



Zoning Code Assessment Report

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Clarion Associates | CFA, Inc.

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Part One: Introduction

PROJECT OVERVIEW

The Sparks City Council has initiated this project to assess the Sparks Zoning Code and associated regulations, which govern the use of and improvement of land within the city's corporate boundary and sphere of influence. The assessment is intended to assist the city by:

- Identifying provisions of the code that may be hindering development or job creation;
- Recommending ways in which development and job creation may be facilitated through subsequent code updates;
- Making the overall code more efficient; and
- Ensuring the regulations are clear, understandable, and user-friendly.

The city is working with Clarion Associates and Reno-based CFA, Inc., in this effort.

PROCESS

The consultant team conducted a general review of the Zoning Code (Title 20 of the Sparks Municipal Code: *Zoning and Land Use Controls*), Design Standards Manual, TOD Corridor Development Guide, application checklists, and other relevant documents provided by the city.

In addition, the consultant team, in conjunction with city staff, conducted a series of stakeholder group interviews and also toured a number of areas and development projects in April 2012 that illustrated recent and ongoing land use issues. Interviews focused on the identification of elements of the city's Zoning Code and associated regulations that were perceived to create direct or indirect barriers or disincentives to economic development or job creation by those who use them on a daily basis. Participants were also asked to comment on the Zoning Code and associated regulations at a broader level, providing feedback on those elements and aspects they perceived as ineffective and/or not user-friendly, as well as those they felt worked well in their current form. These meetings were supplemented with an on-line survey that allowed other city staff to submit in-depth answers to a series of questions about the ordinance and city development process.

Group stakeholder interviews were held with members of the City Council and appointed officials, representatives from the planning department and other Sparks municipal agencies, local property owners and residents, and private-sector representatives (and code users) such as engineers, lawyers, real estate professionals, developers, and planners.

SUMMARY OF STAKEHOLDER FEEDBACK

During our meetings with stakeholders, citizens, and officials in Sparks, we heard a wide variety of comments about the zoning regulations, ranging from specific to general. Major themes that emerged from the consulting team's interviews with stakeholder groups are summarized briefly below:

- ***Balance between flexibility and predictability.*** Many participants expressed the need for more flexibility in the city's development standards and review process and emphasized the role flexibility plays in attracting new investment; however, a similar emphasis was placed on the

need for the city to not “lower the bar” or compromise quality and to not swing the pendulum too far in the other direction.

- **TOD District.** A number of participants highlighted the TOD district as an area where the city’s standards are too ambitious and/or strict for the community, or suggested the district is too large. Minimum densities and build-to-zones in particular were flagged as difficult to achieve, particularly within the Employment District located east of Sparks Boulevard. Some participants acknowledged that more flexibility may be warranted in some instances, but that the revitalization of the city’s urban core remains a priority.
- **Planned Development Handbook Amendment Process.** Several participants said their planned development handbooks should be updated to respond to changing conditions, yet believed that the current amendment process is too lengthy and complex, especially for minor amendments, and thus acts as a barrier to new development.
- **Special Use Permits.** Although staff recently went through the process of reducing the list of uses required to go through the special use permit process, some participants thought this effort could be taken even further, and suggested more uses might be candidates for administrative approval.
- **Nonconformities.** Some participants supported strategies to encourage (and not prohibit) adaptive reuse of the vacant buildings in Sparks, particularly within the industrial area, where interviewees expressed conflicting goals for the future of this area in light of regional floodway improvements currently being studied.
- **Master Plan Amendments.** Some participants expressed frustration that the master plan amendment process can take up to nine months to complete and that the level of specificity used in the current future land use map drives the need for amendments in many cases. It was noted that the master plan update process appeared to be moving the right direction to address these concerns.

Each of these issues was considered in our review and analysis of the city’s Zoning Code and associated regulations.

ORGANIZATION OF THIS DOCUMENT

Following the interviews and document review, the consultant team prepared this document, which provides a series of recommendations to improve the Zoning Code to meet the project goals.

The recommendations in this report are based on:

- Clarion’s expertise and knowledge of best practices from around the country about how communities can successfully reform their codes and development review procedures;
- User input and observation of provisions and procedures that have resulted in undesirable developments or a development review process that is not efficient and predictable;
- Private-sector applicant feedback regarding the development review process; and
- City staff and officials’ observations of the code and development process.

For each of the major topics addressed in the next section, we have grouped the recommended code improvements into two categories: (1) Short-Term Improvements, and (2) Mid- and Longer-Term Code Revisions. The proposed short-term improvements are intended to make the code more functional in the immediate future and allow the city to respond quickly to development applications as the economy continues to recover. They can be undertaken relatively quickly and with minimal staff resources. The

mid- and longer-term changes will require more study, public input, and/or resources and are identified for the city to undertake over a more extended time frame (six months or more). For each recommendation, we have summarized potential advantages and disadvantages for the city's consideration in devising a specific course of action going forward.

As part of the longer-term changes, we recommend that the city undertake a restructuring and reformatting of the Zoning Code. We have included a suggested annotated outline of a revised code in this report. The purpose of the annotated outline is to allow city elected and appointed officials and staff the opportunity to review the overall structure of the proposed regulations before undertaking the longer-term changes.

A major substantive update and/or rewrite of Title 20 also should be considered to address the issues raised in this report, as well as to implement the policy direction of new policies and plans, including the updated comprehensive plan. This report addresses only a partial list of topics that ultimately should be considered in a comprehensive code update; other issues to review might include, for example, the adequacy of various types of development standards (e.g., landscaping, building design), and the appropriateness of current districts to implement the new plan.

A major code revision likely will take 18 months to two years and require a significant investment of time and resources, plus extensive public involvement. To set the stage for a major substantive update, the city may wish to prepare a detailed, section-by-section diagnosis of the entire set of land use regulations (going further than the identification of development barriers addressed in this report) to determine areas where substantive revisions are necessary to implement policy changes in the new plan.

