has guided planning and zoning efforts to date, including adoption of the Opportunity Corridor Master Plan (2006), the Master Plan 2030 (2008), and several small area plans.

The Master Plan 2030 is the key policy document that will be used to shape future growth and development in the City. The Plan provides an integrated approach to all aspects of physical development and related economic and social issues and provides an action plan for the new hybrid zoning code.

While the City has been successful in accomplishing the open space conservation goals of its master plan, encouraging urban redevelopment of the neighborhood centers and underutilized urban sites has been less effective. This has partially been attributed to the current Zoning Ordinance, adopted in 2001, which has a strong emphasis on separation of uses and little guidance for how to create attractive, walkable, livable neighborhoods.

As a result of the recent success of a number of large infrastructure projects and a renewed commitment to economic development, the City is now interested in overhauling its zoning code.

This report identifies opportunities for improving the City’s existing regulations. The document will help the City and consultant reach agreement on regulatory approaches before beginning the drafting process.



# BASIS OF ANALYSIS

## ELEMENTS OF ASSESSMENT

In preparation of this assessment of Concord's current regulations, the consultant team evaluated and considered the following:

- › Current Development Regulations
- › Master Plan 2030 and Other Plans
- › Stakeholder Comments
- › Conditions on the Ground in Concord

## DOCUMENTS REVIEWED

### PLANS

- Master Plan 2030 (2008)
- Concord Vision 20/20 Plan (2001)
- Bicycle Master Plan (2010)
- Opportunity Corridor Master Plan (2005)
- Pedestrian Master Plan (2017)
- Penacook Village Plan (2015)
- Transportation Master Plan (2006)

### RULES AND REGULATIONS

- The Charter of the City of Concord
- The Code of Ordinances for the City of Concord

### GUIDELINES AND STRATEGIES

- Reinforcing Traditional Neighborhood Character through Density Bonuses (2009)
- Design Guidelines for Building Façade Improvements in the Main Street Concord Commercial District (2004)
- Architectural Design Guidelines (revised 1991)

### OTHER REPORTS AND STUDIES

- South Concord Redevelopment Area Study (1997)

## ABOUT THE REVIEW

While a study of these documents provides a foundation for understanding the community's vision and regulatory framework, it was the time spent touring the community and meeting with City staff, stakeholders and private sector development professionals that provided the details of the problems and opportunities facing the City.

The consultant participated in a small tour of the City that included key members of City staff. This allowed the consultant team to match the details of the current regulations with real life examples, as well as obtain a running commentary related to on-the-ground projects from City staff.

The approach used in preparing this report requires the consultant team to read the existing provisions very literally. In other words, the technical review focuses on what the existing regulations actually "say" and not on how they have been interpreted or administered over time. While this approach can result in occasional misinterpretations of regulatory intent or established local traditions, such miscues provide valuable insight into provisions in need of clarification.

Finally, it is important to note that inconsistencies or weaknesses in the current regulations are in no way intended to reflect poorly on the drafters or administrators of the current regulations. The existing regulations have not been comprehensively updated for many years, so it is to be expected that piecemeal amendments prepared by various authors have resulted in both substantive and stylistic inconsistencies.

# STAKEHOLDER & PUBLIC INPUT

## STAKEHOLDER INTERVIEWS

As part of obtaining background information, the consultant team conducted key stakeholder interviews with people that may be affected by changes to the regulations, as well as those who regularly administer the existing regulations.

During February 6-8, 2018, the consultant team conducted a series of stakeholder interviews with groups representing diverse areas of local knowledge and interest. Members of the public were also invited to participate directly in the project. A public kick-off meeting was held on February 7, 2018, at City Hall.

The purpose of the stakeholder interviews and public open house was to introduce the project, and most importantly to hear comments and input about code-related issues. A wide variety of issues were discussed, concerns raised, and questions asked. The common themes are shared on the next page. Notes from these sessions are attached as a Appendix to this document.



- ### STAKEHOLDER INTERVIEWS
- > Downtown Developers & Business Owners
  - > Development Professionals
  - > Mayor and City Council
  - > Neighborhood Representatives
  - > Residential Neighborhood Developers
  - > Zoning Board of Adjustment (ZBA)
  - > Planning Board
  - > Architectural Design Review Committee (ADRC)
  - > Development Team
  - > Zoning Administrator



# COMMON THEMES

## Maintain the Character of Concord

- › Keep and enhance the traditional New England character
- › Match zoning to existing patterns of development
- › Stop demolition for parking near Downtown
- › Improve transitions between commercial/ industrial and neighborhoods
- › Preserve the open space outside the Urban Growth Boundary
- › Reduce the need for variances



## Establish and Implement a Vision for Key Locations

- › Opportunity Corridor
- › South End
- › Steeplegate Mall
- › Penacook
- › Exit 17 Industrial
- › Medical/Hospital Area



## Focus Density in Select Locations

- › Look to the Comprehensive Plan for guidance
- › Consider parking space reductions in areas abutting Downtown

## Improve the Walkability and Bikeability of Concord

- › Improvements at development site level
- › Focus on multi-modal public streets

## Create Illustrated, User-Friendly Regulations

- › Clarify what can be developed
- › Eliminate conflicting language and improve definitions
- › Reduce the need for variances for projects that meet the community's standards



# PROJECT GOALS

Development in Concord today is guided by a series of diverse regulations that have been instituted incrementally over the years. The result is a series of internal inconsistencies and redundancies that are not only a challenge to understand and administer, but also put Concord at a disadvantage in seeking economic development. In order to position itself for growth that improves Concord's quality of life, preserves its historic/local character, and fulfills the community vision of the City, the new zoning code must seek to address the following Master Plan 2030 goals:

- › Maintain local character while accommodating growth consistent with that character
- › Regulate for new development that follows Concord's historical land use pattern
- › Provide a diversity of housing types and opportunities
- › Preserve historic buildings and districts
- › Support local economic growth that provides both jobs, goods and services
- › Promote public safety and multi-modal connectivity
- › Protect and conserve important open space, environmentally sensitive areas, and natural resources outside of the UGB
- › Incorporate high-quality public spaces in redevelopment sites and civic areas

For the most part, the current regulations generate quality development. However, some recent development goes against the existing development pattern causing inconsistent urban form or requiring variances. Since the current zoning was created with a focus on development in greenfields settings, it handles infill and redevelopment less effectively.

A number of changes should be made to the development regulations to help make Concord more economically competitive, as well as more attractive to a broader range of new and local employers and residents.







# 7 Key Challenges

# MATCH ZONING TO EXISTING PATTERNS

## GENERAL

In many instances, the City's existing zoning does not match existing patterns of neighborhood development. When developers come to the City seeking to do something that matches the look and feel of the existing area, the project is often burdened by the existing zoning (requiring variances to be built). These issues come from a variety of different zoning standards, including lot area, lot width, front and side yard setbacks, and often parking minimums.

The City's intent for this project should be to make the existing patterns of development more buildable in the future. The next step in this effort is to review the community character and develop a system for analysis of existing patterns that allows for new zoning to be developed that is consistent with the current patterns. The overall intent should be to make as much existing development conforming as possible, while also allowing for gentle infill and redevelopment.



## LOT SIZE

The existing minimum lot area is too large when applied to many of the older neighborhoods near Downtown Concord. The Community Character work in the next task must determine the appropriate lot size for these areas, and offer new zoning that ensures development on today's nonconforming lots is enabled in the future.

## FRONT SETBACK

In many cases, the easiest way to resolve issues associated with nonconforming front yard setbacks is to measure setback using the prevailing setback method. This basically means that no building is allowed closer to the street, nor further from the street, than the existing context.

In many instances, paving for parking in front yards has occurred, often to the detriment of the neighborhood's character. The new zoning must reduce the impact of parking in front yards by limiting the amount of paved area allowed, and managing the impacts of the remaining paved areas through screening.

Open porches often encroach into front yards today, and should be allowed as encroachments into front yards in the future.

## OTHER DIMENSIONAL STANDARDS

The existing side and rear setbacks on typical lots should be measured throughout the community, and additional zoning districts created to accommodate development without the need for variances in order to match existing patterns.

The requirement for 40 feet of building separation for attached residential and multi-family buildings is far higher than required for adequate fire separation, and impacts the ability to place multiple buildings in smaller infill settings where they may be desired.

## FLOOR AREA RATIO CAP

As part of reviewing the existing development patterns, consideration should be given to eliminating the floor area ratio cap, provided that adequate controls on bulk and mass are adopted in its place.