SUMMARY OF RECOMMENDATIONS

A summary of the recommendations is provided in the table below, along with the advantages and disadvantages associated with each. A detailed discussion of each recommendation is included in Parts Two and Three. Recommendations are intended to convey a range of possible options for consideration. As a result, some recommendations may achieve overlapping objectives. Appropriate actions for the city moving forward will need to be identified through further discussion between city staff and the City Council.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
A Modernized Use Classification System			
Develop a single master table of allowed uses (Pg. 10)	Short-term	<ul style="list-style-type: none"> Reduces potential for inconsistencies within the ordinance. Reduces repetition and length in the ordinance, making it easier to use. Allows users to easily compare permitted uses across districts. 	<ul style="list-style-type: none"> Time and staff resources required to prepare a new consolidated use table.
Define all land uses (Pg. 10)	Short-term	<ul style="list-style-type: none"> Reduces ambiguities and the need for staff, council, or court interpretation of the ordinance. Reduces unnecessary delay in the development approval process. 	<ul style="list-style-type: none"> Time and staff resources required to prepare new definitions and revise current definitions.
Improve the use classification system (Pg. 11)	Long-term	<ul style="list-style-type: none"> Minimizes the need for formal interpretations and potential litigation Reduces unnecessary delay in the development approval process. 	<ul style="list-style-type: none"> Time and staff resources required to evaluate and rework the use classification system.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
Consider allowing more uses through administrative approvals (versus SUPs) (Pg. 12)	Mid- and Long-term	<ul style="list-style-type: none"> Allowing more uses through administrative approvals will reduce uncertainty about whether proposed uses will be approved, encouraging more development in Sparks. Creating additional use-specific standards in the code will help ensure that applications for those uses are treated consistently over time. 	<ul style="list-style-type: none"> The community may not want to give up council discretionary review of some uses or some locations, based on past issues and experience.
Distribute uses appropriately between districts (Pg. 13)	Mid- and Long-term	<ul style="list-style-type: none"> Reduces need for use of the PD process to create “custom” use lists. Simplifies administration and enforcement of the ordinance over time. 	<ul style="list-style-type: none"> The evaluation of use lists of each district can be challenging if there is not a clear community understanding of the purpose of each district. The districts should clearly implement land use classifications established in the comprehensive plan. It will take time and staff resources to work with the community.
Improve the Overall Organization and Format of the Regulations			
Consolidate multiple documents into a new unified development ordinance (Pg. 15)	Mid-term	<ul style="list-style-type: none"> Easier for code users to navigate and understand the city’s development regulations. Reduces repetition and cross-references. Easier to maintain, ensuring consistency over time. 	<ul style="list-style-type: none"> A consolidated document may not be the best approach where the sources of enabling legislation are very different (however, this should not pose a concern in Nevada). The Sparks TOD Corridor Design Manuals were designed to be “free-standing” for ease of use, and they may not be as user-friendly if folded into a larger UDO.
Reorganize zoning code (Pg. 16)	Mid- and Long-term	<ul style="list-style-type: none"> Minimizes inconsistencies and potential conflicts within the code. Reduces time invested by applicants in locating and cross-checking applicable regulations. Reduces opportunities for applicants to “miss” applicable regulations that were not properly referenced or located in an easily accessible location. 	<ul style="list-style-type: none"> Significant time and staff resources required.
Edit the procedures to eliminate redundancies (Pg. 18)	Mid- and Long-term	<ul style="list-style-type: none"> Reduces repetition and overall length of the code, reducing perception that the code is unnecessarily complicated or long. Standardizing review procedures minimizes the potential for inconsistencies between various procedures. 	<ul style="list-style-type: none"> If the various procedures in a code really are completely distinct from each other and operate in different ways (e.g., they accept applications differently, or they are processed by separate departments), then it may not be possible or worth the effort to draft consolidated procedures that address all circumstances.
Create a consistent, consolidated definitions list (Pg. 19)	Mid- and Long-term	<ul style="list-style-type: none"> Promotes a more consistent application of the code. Makes the code more user-friendly. 	<ul style="list-style-type: none"> Sometimes definitions are very topic-specific and they might be better-located next to the regulations they implement. For example, some communities keep their floodplain definitions with their floodplain ordinance, rather than in a master definitions chapter.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
Improve document formatting (Pg. 19)	Mid- and Long-term	<ul style="list-style-type: none"> • Makes the code more user-friendly for applicants. • Reduces amount of staff time needed to orient users and applicants to relevant code sections. 	<ul style="list-style-type: none"> • Requires users who are familiar with the current code to transition to a new organization and format, which can be confusing for some. • This transition can be eased through the preparation of a report that methodically outlines where former sections may be found in the reorganized code. For example, the Tahoe Regional Planning Agency recently completed an extensive, non-substantive cleanup and reorganization of its code, and prepared a detailed “disposition report” that included side-by-side descriptions of where old code provisions could be located in the new version.
Create a separate code “User’s Guide” or Administrative Manual (Pg. 21)	Mid- and Long-term	<ul style="list-style-type: none"> • Consolidates reference materials in one spot making them easier for applicants to find. • Eliminates need for formal code amendment to change or update reference materials. • Could be used to help explain the regional planning framework and how it relates to the city’s process and fee structure. 	<ul style="list-style-type: none"> • User’s guides can be expensive and time-consuming to prepare, depending on their complexity. • Sometimes there are questions about the legal authority behind a user’s guide (i.e., does it have the same level of authority as the code itself). There may be also be questions about the ability of staff to update the guide without going through a full code amendment. In our experience, we have worked with city attorneys who have come down on both sides of both of these questions.
TOD Corridor Applicability and Standards			
Remove Employment District from Current TOD Corridor District Boundary (Pg. 29)	Short-term	<ul style="list-style-type: none"> • Alleviates potential conflicts likely to occur in the Employment District of the TOD Corridor in the future without compromising the long-term viability of the city’s vision. • Reinforces the city’s support for future employment uses. 	<ul style="list-style-type: none"> • Plan and code amendments will require significant effort on the part of staff to update. • Will require approval from the Truckee Meadows Regional Planning Agency.
Update TOD Corridor Development Guide to Emphasize Available Incentives and Flexibility (Pg. 31)	Short-term	<ul style="list-style-type: none"> • Increases property owner and applicant awareness of the types of incentives available for different types of projects within the TOD district. • Conveys a consistent message about the TOD district to applicants and property owners regarding the city’s revitalization objectives for this area. 	<ul style="list-style-type: none"> • Time and staff resources required to develop informational tool.
Consider Targeted Amendments to TOD District Standards (Pg. 33)	Mid- and Long-term	<ul style="list-style-type: none"> • Targeted amendments will provide additional flexibility and may help promote more development in the TOD district over time. 	<ul style="list-style-type: none"> • If amendments were taken too far (e.g., removing build-to-zone requirement or removing minimum densities), they may undermine the city’s adopted vision for the corridor. • Some property owners may oppose the reduction in development potential.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
<p>Consider Additional Adjustments to TOD Corridor District Boundary (Pg. 35)</p>	<p>Mid- and Long-term</p>	<ul style="list-style-type: none"> • May create short-term development opportunities. 	<ul style="list-style-type: none"> • Some property owners may not be willing to give up existing allowances for higher-density development and a broader mix of uses provided through the TOD district in exchange for the less restrictive standards and lower densities allowed by the site’s former base zoning district. • Reduces the potential for transit and pedestrian-supportive development in the city’s urban core over time and reinforces auto-oriented patterns the city has been seeking to minimize in the TOD district. • Would require a significant public process and considerable staff time to evaluate and execute potential recommendations.
<p>New Tools to Allow Greater Flexibility and Creativity</p>			
<p>Continue the Use of the Minor Deviation Tool (Pg. 36)</p>	<p>Short-term</p>	<ul style="list-style-type: none"> • The minor deviation tool can be a helpful way to extend flexibility to a project applicant for unusual projects or challenging sites, yet where a variance would not apply. 	<ul style="list-style-type: none"> • The minor deviation tool can be overused and undermine the integrity of the code if it is not used judiciously and sparingly. • It requires regular oversight by city officials to ensure that it does not become a “loophole” that is abused.
<p>Consider Adoption of an Alternative Equivalent Compliance Tool (Pg. 38)</p>	<p>Mid- and Long-term</p>	<ul style="list-style-type: none"> • An AEC tool can encourage development by creating a perception that city is open to considering creative and “outside the box proposals.” 	<ul style="list-style-type: none"> • The AEC tool must be monitored carefully to ensure that the alternatives being proposed are in fact equivalent to what would otherwise be required under the code. It may not lead to an effective lowering of the bar and undermine the integrity of the code. • It may be challenging to define appropriate types and levels of public benefits that adequately mirror the increased flexibility sought by the applicant. • The process of determining appropriate equivalencies and appropriate public benefits can become a haggling process that the city may not wish to engage in.
<p>Consider Allowing Major Deviations in Limited Circumstances (Pg. 39)</p>	<p>Mid- and Long-term</p>	<ul style="list-style-type: none"> • A major deviation could encourage development by furthering the perception that city is open to considering creative and “outside the box proposals.” 	<ul style="list-style-type: none"> • A major deviation process would require the drafting of a new procedure in the code. • Focusing attention on major deviations might encourage applicants to try for that approval, rather than spending their time and resources on finding creative solutions that comply with code standards as written. • As with the minor deviation and AEC tools, a major deviation process would require close monitoring to ensure it does not undermine the integrity of the code.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
<p>Consider Providing Authority to Approve Unlisted Uses (Pg. 40)</p>	<p>Mid- and Long-term</p>	<ul style="list-style-type: none"> • Allowing unlisted uses to be approved through an SUP process would provide maximum flexibility for the city to consider any application brought to its attention, regardless of whether the uses is contemplated in the current plans or code. 	<ul style="list-style-type: none"> • Landowners who have relied on the current lineup of zoning districts to protect their property values (i.e., to protect them from incompatible uses) would all of a sudden face great uncertainty about what might be built on adjacent or surrounding land. • Allowing unlisted uses to be approved through an SUP process could significantly undermine the integrity of the existing zoning districts in the code, since the character of each district would be subject to change with every new SUP zoning application. • Allowing approval of unlisted uses through an SUP process also would undermine the comprehensive plan, since the zone districts would quickly become disconnected from the plan classifications they are intended to implement. • Staff would have a difficult time making findings as to the appropriateness of a proposed use, given the uncertainty of what might ultimately be approved on surrounding properties.
<p>Streamlining Code Procedures to Improve Efficiency</p>			
<p>Allow Administrative Approval of Minor Amendments to Approved Permits (Pg. 41)</p>	<p>Short-term</p>	<ul style="list-style-type: none"> • Allowing administrative approval for modest changes to already-approved projects can help extend flexibility to projects where unusual or challenging site conditions are discovered after the initial approval, or where minor changes are sought to respond to changing market conditions. 	<ul style="list-style-type: none"> • Administrative approval means less public review for changes to approved projects, so it is important to thoughtfully set the threshold for what types of changes would be acceptable with little or no additional public review.
<p>Clarify Appeals Procedures and Consider Shorter Appeal Timeframes (Pg. 42)</p>	<p>Short-term</p>	<ul style="list-style-type: none"> • A shorter appeals process provides earlier certainty to an applicant, thus allowing construction to begin more quickly and reducing the time spent in the entitlement process. • Shortening the appeals process could help to convey a general message to the development community that Sparks is focused on streamlining the development process and moving projects more quickly from concept to execution. 	<ul style="list-style-type: none"> • With a shorter appeals process, affected parties have would less time to evaluate the potential impacts of a decision and to determine if the cost and time involved in an appeal would be worthwhile.
<p>Consider Extending Permit Approval Times (Pg. 44)</p>	<p>Short-term</p>	<ul style="list-style-type: none"> • Granting extensions to existing project approvals gives developers more time and flexibility to modify or renew financing and make other adjustments necessary to recalibrate the original project to adjust to a changing market. 	<ul style="list-style-type: none"> • Allowing old approvals to stay active simply maintains the “old economy.” Old approvals should be allowed to expire and make room for new applications with projects that reflect post-recession development priorities.
<p>Adjust Information Submission Requirements by Application Type (Pg. 44)</p>	<p>Short-term</p>	<ul style="list-style-type: none"> • Updating the applications can help minimize potential barriers to development, or perceptions of barriers, by reducing application costs for smaller projects. 	<ul style="list-style-type: none"> • Time and staff resources required to prepare new submission materials.

RECOMMENDATION	TYPE	ADVANTAGES	DISADVANTAGES
Simplify the Amendment Process for the Planned Development Handbooks (Pg. 46)	Mid- and Long-term	<ul style="list-style-type: none"> • Allowing concurrent review of tentative and final plans will allow handbooks to be updated more quickly and thus respond to changing market conditions. 	<ul style="list-style-type: none"> • Concurrent review of tentative and final plans allows less time for the community to become informed about proposed revisions, and may not allow sufficient time for public input.
Consider Reducing the Amount of Discretionary Review (Pg. 48)	Mid- and Long-term	<ul style="list-style-type: none"> • Replacing discretionary review with administrative review subject to clear standards provides applicants with greater certainty, since they can prepare plans that meet a detailed, objective code, rather than entering into a negotiated process that may be unpredictable. 	<ul style="list-style-type: none"> • Even with clear standards in the code, there may be intense political pressure on staff to approve projects that may not be ideal. (The call-up provision is useful to address this, however.)
Other Substantive Code Improvements			
Complete Updates to the Sign Regulations (Pg. 49)	Mid-term	<ul style="list-style-type: none"> • An updated sign ordinance will help address new technologies and ensure that the adopted standards are effectively enforced. • Updated sign regulations can help ensure that new development in Sparks is attractive and contributes to property values and the overall quality of life in the community. 	<ul style="list-style-type: none"> • Updates to sign ordinances can be politically contentious and time-consuming, and thus can take staff time away from other important projects.
Review Landscaping Standards (Pg. 50)	Mid- and Long-term	<ul style="list-style-type: none"> • Reduced landscaping standards would decrease development costs. 	<ul style="list-style-type: none"> • Could have a potentially negative impact on community character over time.

Part Two: Structural Recommendations

This part provides an overview of recommended changes to the code structure based on our review of the existing ordinance (Title 20) and experience with other modern development codes across the country. While the current code is considered by most to be reasonably usable, we encountered some organizational issues with the document while studying the contents. We also received a number of comments from stakeholders suggesting a basic reorganization of the materials would be beneficial.

This part also provides a suggested reorganization for Title 20. The annotated outline is intended to provide a roadmap for the city in organizing and drafting the new code, and represents one starting point for subsequent discussions about the scope, organization, and content of a new Zoning Code.

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- Structural Recommendations*

 - A Modernized Use Classification System*

 - Improve the Overall Organization and Format of the Regulations*

A MODERNIZED USE CLASSIFICATION SYSTEM

A key feature of any zoning ordinance is the set of uses that are allowed within the zoning districts. The term “use” refers to the way a parcel or building is utilized. Land use classification systems are a systematic organization of land uses that are allocated between the zoning districts.

The existing use lists in the base zoning code (Title 20) are poorly organized and in need of amendment. However, the lists are clearer in the more recently adopted TOD manual and updated industrial zone districts.