### EMBEDDED COMMERCIAL

Sites such as the Quality Cash building that are nonconforming today, but were originally built for their current purpose (often before zoning), should be considered conforming sites, and their uses allowed to continue. There should also be consideration of the ability to modify the use through a use permit process so that the use can morph and change over time, while remaining a good neighbor to surrounding residential uses.



### MANUFACTURED HOUSING

Existing manufactured housing parks (on a shared, leased site, not individually-owned lots) should be recognized as one of the existing development patterns, and a new district created to encompass them.



### MULTIFAMILY ZONING

The current zoning map typically transitions from RO to RM, and then to RS. This pattern goes against typical development patterns by locating multi-family zoning beyond single-family zoning and disconnected from the higher density areas located closer to Downtown. Due to the split personality of RM zoning (with and without sewer), this only becomes an issue if sewer extension occurs, enabling higher density development.

The current zoning does not differentiate between small multifamily buildings (perhaps up to 8 units), and larger multi-family complexes of multiple buildings. Existing development patterns contain these smaller single-building multifamily, successfully integrated into older neighborhoods.

### SINGLE-FAMILY BUFFERS

The requirement for a 15-foot buffer on an RS residential lot that happens to abut a commercial property is unusual. Most communities require only the higher-intensity use to provide a buffer (of course, a homeowner is always allowed to landscape the rear of their yard abutting commercial).

# FOCUS DENSITY IN THE RIGHT LOCATIONS

## EXPAND OPPORTUNITY NEAR DOWNTOWN

Most of those interviewed during our visits described the areas immediately surrounding the Downtown as the best initial location for additional density.

### Taper Parking Ratios

Today's Downtown parking ratio does not require any on-site parking at all. However, once you move to a site outside of the CBP zoning, such as CVP zoning, 100% of the parking ratios is required. Reducing the parking standards within a specified distance of the Downtown area to account both for current patterns of development and to reduce the amount of demolition of existing urban fabric for surface parking lots is needed.



### Expand Residential Opportunities

Additional residential development in this area would help to support downtown businesses, and could allow them to expand their hours of operation into the evening. In order to achieve more density at reasonable cost, many new options for housing should be considered near Downtown, including accessory dwelling units, duplexes, triplexes, quadplexes, townhouses, cottage courts, micro-unit apartments, and pocket neighborhoods. Enabling a wide variety of options allows the marketplace to respond fluidly to changes in the economy of residential demographics.

## Ensure Minimum Intensity

If the area near Downtown is intended to support a significant portion of the new growth anticipated in the community, it is important to ensure that individual sites are not underdeveloped. A new building in 2018 can be anticipated to last until 2078 or later! We will not have the opportunity for significant redevelopment of these sites for a long time to come. Therefore it is critical that Downtown-adjacent sites achieve their allowed intensity. This may mean including minimum requirements for height of floor area in the new zoning.



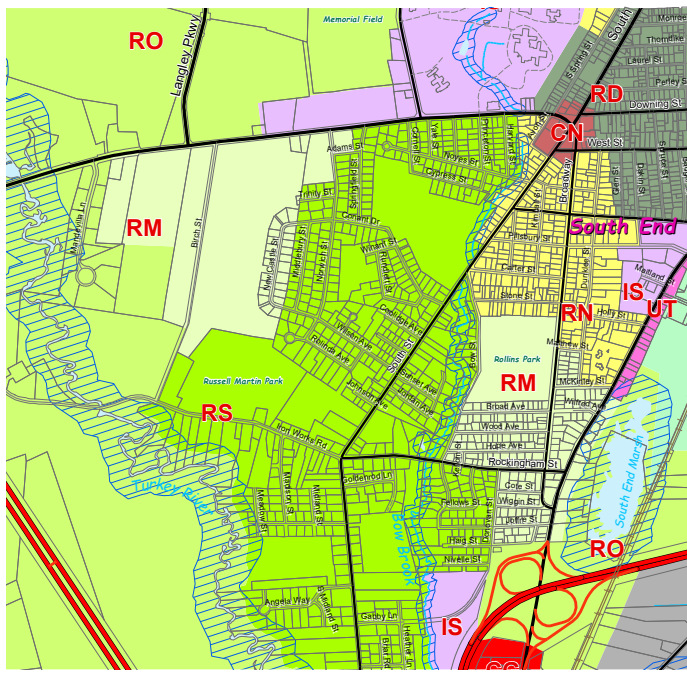
## ALLOW MORE ATTACHED DWELLINGS

In many districts where multi-family residential is allowed, attached dwellings are not. This is unfortunate, since attached dwellings can make good use of shallower pieces of land, and also serve as excellent screening for parking areas.

## DENSITY VERSUS FORM

The City currently relies on density for many of the more intense residential districts (RN, RD and RH, for example). The densities are set lower than traditional attached and multifamily patterns of development. Provided that the form of development meets the community's expectations, it is typical to regulate only the form of buildings (their height, lot coverage, and location in relation to the street), and allow the specific

development standards applied, such as parking, as well as the local market for units, to manage the total number of units allowed on a site.



### MATCH DISTRICTS TO UTILITY AVAILABILITY

Some portions of the community (outside the urban growth boundary) have been placed off-limits to intense development by requiring clusters of new homes in areas with preserved open space. Unfortunately, within the adjacent areas just inside the Urban Growth Boundary, the Residential Medium Density (RM) District has been applied to vacant land. This district allows two widely varying patterns of development depending on whether or not sewer is available.

It seems important to plan ahead for the difference between low intensity development on septic systems, and higher intensity, sewered development. Therefore it would appear sensible to split this district into two separate ones (one with and one without sewer service).

# IMPLEMENT THE CITY'S VISION

## MAJOR REDEVELOPMENT VERSUS INFILL

The requirements of today's zoning favor large-scale redevelopment activity through both the design standards and the development review process. The City must find a way to make modest infill easy to achieve. This will be especially important as the City implements its Village concepts in places such as Penacook and East Concord.

## OPPORTUNITY CORRIDOR

The planning for the Opportunity Corridor in Downtown Concord sets out a specific vision for the area that varies from the current development pattern. As new development occurs, new tools are needed to ensure that additional development activity moves the area towards its planned vision. The current zoning does a poor job of helping applicants understand how to change the form of development from today's model to the future vision, especially where phased development will occur.



## OFFICE PARKS, GATEWAY DEVELOPMENT

The Office Park (OPF) and Gateway Performance (GWP) districts do not allow for residential development. In other communities, most single-use districts have been converted to allow for residential mixed use (residential and commercial/office). This type of development creates a more complete community, not just a portion of the community emptied out after work each day.





## PENACOOK

A series of planning workshops in Penacook in 2013 led to the preparation of new zoning for the area. However, a final draft of the proposal that was embraced by the community was not completed. At present, Downtown Penacook is zoned with the same standards as Downtown Concord. Based on the recent visioning work, it would appear that a better district would be based more on the current development form in the Downtown.

## SMALL-SCALE MANUFACTURING

There is a national trend towards “maker space” that allows for limited manufacturing and assembly. This often takes place in “live-work” settings. Given Concord’s creative population, opportunities for this use at small scale should be introduced.

## PARKING

If the City wants to ensure that development activity takes place near Downtown Concord without destroying additional older buildings, then it should be easy to provide remote or shared parking. Today, it requires a conditional use permit. In addition, multi-family parking requirements should vary by bedroom, rather than using a single ratio, to more accurately reflect the impact of larger and smaller units (2 spaces per unit are currently required).



# IMPROVE DEVELOPMENT QUALITY

## COMPATIBLE INFILL

Compatible residential infill remains a challenge in Concord. Due to the similar regulations applying across a variety of neighborhoods, existing residential character in many settings is respected as new development occurs. The new zoning should more accurately reflect the character of the varying places within the City, and the next Task (Community Character mapping) will assist in this critical step.

Some elements of character that may need regulating in the future include lot area, front yard parking, setbacks, garages extending forward of the main house structure, exterior materials, and overall size and scale of homes.

## BUFFERS

The current buffer requirements require buffering in settings that have not traditionally been separated. A typical rule of thumb is that a buffer is not required for boundaries that are "like to like" or similar across the lot line. A review of the existing buffers to determine where they should appropriately be required should occur once the Community Character assessment has been completed, and only where an individual problematic use or substantial change in character occurs should a buffer be triggered.