This section discusses ways of improving how uses are categorized and treated in the Sparks code. Ultimately, a thorough review of the city’s zone districts to implement the comprehensive plan is recommended as a mid- to long-term improvement, and ideally should be tackled as part of the comprehensive code update. In the short-term, we recommend that the city create master use tables in Title 20 that reflect the existing use assignments (which are now in narrative lists in each district chapter), and then reevaluate and modernize the use tables by allowing more as-of-right uses and administrative approvals to lower both the barriers and costs to applicants who want to start or expand businesses in the city. By rethinking the use tables, the city will have an opportunity to reassess what uses are appropriate in each district and how best to make use approval a straightforward process.

Short-Term Code Improvements

Recommendation: Develop a Single Master Table of Allowed Uses

Permitted uses are currently listed in the zoning district regulations, starting in Chapter 20.58, of the Zoning Code. The code also includes a separate table of uses in the TOD manual (an excerpt of which is shown at right) and in the industrial districts, and in the parking section, raising the potential for inconsistencies. Because the separate listings are codified, any inconsistencies that are identified would need to be resolved through zoning amendments.

We recommend consolidating all information regarding allowed uses so that there are no narrative use lists and the Zoning Code simply has one master use table. This will minimize the need to repeat the same uses within separate district regulations, thereby reducing ordinance length. It also allows readers to easily compare where a particular use is permitted across various districts.

Table 2: Permitted/Prohibited Uses

P = Permitted; X = Not Allowed; S = Special Use Permit Required					
Type of Use	Land Use Category				
	MU-C	MR	DT/VS	RN	EMP
Residential					
Bed and breakfast inn	P	P	P	S	X
Boarding and rooming house	P	P	P	P	X
Dwelling, single family	P	P	P	P	X
Dwelling, two-family	P	P	P	P	X
Dwelling, multi-family	P	P	P	P	X
Home occupations	P	P	P	P	X
Live/work dwelling	P	P	P	S	P
Office/Professional					
Banks and other similar financial institutions (drive-thru)	S	S	S	X	P
Banks and other similar financial institutions (no drive-thru)	P	P	P	X	P
Offices	P	P	P	X	P
Medical offices and medical clinics	P	P	P	X	P
Commercial/Service/Retail					
Adult care	P	P	P	S	X
Adult day care	P	X	X	S	P
Animal shelter	X	X	X	X	P
Assisted living facilities	P	P	P	S	S
Automobile service station	S	X	S	X	S
Child care facility requiring more than one caregiver	P	S	P	S	S

Advantages:

- Reduces potential for inconsistencies within the ordinance.
- Reduces repetition and length in the ordinance, making it easier to use.
- Allows users to easily compare permitted uses across districts.

Disadvantages:

- Time and staff resources required to prepare a new consolidated use table.

Recommendation: Define All Land Uses

We noted several uses (e.g., “comparison goods”) that appear in the district chapters but are not defined in Chapter 20.05 (Definitions). All land uses that are allowed in Title 20 should be clearly defined. If uses are not clearly defined, zoning staff is called upon to interpret the ordinance. If the applicant disagrees with the interpretation, the council or the courts could be called upon to interpret the ordinance. Because ambiguities in zoning regulations favor the property owner, the result could be an interpretation that undermines the integrity of the local government’s zoning scheme. Further, from the applicant's perspective, unnecessary delay is incurred in the development approval process.

Advantages:

- Reduces ambiguities and the need for staff, council, or court interpretation of the ordinance.
- Reduces unnecessary delay in the development approval process.

- The review of existing use lists will likely turn up some existing uses that are no longer needed in the code and can be removed, or can be renamed or grouped with other uses for greater clarity.

Disadvantages:

- Time and staff resources required to ensure all land uses are appropriately defined.

Mid- and Long-Term Code Improvements

Recommendation: Improve the Use Classification System

Long term (beyond the next six months), the city should not simply summarize the current regulations in a new table, but also improve the fundamental system of classifying uses that supports the entire code.

Sparks' current use lists are spread through the zoning district chapters starting at Chapter 20.58 and do not have a clear classification system – a top-down approach to make sure that all relevant uses are accounted for. Instead, the lists appear somewhat random and are not even listed alphabetically. Uses such as “airport” are mixed with “art gallery” and “auditorium.” There are no bigger categories (such as residential, commercial, or industrial) that would make it easier to compare uses across districts. (There is some categorization in the TOD manual, but the categories could be even more fine-grained.)

We recommend categorizing individual “use types” within larger categories and subcategories. For example, the category of “residential uses” could include a subcategory of “group living,” which could include specific use types such as “group home” and “senior living.” This is a more systematic and logical way to organize permitted uses than the code’s current system. Standards in the code can simply refer to a category of uses and, by definition, include all of the uses within that category rather than listing them individually.

The list of permitted uses should be as complete as possible. While this makes the list longer, it also minimizes the need for formal interpretations, and potentially minimizes litigation. Under most zoning systems, omitting uses means either that the use is not permitted, or that it fits within a broader use category. This creates the need for staff or administrative agencies to render a formal interpretation. If the applicant or surrounding neighborhoods disagree with this interpretation, the result could be litigation.

This does not mean that every particular use must be enumerated in the list of permitted uses. However, all potential uses should be covered to the extent possible. For example, a general use category for retail sales will encompass a number of potential sales establishments, including those not in existence today. Of course, it is not possible to contemplate every use that will become the subject of a zoning application.

By changing to the category-and-type use table approach described above, the city will be able to expand the use list in a reasonable manner to address a wider range of uses but not necessarily enumerate every use conceivable. The use table should indicate any uses that require special standards or individual review, along with citations to chapters 20.41 and 20.42 as applicable.

An example of this approach is illustrated in the following sample below:

TABLE OF ALLOWED USES Sample from Another Community														
P = Permitted C = Conditional Use		Residential					Mixed-Use			Non-Residential and Other				Use-Specific Regulations
Use Category	Use Type	R A	R T	R 1	R 2	R 3	M U R	M U C	M U T C	C	L I	O S	P S	
RESIDENTIAL USES														
Household Living	Dwelling, duplex		C	P	P	P	P							4.2.1.A.
	Dwelling, multi-family					P	P	P						4.2.1.C.
	Dwelling, single-family detached	P	P	P	P	P	P							
Group Living	Group living facility, large/special							C	C	C				
	Group living facility, small				C	C	P	P	C	C				
	Temporary employee housing									C	P			4.2.1.D

In suggesting a new organizational framework for land uses in the Sparks code, the city can draw on classification systems that have been developed for other communities around the country. For example, the American Planning Association and its partners have developed a comprehensive approach to classifying land uses based on their characteristics, known as the Land-Based Classification Standards (LBCS). The model provides for the classification of land uses based on five different characteristics - activities, functions, building types, site development character, and ownership constraints - each with its own set of categories and subcategories.

Advantages:

- Minimizes the need for formal interpretations and potential litigation.
- Reduces unnecessary delay in the development approval process.

Disadvantages:

- Time and staff resources required to improve the use classification system.

Recommendation: Consider Allowing More Uses Through Administrative Approvals (versus SUPs)

Requiring uses to go through a discretionary review process, like getting a Special Use Permit (SUP), can be a barrier to development because it imposes additional time and expenses on applicants. It also can make it more difficult to achieve a good mix of uses that lend themselves to a vibrant community where both businesses and residents flourish. One way Sparks can address this issue is by reducing the number of uses subject to discretionary review, while establishing a clear set of standards that are applicable to these uses even when they are allowed by-right. This approach addresses possible impacts through a set of pre-defined conditions rather than through a discretionary approval process.

Sparks already has standards for administrative use approval in the current Chapter 20.42. And, the city recently has amended the industrial districts to significantly reduce the number of uses that require SUP approval (by 80 percent). This effort could be taken even further, and more uses might be candidates

for administrative approval. In our review of the code, we noted that the current list of uses that require SUPs does not seem to follow a rational basis or recognizable pattern. For example, the code requires SUPs for day care centers, but not liquor stores.

We also recommend introducing a broader range of use-specific standards in order to mitigate the impacts of certain uses regardless of the underlying zoning district, as was done in the industrial districts. These would be standards that always apply to certain uses, regardless of where they are located. We recommend adding such use-specific standards for common uses in Sparks that are currently being addressed through conditions in the development approval process. Common examples in other communities are standards for bed and breakfasts, multi-family housing, and telecommunication facilities. The benefit of this approach is that it allows the use to be permitted, subject to conformance with the standards, rather than requiring discretionary review through a SUP. By making more uses permitted, but ensuring compatibility with surrounding areas and mitigating impacts through new objective standards, the development review process can be streamlined and made more predictable. Many communities around the country have followed this approach in streamlining their codes; recent examples of communities where we have followed this approach include communities as varied as Pagosa Springs, Colorado; Henderson, Nevada; Arlington, Texas; Detroit, Michigan; and Daytona Beach, Florida.

We have classified this approach as mid- to long-term because the process of evaluating the appropriate review level for each use can be intensive and is very community-specific. It should involve input from community stakeholders. We recommend establishing a working group that can go through the use lists with staff and recommend those decisions that could be shifted from the City Council or Planning Commission to an administrative process, subject to clear, objective standards. Following the review of uses, use-specific standards can be drafted for the uses that commonly occur in Sparks.

Advantages:

- Allowing more uses through administrative approvals will reduce uncertainty about whether proposed uses will be approved, encouraging more development in Sparks.
- Creating additional use-specific standards in the code will help ensure that applications for those uses are treated consistently over time.

Disadvantages:

- The community may not want to give up council discretionary review of some uses or some locations, based on past issues and experience.

Recommendation: Distribute Uses Appropriately Between Districts

One of the most potentially difficult, but important, tasks in updating the Sparks comprehensive plan and then ultimately the zoning code will be developing an appropriate list of land uses within each district. This is one of the fundamental issues involved in zoning – considering the potential incompatibility of uses, the consternation of neighbors when faced with inappropriate uses, and considering what uses require what level of review.

As Sparks has seen repeatedly in recent years, too many or too few uses in a district encourages the use of a PD or some other type of negotiated approval. In Sparks, many PDs include lists of prohibited uses, such as pawn shops, gun stores, and tattoo parlors. This can lead to a proliferation of projects with their own, unique lists of uses. This complicates administration and enforcement of the ordinance over time.

The long-term comprehensive update of the Sparks code should include a reevaluation of the uses list in each district – both the existing districts that are carried forward and also any new districts created. Based on our review of the existing code, a preliminary list of issues to be addressed includes:

- Some common uses appear to be missing in the Sparks code, such as banks and urgent care.
- Add uses to allow urban agriculture (e.g., community gardens, keeping of domestic animals).
- Distinguish building form issues from building use issues. For example, the current C1 district refers generally to “drive-through businesses.” Most codes, however, would refer separately to financial institutions, restaurants, and other types of businesses and say whether they should be allowed in a district. The issue of whether such a business can have a drive-through window is a separate issue that typically is treated as an accessory use.
- New, separate sections of the code are needed to describe both accessory and temporary uses, including the common standards applicable to such uses and also any use-specific standards that may apply. For example, a general standard for most accessory uses is that it should not operate or be established prior to the development of a principal use; a specific set of standards might also apply to a particular type of accessory use, like a home occupation.