One other challenge with the existing buffer requirements is that the material is located in two places: one sets the buffer width, the other offers options for landscape materials within the buffer. Most communities pair this information together (shallower buffers use walls, deeper buffers use more vegetation, for example).

There is also a desire on the part of many stakeholders to see a better landscape buffer facing the Interstate Highway frontages, screening the buildings from view from the highway.

## LANDSCAPING

In spite of the existing landscaping requirements, many stakeholders suggested there were issues of poor screening and abrupt adjacencies between existing development and new throughout the City. While the standards appear adequate, further investigation may reveal they are varied prior to implementation, or otherwise rendered ineffective.

One key issue associated with tree planting is the preparation of soil below the tree. This is especially true in parking lots and in planting street trees; in both cases, heavy equipment has often compacted the soil to such a degree that trees end up growing for a period of time, and then remain stunted due to challenges associated with over-compacted soil.

Building foundation planting is a simple way to improve the aesthetics of any building, no matter how simple the architecture may be.



Parking lot perimeter landscaping is another important component, as a way to screen cars from view, or at minimum soften their impact on pedestrians and motorists passing by.



## SIGNS

The sign regulations for the Downtown area have recently been updated. The lessons learned here should be applied to the City-wide sign regulations during this update.

The existing sign regulations are very text-heavy. One key improvement would be to include graphics of each sign type to help those unfamiliar with signs understand what is allowed. This is especially true of the measurement of signs, since sign area and height is a key component regulated by the City.

It is unclear how the current system of doubling (in many cases) sign size allowed, provided Architectural Design Review occurs. Consistency of sign area and physical location on or near buildings improves community wayfinding. The City should determine the acceptable size for new signs, and stick to it.

In addition, many stakeholders felt that signs should not be allowed to face the Interstate Highway system (these areas would be screened with landscaping instead).