Advantages:

- Reduces need for use of the PD process to create “custom” use lists
- Simplifies administration and enforcement of the ordinance over time

Disadvantages:

- The evaluation of use lists of each district can be challenging if there is not a clear community understanding of the purpose of each district. The districts should clearly implement land use classifications established in the comprehensive plan.
- It will take time and staff resources to work with the community

Recommendation: Reevaluate City Policy for Industrial Uses and the Industrial District

The city should refocus attention on uses allowed within the industrial area south of Interstate 80 along the Truckee River, particularly whether industrial uses or recreational uses are more appropriate for that area. The city made significant updates to the industrial districts within the last five years to address changes in market demand and the introduction of new uses, but we understand there is interest in continuing to balance conflicting goals for the future of this area, especially in light of regional floodway improvements currently being studied.

Some interviewees supported strategies to encourage (and not prohibit) adaptive reuse of the vacant buildings in the industrial area. During the boom years, most of these existing industrial buildings were full, but today as many as 50 percent are vacant and facing functional obsolescence. Existing code requirements stand as major impediments to reuse of these buildings – particularly parking requirements and the flood control regulations in the building code.

To protect industrial uses, non-industrial uses are required to obtain SUP approval as a result of the most recent round of amendments to the industrial district regulations. From a policy perspective, city officials believe now is the time (rather than waiting for the comprehensive plan update) to either reaffirm or revise this policy. Are industrial uses appropriate in this area, or should they be replaced over time with uses that may be more appropriate for an area prone to flooding, like recreational uses? Some of the existing buildings are considered functionally obsolete. Should the city incentivize reuse of

these buildings – perhaps by granting flexibility on parking requirements for reuse (recognizing that might cause parking spillover problems for adjacent property owners)? Or would it be better not to allow use reuse of functionally obsolete buildings, and instead require removal and replacement of the existing buildings? Should parking be allowed as a principal use (perhaps on a temporary basis through an SUP), to support redevelopment?

IMPROVE THE OVERALL ORGANIZATION AND FORMAT OF THE REGULATIONS

Although some parts of the Sparks Zoning Code are fairly new (such as the sign ordinance and TOD), many parts date to 1976, when the code was established. The document is organized and formatted very much as an “old-school” zoning ordinance, with a heavy reliance on text, few illustrations, and a somewhat cumbersome organization. An unusually large number of small, discrete chapters appear in a somewhat random order. From a first-time user’s perspective, the document format and structure can make it cumbersome to quickly find relevant information or the answer to a particular question, and so may lead to a perception that doing business in Sparks may be challenging.

Mid- and Long-Term Code Improvements

All of the recommended actions in this section would take at least six months or more to plan and complete and are considered mid- and-longer term improvements.

Recommendation: Consolidate Multiple Documents into a New Unified Development Ordinance

The city’s development regulations are largely contained in three principal documents: the Zoning Ordinance (Title 20), the Design Standards Manual, and the recently adopted TOD Corridor Manuals. We have seen many communities with six or more separate documents, so having just three is not a major concern. However, having development regulations scattered among any number of multiple ordinances may present a challenge to someone trying to develop in Sparks (see sidebar).

Code users would find it much easier to use, navigate, and understand the city’s development regulations if these principal development regulations were consolidated into a single unified development ordinance (UDO). Moreover, consolidating documents helps eliminate repetition and ensure consistency; for example, rather than having multiple definitions of key terms like “development” or “grading” that may become inconsistent over time, a unified approach allows for a consolidated set of definitions that is easier to maintain and keep current. This is an approach taken by many communities to make their regulations more user-friendly. (However, it is not a universal approach. Some communities opt to keep the zoning and subdivision rules separate, especially in states that have different sources of

CHALLENGE POSED BY MULTIPLE DEVELOPMENT ORDINANCES

For example, a property owner wishing to develop residentially-zoned land for a multiple-lot commercial use must review procedures and standards for rezonings and site plan approval in the Zoning Code, procedures and standards for division of the property and provision of public improvements in the subdivision regulations, design standards in the Design Standards Manual, and the TOD manual for supplemental standards (e.g., building and parking location). If the property abuts a waterway, the owner may also have to consult separate flood regulations. The property owner must be able to find all the applicable regulatory provisions from among the separate ordinances, determine how they interrelate (i.e., which approvals come first), and resolve any conflicts and ambiguities created where different ordinances address the same or similar aspect of development or development review.

state enabling legislation for the two bodies of regulations. Other communities, for example Austin, have followed a hybrid approach when they adopt new, highly illustrated documents that supplement, but do not replace, their separate old-school zoning ordinance.)

It should be noted that some of the Sparks's current development regulations were designed as free-standing documents to make them more user-friendly. For example, the TOD Corridor Design Manuals were organized as separate manuals by development type (Mixed-Use and Commercial; Residential; and Employment) to allow applicants and property owners to quickly assess what standards apply to their project or property, how the TOD standards relate to other regulations, and to help them understand and move quickly through the approval process. In large part, this organization was driven by the current condition of the zoning code, the various considerations raised in this report about the code's structure and usability.

All of these considerations must be taken into account when determining which path is best for Sparks. We recommend that at the least, even if the documents are kept separate, there should be clearer linkages between Title 20 and related provisions in the design standards and TOD, and vice versa. For example, the landscaping provisions in Chapters 3 and 4 of the Design Standards should clearly reference back to the general citywide landscaping provisions in Section 20.32 of the overall zoning code. Currently, the design standards contain references to "the more extensive Landscape Standards found in the Sparks Zoning Ordinance" (Part 3, C.1), but do not specify where to find those regulations.

Advantages:

- Easier for code users to navigate and understand the city's development regulations.
- Reduces repetition and cross-references.
- Easier to maintain, ensuring consistency over time.

Disadvantages:

- The Sparks TOD Corridor Design Manuals were designed to be "free-standing" for ease of use, and they may not be as user-friendly if folded into a larger UDO.

Recommendation: Reorganize Zoning Code

Currently, the regulations a typical development must go through to begin construction are scattered not only among various Sparks ordinances, but also among the different parts, articles, chapters, and sections within each of those ordinances.

From an organizational perspective, an improved document structure would group like information in a much smaller number of master chapters, with clearly defined subparts with obvious relationships to each other. For instance, a consolidated "development standards" chapter would contain the various parking provisions in one location, rather than scattered as they are now.

We recommend the following specific organizational improvements:

- Merge regulations for the various zoning districts into a single zoning districts article and condense base district regulations into a graphic format with a purpose statement identifying the range of allowable uses, a table of primary intensity and dimensional standards, and photos and other graphics showing typical building types and development patterns (see below for an example of such a format from another jurisdiction).
- Consolidate intensity and dimensional standards into a single article, along with explanations of exceptions and variations and the rules for measuring and applying the standards.

- Consolidate all major procedural provisions into a single administration article that includes:
 - A summary table that lists all development applications and indicates the review and decision-making entities associated with each;
 - A section describing the various review and decision-making entities;
 - A section setting out standard review procedures; and
 - A section setting out review procedures and decision criteria for each type of development application (e.g., site plan approval, rezoning, variances, planned development approval).
- Consolidate standards addressing principal uses, accessory uses, and temporary uses into a single article containing use tables and use-specific standards for each of these types of uses.
- Group standards for the various elements of development into a single development standards article.
- Continue to consolidate definitions into a single article at the end of the UDO and review similar definitions incorporated from the various ordinances to eliminate conflicts.
- Facilitate navigation among the UDO's articles, sections, and subsections by using an outline numbering system and number page to reflect that system.


A suggested new outline is provided later in this report showing how all the various elements of the current Sparks code could be reorganized into a more logical grouping of fewer chapters.

Advantages:

- Minimizes inconsistencies and potential conflicts within the code.
- Reduces time invested by applicants in locating and cross-checking applicable regulations.


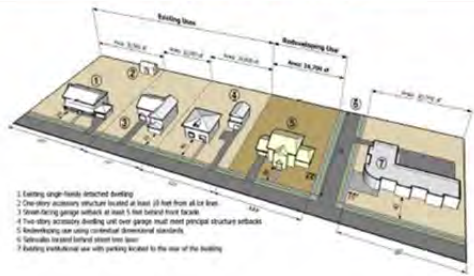
ARTICLE 40.1-3. ZONING DISTRICTS
Section 40.1-3.3 Residential Base Zoning Districts
Subsection (C): Neighborhood Residential (NR) District

(C) Neighborhood Residential (NR) District

PURPOSE AND INTENT		TYPICAL BUILDING TYPES
<p>The Neighborhood Residential (NR) district is established to accommodate single-family detached residential dwellings of low densities. District regulations are intended to discourage any use that substantially interferes with the development of single-family detached dwellings or that is detrimental to the quiet residential nature of the district. The district also accommodates accessory dwelling units and complementary uses usually found in residential zoning districts such as parks, open space, community gardens, and minor utilities. Religious institutions, elementary schools, family care homes, small day-care facilities, golf courses, country clubs, and major utilities are allowed subject to a use permit (See Section 40.1-2.5(B), Use Permit).</p>		
DIMENSIONAL STANDARDS		
STANDARD	RESIDENTIAL USES	RESIDENTIAL USES
DENSITY: Maximum (D/MAX)	7.5; (not applicable if conventional lot size standards are used)	14/A
LOT AREA	Lot Area: Minimum: The lesser of 20,000 sq. ft. or the average lot size of lots within 200 feet along the same block face, provided there are 3 or more lots within the 200-foot area. Maximum: The lesser of 150 feet or the average lot width of lots within 200 feet along the same block face, provided there are 3 or more lots within the 200-foot area.	20,000 sq. ft. 130 ft.
BUILDING COVERAGE Maximum (P)	45	
FRONT YARD	Minimum: The lesser of 40 ft. or the average front yard on lots within 200 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 200-foot area.	40 ft.
SIDE YARD	Minimum: The lesser of 10 ft. or the average side yard on lots within 200 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 200-foot area - except no side yard shall be less than 5 feet unless part of a zero side lot line development.	10 ft.
REAR YARD	Minimum: The lesser of 40 ft. or the average rear yard on lots within 200 feet along the same block face, provided there are 3 or more lots with existing residential structures within the 200-foot area.	40 ft.
CORNER	Maximum: 15 ft.	

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ARTICLE 40.1-3. ZONING DISTRICTS
Section 40.1-3.3 Residential Base Zoning Districts
Subsection (C): Neighborhood Residential (NR) District

STANDARD	RESIDENTIAL USES	RESIDENTIAL USES	TYPICAL LOT PATTERN
Accessory Structure: Maximum (P)	10' x 80' if in size or smaller otherwise same as principal use [1] [2]		
Garage: Setback: Minimum	5 feet behind front facade		
Height: Maximum (P/Use) [3]	2 1/2	2 1/2	
Accessory Structure: Size: Maximum	800 square feet [4]		
<p>NOTES:</p> <p>"sf" is square feet; "ft" is feet; "DU" is dwelling units; "AC" is acre. [1] Accessory structures are prohibited within front or corner side yards. [2] Accessory structures of two or more stories shall meet the minimum yard requirements for principal uses. [3] Accessory structures of 800 sf in size or smaller may not exceed one story (12 ft) in height. [4] See Section 40.1-4.4(C)(1), Accessory Dwelling Units, for accessory dwelling unit dimensional requirements.</p>			
TYPICAL DEVELOPMENT CONFIGURATION			
 <p>1 Existing single-family detached dwelling 2 One-story accessory structure located at least 5 feet from all lot lines 3 One-story garage without at least 5 feet behind front facade 4 Two-story accessory dwelling unit that must meet principal structure setbacks 5 Backyard shed using conventional dimensional standards 6 Detachable detached detached structure 7 Building setback line with parking located to the rear of the building</p>			

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- Reduces opportunities for applicants to “miss” applicable regulations that were not properly referenced or located in an easily accessible location.

Disadvantages:

- None.

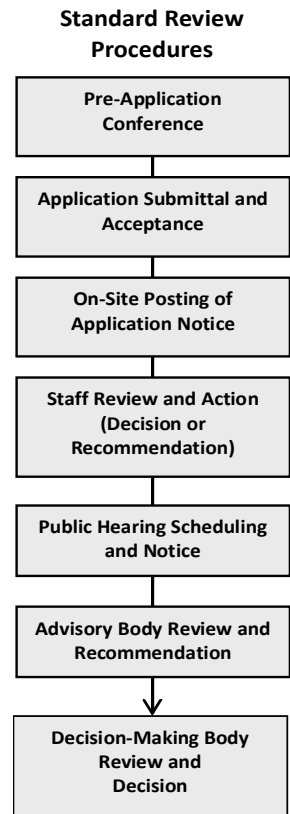
Recommendation: Edit the Procedures to Eliminate Redundancies

In the code drafting process, there is always a trade-off between repeating important text in multiple locations, versus simply relying on cross-references. The current code procedures lean toward repetition. While the code may be written this way for historically good reasons, repetition can make the document longer, and can lead to unexpected conflicts where the repeated language is not identical in both places.

The completeness determination for various types of applications is a good example of repetition (and possible inconsistency) in the current code. Section 20.13.060.C is a lengthy paragraph that requires the Administrator to determine if an application for a Special Use Permit is complete within 15 working days, and that sets up an appeal procedure for that decision. Identical provisions appear later for variances (20.16.020.C), rezonings (20.19.030.B), and site plan review (20.31.030). The code repeats the same information four times, verbatim. While just a paragraph, this amounts to extra text for a single topic. Repeated for other topics, this repetition overall may lead to a perception that the code is unnecessarily complicated and just too long. (Interestingly, there is no such completeness determination for planned development review in Chapter 20.18, which may be because the Administrator technically files the application, or may instead be an oversight.)

Creating a single set of “standard procedures” that apply to more than one type of process can be a simple way to avoid repetition and ensure consistency in code administration. The following types of issues are commonly handled through a single set of standard procedures:

- **Applicability** – the type of permit, approval, or other procedure the section applies to.
- **Pre-application Conference** – designate appropriate staff for each type of application or process.
- **Application Submittal and Acceptance** – how an application is filed, and to whom.
- **Completeness** – provide procedures and time limits for determining whether application includes sufficient information, along with legal authority to return insufficient applications.
- **Approval Procedures** – designate the body with jurisdiction to approve or deny, the type of hearing or process, and how a decision is reached.
- **Withdrawal and Reapplication** – indicate whether and when new applications can be filed if the application is withdrawn or denied.
- **Recording** – designate how the approval is documented and maintained.



Standard procedures typically may be supplemented with those items that are unique to each process:

- **Criteria** – include criteria unique to that application, along with cross-references to applicable standards in the regulations.
- **Scope of Approval** – indicate the type of activity authorized by approval, and how long the decision remains valid.

Advantages:

- Reduces repetition and overall length of the code, reducing perception that the code is unnecessarily complicated or long
- Standardizing review procedures minimizes the potential for inconsistencies between various procedures.

Disadvantages:

- If the various procedures in a code really are completely distinct from each other and operate in different ways (e.g., they accept applications differently, or they are processed by separate departments), then it may not be possible or worth the effort to draft consolidated procedures that address all circumstances.

Recommendation: Create a Consistent, Consolidated Definitions List

The revised code should include a single new definitions list that consolidates and updates as necessary the various definitions lists scattered throughout the current code. The current approach, which breaks apart definitions by topic area, can be useful for very specific terms that are only used in one part of the code (perhaps the slope regulations); however, most terms are likely to be applicable in more than one context and should be defined in one location – a consolidated definitions chapter.

The current fragmented approach also leads to inconsistencies. We noticed some examples in our own review. For instance, “administrator” in 20.99, the hillside/slope regulations, is defined as the community development director or their designee, while “administrator” is defined in the general definitions list in 20.05.060 as the city manager or their designee.

Advantages:

- Promotes a more consistent application of the code.
- Makes the code more user-friendly.

Disadvantages:

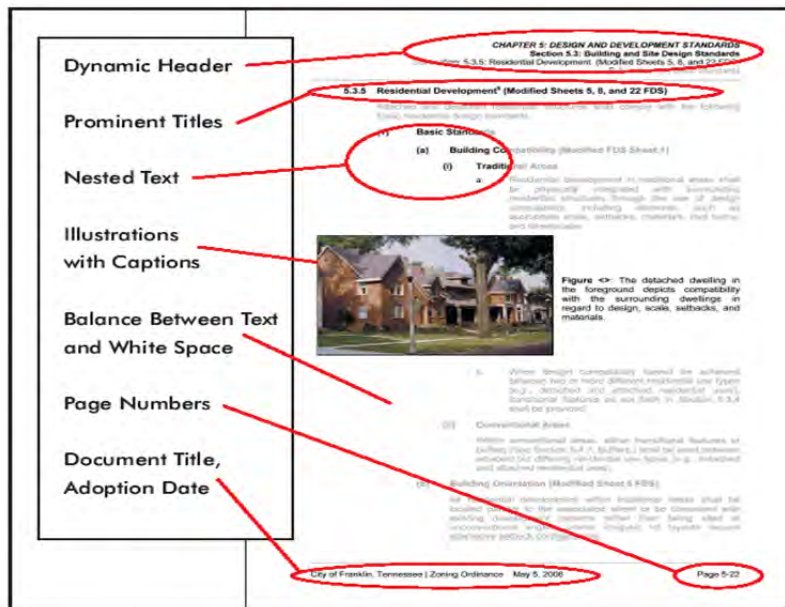
- Sometimes definitions are very topic-specific and they might be better-located next to the regulations they implement. For example, some communities keep their floodplain definitions with their floodplain ordinance, rather than in a master definitions chapter.

Recommendation: Improve Document Formatting

The old adage, “a picture is worth a thousand words,” is certainly true when trying to communicate concepts common to development regulations. Tables, flowcharts, illustrations, and other graphics are also very helpful in conveying information concisely (and in many cases, more clearly than text), thus eliminating the need for lengthy, repetitive text. The city’s current development regulations make limited use of tables, no use of flowcharts, and outside of the recent Design Standards and TOD manuals, only moderate use of graphics.

We recommend introducing many more graphics and visual aids to convey a variety of information in a clear and concise “at a glance” format, and ensuring that such tools are close to the information they support.

- New illustrations should augment and clarify district provisions, building and site design standards, and definitions.
- All review procedures should be enhanced with flowcharts, which quickly convey the interrelationships between procedural steps.
- We recommend expanding the use of tables to more succinctly show development standards with multiple variables, such as standards for access management, street design, driveways, signs, and even public hearing notice requirements.
- We also recommend expanding the use of photographs, illustrations, diagrams, and other graphics to more clearly show how dimensional standards are measured and how development standards (parking, landscaping, buffers, etc.) and especially building design standards are applied.



Formatting that incorporates graphics and illustrative photographs to visually describe development requirements.

Other basic improvements to the formatting would help make the document more accessible to the public and code users. For formatting, this includes simple things like, for example:

- Creating a detailed master table of contents with page numbers, along with chapter-specific tables at the start of each chapter;
- Removing the citations to ordinance adoption, which add unnecessary length to the document; and
- Adding correct headers to the document to show the chapter and sections on that page (versus the current headers, which mistakenly show the same incorrect section number on every page).

Advantages:

- Makes the code more user-friendly for applicants
- Reduces amount of staff time needed to orient users and applicants to relevant code sections

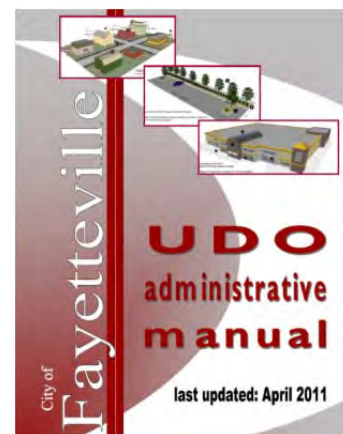
Disadvantages:

- Requires users who are familiar with the current code to transition to a new organization and format, which can be confusing for some.

This transition can be eased through the preparation of a report that methodically outlines where former sections may be found in the reorganized code. For example, the Tahoe Regional Planning Agency recently completed an extensive, non-substantive cleanup and reorganization of its code, and prepared a detailed “disposition report” that included side-by-side descriptions of where old code provisions could be located in the new version.

Recommendation: Create a Separate Code “User’s Guide” or Administrative Manual

Many communities adopt separate “user’s guides” that explain the general purpose, content, and organization of the development code. Such guides may explain, in easily understood terms, why Sparks regulates land use and zoning, how Sparks accepts applications for development approval, and how applications are processed and approved. User’s guides often contain flowcharts of review procedures, typical review times, lists of submittal requirements, lists of acceptable plant materials, and other related materials to help illustrate and inform the mechanics of the application review process – often to a greater level of detail than the code itself. An example is specific requirements for the scale and content of plans being submitted. Communities like this approach because they can consolidate reference materials in one spot, and update them more easily than if they were in the actual code, where they would require a formal code amendment to change. For example, Sparks prepared a somewhat similar, but less detailed, users guide specifically for the TOD district to help orient applicants and property owners. Recent examples of communities we have prepared administrative manuals as part of a citywide code update process include Portsmouth, Virginia, and Fayetteville, North Carolina.