# PRESERVE OPEN SPACE

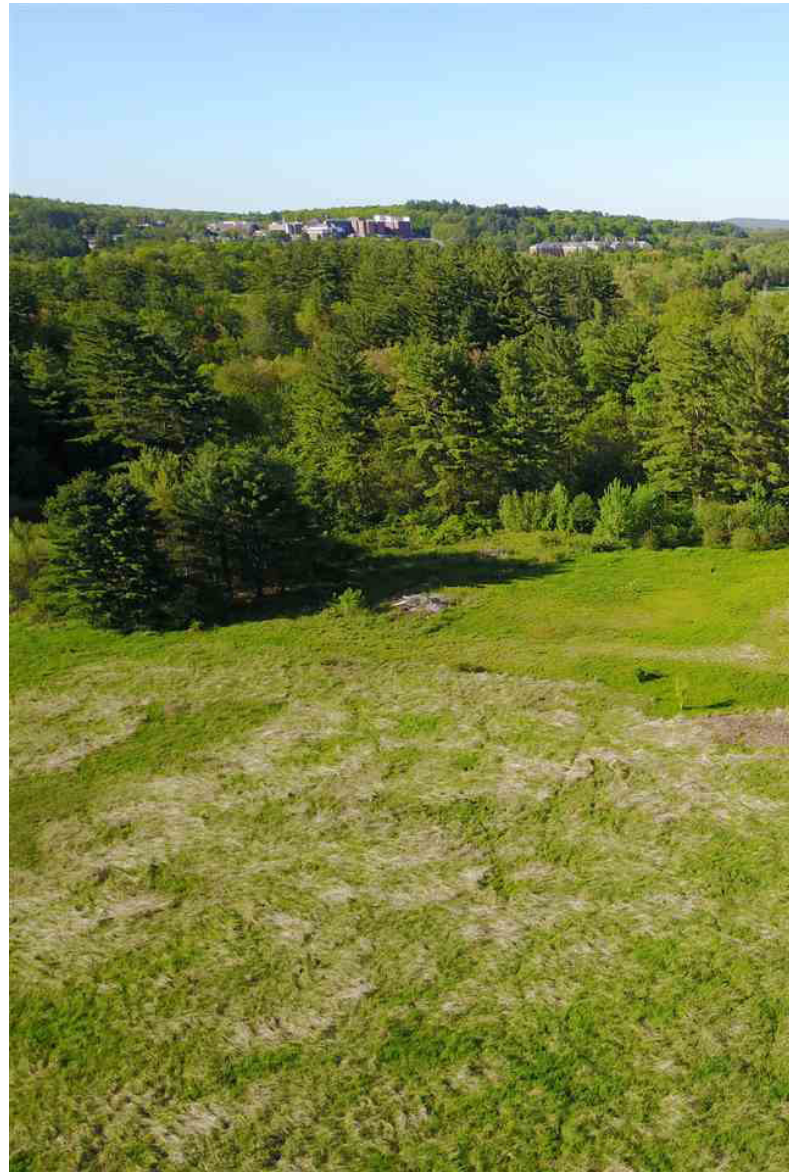
## THE URBAN GROWTH BOUNDARY

The 1993 Master Plan introduced the Urban Growth Boundary (UGB), an innovative anti-sprawl policy that has since guided the City's land use regulatory changes. While the UGB defines the limits of urban development in the City, the area outside the UGB is very rural in nature. It embraces most of the City's environmentally sensitive land including floodplains, wetlands, water resources, steep slopes, and prime farmlands. Low density residential development together with agricultural and recreational uses are planned for the areas outside the UGB.

## OUTSIDE THE BOUNDARY

### Revise Cluster Provisions

The current cluster provisions are not providing adequate, connected open space in new development. The current open spaces are not enhancing the functionality of natural systems, nor are they required to be linked to other natural areas. The current Planning Board cluster regulations actually encourage higher density frontage lots and odd-shaped conservation easements. Often, the conserved land is undevelopable under the current regulations, and a lower number of units would be allowed without the cluster provisions. Cluster development has not included new roads for many years, even though a new internal roadway would actually add value both for the developer and the City. While there is not much unconstrained land left with existing road access to on which to build a major development, it would make sense to revisit the cluster concept to create a better outcome for all parties.



### Watershed Overlay as Base District

The Watershed Overlay is currently applied over a wide variety of underlying districts. There is a clear pattern intended for this area, both with regard to land uses allowed, and their development on the land. A more direct way to achieve this outcome is to zone the watershed areas using a specific base district incorporating the best underlying zoning with the watershed protections measures needed. This will simplify the understanding of the rules, and allow for improved enforcement.



## INSIDE THE BOUNDARY

### Split Zoning

In many cases, large tracts of land are currently “split-zoned” or zoned with more than one district. In many cases this is unintentional, since the current zoning map does not adequately follow lot line boundaries. This can be fixed in the new Zoning Map that will be applied once the new zoning has been prepared. However, in other cases, the split zoning simply runs a set distance into the parcel from the abutting roadway. To the extent possible, the new zoning map should eliminate this pattern of split zoning by applying a single district to each platted lot or parcel.

### Conservation District

In reviewing today's zoning map, it is impossible to understand the extent of conservation in the area outside the Urban Growth Boundary, because conserved lands are zoned as though they were developable. Separating these lands out by creating a new zoning category for Conservation allows for those lands in City ownership or other permanent open space protection to be designated on the zoning map, clearly illustrating the success of protection of important resources surrounding Concord.

# STREAMLINE DEVELOPMENT REVIEW

## LOCATION OF MATERIAL

One of the biggest challenges for applicants is that standards for project design exist in two different places -- the Zoning Ordinance and the Planning Board Site Plan Regulations. As a simple example, the design of a parking lot is regulated in both places, and the site plan standards constantly cross-reference the zoning regulations. The dividing line between which elements are located in which document is no logical or clear to the casual reader.

## THRESHOLDS FOR REVIEW

Once new zoning has been prepared, a review of the required thresholds for Planning Board review should occur. With better regulation of development, it is possible that public hearing level design review will no longer be necessary for some levels of activity. Shortening review time reduces the cost of development, and is often seen as an economic development incentive.

## MAJOR VERSUS MINOR

Almost all development goes through an identical review process in Concord, with small developments providing the majority of the same information and processing that large-scale developments go through. The City should more clearly differentiate major from minor development review, and reduce the process burden on smaller developments. Potentially, the City could allow all projects with up to 8 units or projects under 5,000 square feet the same approval process as a single-family house.

## PLANNED UNIT DEVELOPMENT

The Planned Unit Development (PUD) process was originally intended to allow for flexibility in environmentally-conscious land planning. The base districts of the new zoning should allow for similar flexibility in site plans, and therefore the PUD process may no longer be needed.