We also discussed in interviews the possibility of using an administrative manual to help explain the regional planning framework in the Sparks area, and to explain the fee structure – particularly separate fees (like regional road improvement fees) that may be collected by Sparks officials but actually are regional, not local, requirements.

We recommend that the city consider preparing such a manual shortly after adopting a new unified development ordinance. While development of an administrative manual is not integral to adoption of a UDO, such a manual could be a tool that makes the new UDO function more efficiently and effectively.

Advantages:

- Consolidates reference materials in one spot making them easier for applicants to find
- Eliminates need for formal code amendment to change or update reference materials
- Could be used to help explain the regional planning framework and how it relates to the city’s process and fee structure

Disadvantages:

- User's guides can be expensive and time-consuming to prepare, depending on their complexity.
- Sometimes there are questions about the legal authority behind a user's guide (i.e., does it have the same level of authority as the code itself). There may also be questions about the ability of staff to update the guide without going through a full code amendment. In our experience, we have worked with city attorneys who have come down on both sides of both of these questions.

ANNOTATED OUTLINE: PROPOSED CONTENTS

The purpose of this section is to identify and briefly discuss a proposed new layout for the code. This sample organization is provided for discussion purposes, based on Clarion's experience in other communities. Should the city want to proceed with a more comprehensive update, these initial recommendations should be refined and further detailed.

The tables on the next page provide a comparison of the existing code structure to the recommended new structure.

Chapter 1: General Provisions

This chapter contains important general provisions that are relevant to the entire code. Existing 20.01, General Provisions and Interpretations, contains many of these provisions in the current code. In part, Chapter 1 provisions would:

- Reference the sources of Nevada statutory authority for the development regulations in the code;
- State the general purpose and intent of the UDO;
- Make clear what lands and who is subject to UDO regulations;
- Identify the master plan and other city-adopted plans that serve as a policy guide for the UDO and its implementation;
- Formally incorporate the official Zoning Map as part of the UDO and identify how it is maintained;
- Provide transition rules governing the effect of the UDO on development approved under previous ordinances and applications still pending a decision on the UDO's effective date.

EXISTING TITLE 20 STRUCTURE

- 20.01: General Provisions and Interpretations
- 20.04: Districts
- 20.05: Definitions
- 20.07: Administration
- 20.11: Fees and Permits
- 20.13: Special Use Permits
- 20.16: Variance
- 20.18: Planned Development Review
- 20.19: Amendments
- 20.22: Zoning Upon Annexation of Territories
- 20.23: Annexations
- 20.25: Nonconforming Uses and Substandard Developments
- 20.28: General Regulations
- 20.29: Animal Restrictions by Zoning Districts
- 20.31: Site Plan Review
- 20.32: Resource-Efficient Landscaping
- 20.35: Recreational Vehicle Storage
- 20.37: Height Limits
- 20.41: Permits Required for Certain Uses
- 20.42: Use Standards
- 20.43: Accessory Uses
- 20.45: Cooperative Planning Area Adjacency Standards
- 20.46: Cooperative Planning Area Lighting
- 20.47: Truckee River Corridor
- 20.49: Parking
- 20.51: Adult Businesses
- 20.53: Outdoor Sales and Display
- 20.56: Signs
- 20.58: A-5 Agricultural District
- 20.59: A-40 Agricultural District
- 20.60: R1-6 Single-Family Residential District
- 20.61: R1-7 Single-Family Residential District
- 20.64: R1-9 Single-Family Residential District
- 20.67: R1-12 Single-Family Residential District
- 20.70: R1-15 Single-Family Residential District
- 20.71: R1-20 Single-Family Residential District
- 20.73: R1-40 Single-Family Residential District
- 20.74: R2 Multiple-Family Residential District
- 20.76: R3 Multiple-Family Residential District
- 20.77: R4 Multiple-Family Residential District
- 20.79: R5 Multiple-Family Residential District
- 20.80: Professional Office District
- 20.81: New Urban District
- 20.82: Public Facilities District
- 20.83: C1 Neighborhood Commercial District
- 20.85: C2 General Commercial District
- 20.86: TC Tourist Commercial District
- 20.87: I Industrial District
- 20.88: TR Mobile Home Overlay District
- 20.89: R Redevelopment Overlay District
- 20.90: IR Restricted Industrial District
- 20.91: I Industrial District
- 20.92: Transit Oriented Development Corridor Overlay District
- 20.93: T Transition Overlay District
- 20.94: BB Bed and Breakfast Overlay District
- 20.95: Historic Preservation Overlay District
- 20.96: TS Time Share Overlay District
- 20.97: S Study District (repealed)
- 20.98: Mobile Home Subdivisions – Mobile Home and Recreational Vehicle Parks
- 20.99: Development on Slopes, Hilltops, and Ridges
- 20.101: Development Agreements
- 20.102: Wireless Telecommunications Towers and Antennas
- 20.103: Renewable Energy Production

RECOMMENDED NEW STRUCTURE

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Chapter 2: Zone Districts and Dimensional Standards

This new chapter would be a substantial reworking of the material currently provided in the zoning districts chapters, beginning with Chapter 20.58. To the extent possible, all district-related information should be consolidated and combined with photos and graphics that illustrate the intended character of the district. An example from another community is included earlier in this report. We recommend consolidating all of the district dimensional standards into tables that would be easier to read than the current provisions and would allow quicker cross-reference to standards in other districts. A table format is more compact and, in our experience, is more user-friendly for many code users.

Chapter 3: Use Regulations

In this chapter we would consolidate all of the use information, including the updated use tables described in above and any new use-specific regulations. This material currently is scattered in the district chapters of the Sparks code, plus Chapters 20.41 and 20.42. Additionally, regulations for accessory uses, temporary uses, and nonconforming uses would be consolidated into this chapter and updated as necessary. The chapter would be anchored by a master use table for the entire code, similar to the one shown earlier in this report.

Chapter 4: Development Standards

This chapter would carry forward the current design and development standards in Article VII, as well as incorporate the new standards identified in revision 5, above.

This chapter would include all of the development standards related to the physical layout and design of new development. It would build on a variety of standards, such as landscaping, signs, off-street parking and loading, and building design (from the Design Standards Manual).

Chapter 5: Administration

We recommend this as a new chapter that will consolidate and clarify the different roles of the review and decision-making bodies in review and approval procedures. Provisions such as these can help establish clear lines of authority in the city's decision-making procedures. This chapter would also reflect any proposed delegations of authority and clarify the role of staff and the Director in the decision-making process.

This chapter would contain all of the code's review and approval procedures, which are scattered throughout the current Sparks code, though generally in the front half. We suggest introducing a new organization of common procedures and specific procedures, standardizing all procedural descriptions as much as possible to avoid redundancy. Key contents would include:

- A section describing the various review and decision-making entities;
- A section setting out standard review procedures; and
- A section setting out review procedures and decision criteria for each type of development application (e.g., site plan approval, rezoning, variances, planned development approval).

We would also add a summary procedure chart to allow code users to understand necessary procedures in a quick overview, such as this sample from another jurisdiction:

SAMPLE (from another community) Table 1131-1: Summary Table of Review Bodies					
H = Hearing (Public Hearing Required)			D = Decision (Responsible for Final Decision)		
M = Meeting (Public Meeting Required)			A = Appeal (Authority to Hear/Decide Appeals)		
R = Recommendation (Responsible for Review and a Recommendation)					
Procedure	Section	Town Council	Planning Commission	Board of Zoning Appeals (BZA)	Planning Department
Zoning Code Text or Map Amendment	1132.05	H-D	M-R		R
Site Plan Review	1132.06		M-D		R
Conditional Use Review	1132.07		H-D		R
Certificate of Appropriateness	1132.08		M-D		R
Appeals	1132.11			H-A	
Dimensional Variance	1132.09			H-D	R
Nonconforming Use Review	1132.10			H-D	R
Minor Administrative Modification	1132.12				D
Zoning Permit	1132.13				D
Certificate of Occupancy	1132.14				D

Chapter 6: Nonconformities

This chapter would contain the regulations dealing with uses, lots, structures, and site features that were legal when developed but no longer comply with the code. (Some communities also integrate these materials into the General Provisions article.)

Chapter 7: Violations, Enforcement, and Penalties

The current code addresses enforcement only very briefly, in sections 20.07.060 and .070, with a general note that any code violation is a public nuisance and punishable by a penalty. We typically recommend a new chapter significantly expand the enforcement provisions, clarifying what constitutes a violation of the code (including examples), identifying who has enforcement authority, outlining the complaint and enforcement process, and setting forth a broad range of penalties and compliance measures available under Nevada law.

Chapter 8: Definitions and Interpretations

The land use definitions are currently located in Chapter 20.05. If any existing definitions include regulatory language, those provisions should be moved into the appropriate regulatory section of the code. Moving regulations out of the definitions ensure that they can be found along with similar or related regulations and eliminates the potential for conflict where similar regulations are located in two separate locations. We also recommend adding rules of construction and interpretation.

Part Three: Other Substantive Zoning Code Issues

This section discusses other types of improvements that emerged from our review of the Zoning Code and public input. It is arranged by categories of issues, and within each category are suggested short-term and mid- to long-term code improvements that are intended to help meet the primary goals of removing barriers to economic development through streamlining, increased efficiency, and user-friendliness. These recommendations are presented for discussion so city officials and staff may determine specific courses of action as the city moves forward with potential code amendments.

Before beginning a discussion of specific issues, it should be noted that Sparks already has completed several major initiatives in recent years aimed at simplifying and/or streamlining the development review process in the city, as well as upgrading the planning framework within which the zoning rules are applied:

- Amendments have been made to Title 20 by staff to address targeted issues, such as modernizing the industrial districts and standards to reflect changes in market demand.
- Development fees have been substantially reduced. For instance, Special Use Permit fees were reduced from \$12,000, to an initial deposit of \$1,250 (which may rise or fall based on the level of staff time required, but is capped at \$7,500).
- An update of the comprehensive plan was initiated (though currently is on hold).
- The Building Code is currently being amended, with a draft anticipated in January 2013 (followed by a six-month grace period).
- Recharge Nevada, in partnership with the Reno Sparks Tahoe Economic Development Authority of Western Nevada (EDAWN), is looking at opportunities to strengthen economic development in the region. The effort may present an opportunity to continue the discussion on some of the items raised in this report, in cooperation with other jurisdictions and stakeholders about necessary changes at the state level.

For this project, considerable time was focused on the standards and applicability of the Transit-Oriented Development Corridor Overlay District (TOD district). That district, which is addressed below, was the subject at the top of everyone's mind and the perceived source of many barriers to development in Sparks. We understand that city officials already are taking steps to address some of the concerns we heard expressed. Following the TOD section, subsequent discussions focus on improvements to code procedures, aimed at ensuring that all applications move expeditiously through the process in Sparks, as well as a range of other substantive aspects of the Zoning Code.

Other Substantive Zoning Code Issues

New Tools to Allow Greater Flexibility and Creativity

Streamlining Code Procedures to Improve Efficiency

TOD Corridor Applicability and Standards

TOD CORRIDOR APPLICABILITY AND STANDARDS

A large part of our review, as well as the feedback we heard in the stakeholder interviews, related to the relatively new TOD district. Simply put, there is a widespread perception—sometimes grounded in fact and sometimes not—that the TOD district is inhibiting development in Sparks. While we heard a wide variety of general and specific concerns expressed, they generally focused on two aspects of the TOD district: its geographic coverage and the standards applicable to new projects and redevelopment within the district.

We understand that an evaluation of some of the issues raised is already underway. At the direction of the Council, staff has initiated a process (concurrent with this process) to reevaluate the boundaries of the district to determine if it should be scaled down, in particular on the eastern side of the TOD district where transit or pedestrian-oriented development is unlikely to occur in the near future due to an established pattern of industrial uses.

As the city contemplates whether potential changes in this area are warranted, it is important to underscore several points as a foundation for discussion:

- **TOD standards aren't just about transit.** The city's TOD district and accompanying standards are consistent with national best practices for mixed-use and transit-oriented areas, but were tailored to fit the local context in Sparks. The standards are intended to encourage a more compact, pedestrian and transit-supportive pattern of development within the TOD Corridor. Therefore, they do include minimum densities needed to achieve a critical mass of people within a walkable distance of existing and future transit. However, other standards within the TOD district are more focused on the character of future development and the quality of the urban environment. All of these standards work together to create a more livable environment in the city's urban core that will encourage more residents to live, work, shop, and play there—regardless of the timing of future transit.
- **Community revitalization takes time.** Community revitalization efforts like the Sparks TOD Corridor Master Plan and the accompanying TOD district take many, many years to implement. The results of a strong commitment to a vision over the long-term have paid off for many communities around the country that have historically struggled with disinvestment and economic vitality in their urban cores. Denver, Colorado's East Colfax Corridor; Cleveland, Ohio's Euclid Corridor; and Omaha, Nebraska's Destination Midtown project are just three examples of areas where a city's long-term commitment to a vision has resulted in significant reinvestment and transformation. In each of these examples, nearly ten years has passed since initial planning and regulatory efforts were undertaken and it's likely that significant change will continue to occur over the next ten years.
- **Every decision counts.** The economy poses a significant hurdle for development in Sparks today and the city is committed to taking steps to help promote investment and development. In acting on this commitment, conflicts (small or large) will undoubtedly emerge between an immediate development opportunity and adopted policies and regulations—particularly within the TOD district. In these instances, it is important to consider the potential impact of any proposed development on the city's long-term vision. Developments that represent a major departure from the TOD district standards (e.g., an auto-oriented use, such as a fast food restaurant with a drive-through window) compromise the city's adopted long-term vision and may ultimately reduce the potential viability of planned transit and the creation of a more walkable environment. Developments that represent minor variations in design and development standards may be less impactful in the

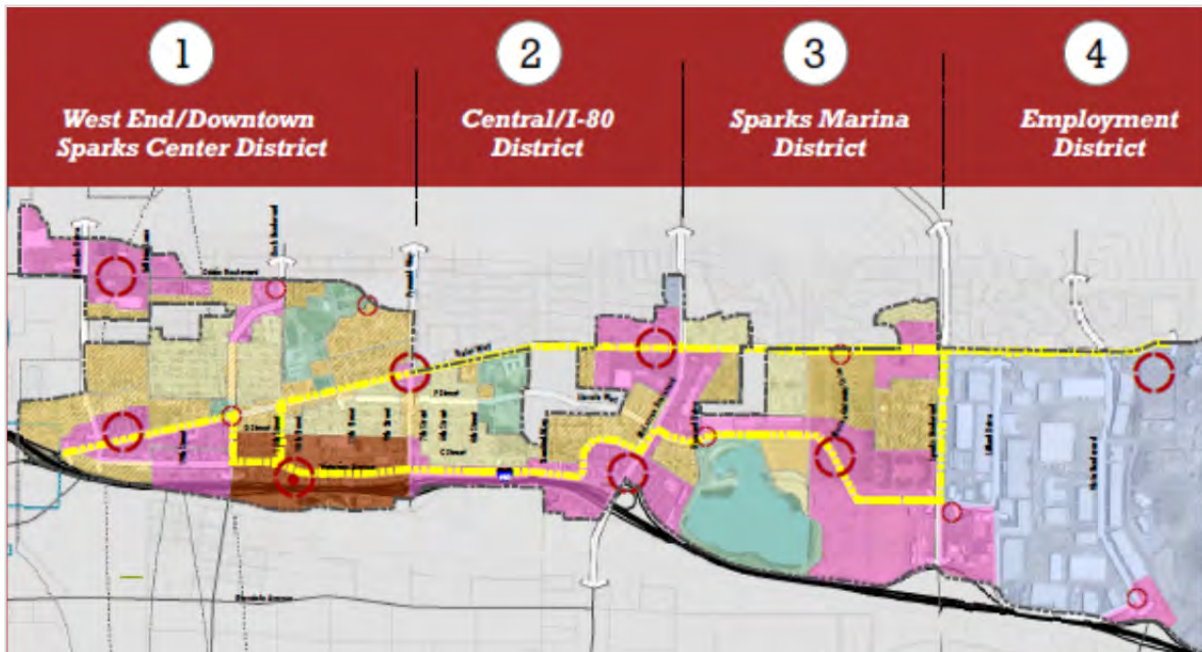
long-term. Each proposed development that seeks an alternative approach in the TOD district to the adopted standards should be carefully considered with this in mind.

A diverse range of cities across the country, ranging from Tucson, Arizona, to Henderson, Nevada, to Lee’s Summit, Missouri, and many others have all been grappling with a similar set of issues as Sparks. How do we balance short-term development pressures and a desire to encourage reinvestment with our long-term vision and development regulations for a particular area of our community? While one option is to “hold the line” at all costs, in our experience, an approach that simplistic is not always possible. Each community must consider the range of options available and potential implications of each of those options and make a deliberate choice.

This section explores each of these issues and presents a series of recommendations for consideration to support implementation of the TOD Corridor Master Plan. As with the city’s comprehensive plan, the TOD Corridor Master Plan and accompanying TOD Design Manuals reflect a long-term (10 to 20 years) vision for the community that was developed based on extensive input from residents, property owners, elected and appointed officials, and other stakeholders. Therefore, if the city wishes to pursue any major shifts in direction from adopted policies and regulations (e.g., away from the compact, pedestrian and transit-oriented pattern supported by the plan) we recommend that such shifts be carefully considered with additional input from the community.

Short-Term Code Improvements

Recommendation: Remove Employment District from Current TOD Corridor District Boundary



The “Employment District,” located east of Sparks Boulevard (see map above) represents approximately one-fourth of the TOD district’s total land area, and is largely built out with large scale employment and industrial uses. The area was identified as a point of significant concern during our interviews due to recent conflicts between proposed new employment uses and the TOD Design Manual for the Employment District. In one specific example, applicants were unable to meet build-

to-zone requirements that limit the amount of surface parking between the building and the street while still meeting site requirements needed for the use. While the applicant was ultimately granted a variance, city officials expressed concern about the time and expense involved for the applicant in having to go through that process, when the use is consistent with the TOD Corridor Master Plan and is otherwise allowed within the TOD district.

As context, it is important to consider that when the city began the process of developing the TOD Corridor Master Plan in 2004, the Employment District was included, not because development patterns were anticipated to dramatically change in this area, but rather because the area represents a large employment and transit ridership base in close proximity to the other three districts within the TOD Corridor. This is underscored in the Employment Design Manual, which lists the following as one of the stated purposes of the manual, “to protect the viability of existing industrial uses located within the Employment District as a major employment generator for the TOD Corridor.” As a result, higher densities and pedestrian-oriented development standards for this portion of the TOD district, such as the build-to-zone and minimum requirements for building wall along the primary street frontage, are focused along existing and proposed transit corridors—Sparks Boulevard, Prater Way, and Vista Boulevard. Despite these efforts to take a “lighter touch” on development standards for this area, it is clear based on recent applications that existing standards are not meeting the city’s stated objectives.

Sparks is not alone in its efforts to try to balance TOD principles and revitalization objectives with established industrial and employment uses in its regulations. Communities across the country are taking some very creative approaches to this issue.

- Adams County, Colorado (Denver metro area), is exploring a range of zoning options for its two future commuter rail station areas with a long-term view in mind. Established heavy industrial uses are vital to the county’s economy and would like to continue to operate in their current location for the near-term; however, the county recognizes that these uses may not represent the highest and best use for the land in the long-term given the significant investment being made in regional transit. Currently, the county is exploring ways to maintain industrial uses in the short-term, but to transition to more restrictive standards and less intensive uses over time as the market for those uses emerges.
- Richmond, California (on the San Francisco bay), has created a water transit-oriented development district that is intended to maintain the industrial nature of the Port of Richmond while addressing compatibility issues with the increasing number of residential projects proposed for the area. This effort focuses on the prioritization of infrastructure improvements, mixing in light industrial and office uses, and establishing siting guidelines for residential development.
- Chicago, Illinois, is establishing “cargo-oriented development” (COD) districts for historically industrial station areas on the south side of the city that have seen declining investment. The city’s goal is to create a link between COD and TOD that encourages reinvestment and expansion of uses in these areas.

In all of these examples, the supporting planning studies note the need for coordinated, well planned, long-term redevelopment strategies. It is also important to note that each of these examples relates to rail transit which research has shown to be a greater catalyst for reinvestment over time than bus. In addition, the fixed nature of rail transit also tends to define more specifically which areas will become “transit-oriented” over time. Typically, a station area is defined as a ¼ to ½

mile radius around each rail stop, whereas, the Sparks TOD district was more broadly defined based on the proposed bus rapid transit route and thus incorporates a larger area.