# A CLEAR, ILLUSTRATED CODE

## CODE MODERNIZATION

Concord zoning needs modernization. Even if no policy changes are made, a clean-up to eliminate conflicts, clarify rules, and improve definitions is sorely needed. A clearer code means easier administration as well as improved code enforcement.

## ILLUSTRATION

The new zoning must be highly illustrated. When one considers the dominant users of zoning (designers, architects, landscape architects), they are mostly visual folks and the new zoning should be too. This means adding:

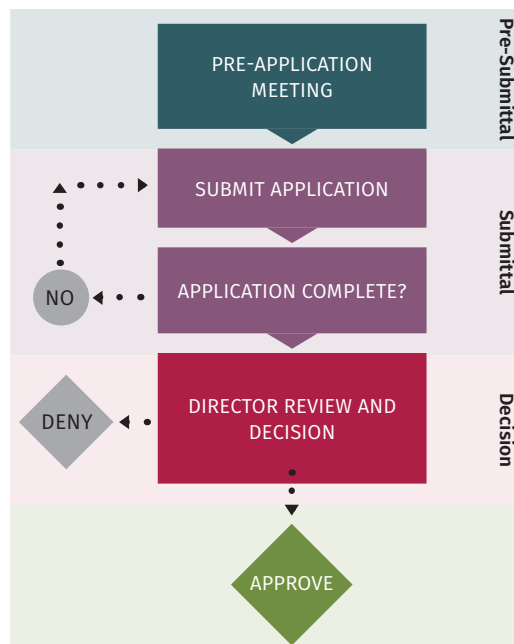
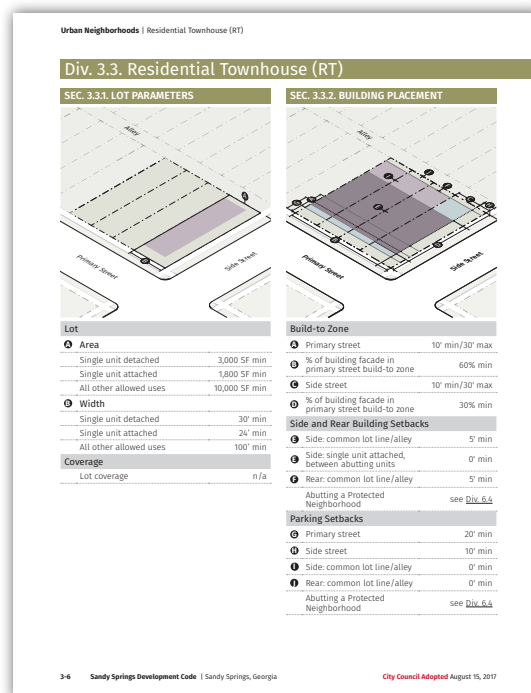
- > Zoning district dimensional graphics
- > Measurement graphics
- > Flow charts for procedures
- > Illustration of sign types, parking layout, signs and other similar design standards

## FRAMEWORK FOR THE FUTURE

The organization of the zoning material must allow for future implementation of new districts that are developed in Year 2. These districts are intended to emphasize form over the detailed control if use, and must be part of a spectrum of districts that includes the new zoning to be developed in Year 1.

## INTERPRETATION OF USES

An improved system for use interpretation should be adopted such that uses can be deemed similar to existing uses. Recent discussion of uses such as sports complex and solar farm are examples of where such determination at the staff level would be useful.



Permit Review Generalized Procedure



# Next Steps

## COMMUNITY CHARACTER MAPPING

This task will focus on cataloging and naming the physical elements that make Concord a great place it is to live, work and play. The built environment will be categorized into different places that share common characteristics. This classification is important because different types of places may require different zoning approaches. This Community Character mapping and analysis is intended to provide a visual and written description of the physical elements throughout Concord. It helps establish a common vocabulary that can be used to help determine a zoning strategy for the City moving forward.

## STRATEGY REPORT

Following agreement on the Code Assessment Report and Community Character Mapping, a summary report will be prepared that establishes the coding approach and strategy for producing the Zoning Code (including which areas are well enough defined in existing policy or on the ground to be coded in Year 1, and which require additional visioning work during the Year 2).

City staff will share the project direction, including this Assessment, the Community Character Mapping, and the Strategy Report, with the Planning Board and City Council for their feedback.