Based on the above considerations and ongoing efforts by staff to reevaluate the TOD district boundary, we recommend removing the area east of Sparks Boulevard from the TOD district altogether. Although it does fundamentally change the size and geographic extent of the TOD district, we do not believe this recommendation will compromise the implementation of the city's vision for the TOD Corridor in the long-term. While the form of future employment uses will be somewhat less pedestrian-oriented, employment uses needed to support future transit will continue to be encouraged, which will likewise support the types of future residential and commercial growth in other areas of the TOD Corridor needed to promote revitalization. We understand that this process is currently underway and is anticipated to be completed in late 2012.

Advantages:

- Alleviates potential conflicts likely to occur in the Employment District of the TOD Corridor in the future without compromising the long-term viability of the city's vision
- Reinforces the city's support for future employment uses

Disadvantages:

- Plan and code amendments will require significant effort on the part of staff to update
- Will require a finding of conformance from the Truckee Meadows Regional Planning Agency

Recommendation: Update TOD Corridor Development Guide to Emphasize Available Incentives and Flexibility

The TOD Corridor Design Manuals were frequently characterized by stakeholders as too ambitious and/or strict for the community, when in fact significant flexibility for applicants exists in the manuals as written. The design manuals are accompanied by a TOD Corridor Development Guide, which provides applicants with a brief overview of the city's vision for the corridor, how and to what types of properties the standards apply, and a step-by-step guide to the development review process. However, the TOD Corridor Development Guide does not highlight available incentives or other built-in mechanisms for flexibility:

- ***Standards tailored by location.*** Existing conditions and uses within the TOD Corridor vary greatly. Therefore, standards within the TOD Corridor are tailored by location and the size of the site to respond to individual development contexts. Generally speaking, higher densities and more restrictive standards apply to areas that will have direct access to the proposed bus rapid transit (BRT) route and that are essential to the implementation of the community's vision for the TOD Corridor. Lower densities and more flexible standards apply to established residential neighborhoods and smaller sites within mixed-use commercial areas than function in a support, rather than a "lead" role in the implementation of the community's vision for the TOD Corridor. Examples include:
 - ***Example: variations in density and required mix of uses.*** Standards for areas such as Downtown/Victorian Square and existing commercial areas at the intersection of Prater Way and McCarran Boulevard or El Rancho Drive and Oddie Boulevard, require the highest minimum densities and broadest mix of uses (based on the size of the site), and require that a minimum percentage of the primary street frontage be occupied by building wall to promote a more compact, pedestrian-oriented

environment. In established residential neighborhoods and other areas located more than one block or 400 feet from the proposed bus rapid transit line, minimum densities are lower and a number of standards—such as wider sidewalks with a pedestrian clear zone—do not apply.

- **Example: small lot exceptions.** Exceptions from minimum densities and the required mix of uses are provided for sites located within proximity of the proposed BRT route, but that are less than 20,000 square feet in area. This exception provides increased flexibility for owners of smaller sites to consider development options that would otherwise not be feasible without the consolidation of multiple lots. This provision was intended to address the established pattern of lots along Prater Way and Victorian Avenue in particular.
- **Example: infill residential examples.** The Residential Design Manual includes a series of infill residential examples that highlight potential site layouts that meet the intent of the underlying standards—density, setbacks, lot coverage requirements, landscaping, parking, and compatibility when applied to typical lot configurations in the TOD Corridor. The examples provide a considerable resource for property owners interested in reinvesting in the corridor who may not have the resources to hire an architect to do the design.
- **Incentives**—the design manuals also include a variety of incentives to encourage infill and redevelopment in the TOD corridor—such as parking credits and reductions and alternative landscape configurations and quantities, and a “menu” approach to some requirements—such as materials or community amenities that allows applicants to pick and choose which solution is best suited to their site, project, and bottom line. Examples include:
 - **Example: parking credits.** Surface parking requirements may be reduced by up to 25% through a series of credits. Credits may be earned for on-street parking, shared parking, incorporation of mixed-use or other high density development, offering bus passes, etc.
 - **Example: surface parking screening option.** To maximize available space, developments of less than 10,000 square feet, or that involve the renovation of an existing building may use an ornamental fence or wall as a standalone screening mechanism to meet the surface parking screening requirement above.
 - **Example: reduced landscaping requirements.** To promote a more compact, pedestrian-oriented environment in the TOD Corridor and encourage reinvestment, landscaping requirements are significantly lower than they are in the TOD district versus other areas of the city. For example, in other districts throughout the city, the Sparks landscaping requirement ranges from 15 percent for commercial to 20 percent for residential districts and 25 percent for office. Within the TOD district, requirements range from 10 to 15 percent and offer opportunities to earn credit towards minimum landscaping through other required on site amenities, such as streetscape or community amenities.

To highlight the full range of tools available to applicants we recommend updating the TOD Corridor Development Guide to include a thorough discussion of the incentives and flexibility measures available within the TOD Design Manuals, starting with those outlined above. In addition, a “frequently asked questions” section should also be added to help address and alleviate potential misconceptions about the TOD district as it pertains to different types of projects.

Advantages:

- Increases property owner and applicant awareness of the types of incentives available for different types of projects within the TOD district
- Conveys a consistent message about the TOD district to applicants and property owners regarding the city’s revitalization objectives for this area

Disadvantages:

- None.

Mid to Long-Term Code Improvements

All of the recommended actions in this section would take at least six months or more to plan and complete and are considered mid- and-longer term improvements.

Summary Recommendation: Consider Targeted Amendments to TOD District Standards

If sufficient flexibility in current TOD district standards cannot be achieved through the various approaches outlined in the previous section, targeted amendments to the specific standards could be considered in the interest of promoting investment in the short-term.

Potential options for consideration include:

- ***Reducing minimum densities in targeted areas of the corridor.*** Existing TOD standards establish minimum densities for both residential and non-residential projects based on the site’s location. Exceptions are provided for pre-existing parcels less than 20,000 sq.ft. in area. This type of standard is typical of mixed-use and transit-oriented development districts across the country and is intended to help support a greater concentration of residents and employees within close proximity to existing and future transit. This type of standards also increases the development potential of sites in areas in need of revitalization and allows property owners to yield more development (e.g., residential units or total square footage of non-residential uses). Recognizing that market demand for higher-density development would take time to emerge and that site constraints common in infill areas could make higher minimum densities more difficult to achieve due to the costs associated with structured parking, minimum densities in the TOD district were set below those required by the Truckee Meadows Regional Plan.

Current minimum densities could be reduced even further in the short-term to promote reinvestment in the TOD corridor; however, the location and extent of potential reductions should be carefully weighed against the community’s vision to ensure long-term opportunities for infill and redevelopment are not precluded in priority areas. For example, it is not recommended that minimum densities within major activity centers be reduced as these sites represent the largest and most strategically located sites within the TOD Corridor and thus represent the most significant redevelopment opportunities. However, a reasonable option may be to reduce minimum densities by a small margin “in between” activity centers, since these sites are small and are unlikely to have a significant impact on the long-term vision. This “tiered” approach would be consistent with current variations in density throughout the corridor.

This approach is one that Henderson, Nevada, employed along its Boulder Highway Corridor to maximize future development potential at its most significant BRT stations, while allowing

for more flexibility in the miles of corridor that separate them. The Mid-America Regional Council (Kansas City Area) is exploring a similar approach as it works with the numerous municipalities in its regions who are seeking to implement a more sustainable pattern of development along major corridors over time.

- **Recalibrating required mix of uses**—Existing TOD standards require a mix of residential and non-residential uses on individual sites depending upon the size and location of the property. In general, parcels greater than one acre in size located within proximity of the proposed bus rapid transit (BRT) route or within Downtown/Victorian Square are required to include two or more use types and in some cases a minimum percentage of residential or non-residential uses.

This type of requirement is becoming increasingly common in development codes across the country (e.g., similar standards were recently adopted by Lee’s Summit, Missouri along their M-150 Corridor and by Omaha, Nebraska); however, some communities (e.g., Tucson, Arizona; Henderson, Nevada) chose to take a lighter touch and simply “encourage” a greater mix of uses or provide incentives for projects that include a mix of uses.

Several options could be considered to provide increased flexibility in these provisions:

- **Option A—increase minimum site size that the requirement would apply to:** Increasing the minimum site size that would require a mix of two or more uses would limit the applicability of these provisions to larger sites where significant redevelopment opportunities exist and the incorporation of a broader mix of uses is can be more readily achieved. This would provide a significant increase in flexibility for many of the smaller parcels in the TOD Corridor.
- **Option B—provide a range of acceptable percentages:** Amending minimum percentages of non-residential and residential uses to include a range (e.g., plus or minus ten percent of current percentages), rather than maintaining specific percentages would also provide increased flexibility and allow for greater fluctuations in market demand.
- **Option C—guideline vs. standard:** Alternatively, current percentages could be included as a rule of thumb “guideline” rather than a standard with recognition that actual percentages will vary from project to project based on market demand.
- **Build-to-Zones**—Existing TOD standards require that a certain percentage of the street frontage be occupied by building wall, with minimum percentages varying by location. These standards are typical of urban development standards across the country. They are intended to help create a more pedestrian-oriented environment in the TOD district by bringing buildings closer to the street and reducing the prevalence of surface parking along the street edge. Current percentages by location were reviewed to determine whether additional flexibility could be provided in targeted locations without compromising the long-term implementation of the vision.

Some additional flexibility (e.g., reducing minimum percentage of building wall along the primary street frontage from 60 percent to 50 percent) could conceivably be provided along major corridors “in between” major activity centers, provided the city were to hold the line “within” major activity centers and in Downtown/Victorian Square where major redevelopment is likely to be concentrated in the future and a more compact pattern of development is necessary to achieve stated revitalization goals. We do not recommend reducing this requirement below 50 percent in any location or removing it altogether in any

location as these steps would serve to reinforce the auto-oriented development patterns that the city has been seeking to get away from within its urban core for years.

Advantages:

- Targeted amendments will provide additional flexibility and may help promote more development in the TOD district over time

Disadvantages:

- If amendments were taken too far (e.g., removing build-to-zone requirement or removing minimum densities), they may undermine the city's adopted vision for the corridor
- Some property owners may oppose the reduction in development potential

Summary Recommendation: Consider Additional Adjustments to TOD Corridor District Boundary

In terms of the geographic coverage of the district, many respondents suggested that the TOD district is too large and extends to areas that are not now and likely will not in the future have a strong transit or pedestrian orientation. The district's current boundary was driven by a desire to promote the revitalization of Sparks' downtown core, older commercial corridors, and the surrounding neighborhoods through flexible development standards and increased density allowances, as well as compliance with the Truckee Meadows Regional Plan.

Given the broad geographic extent of the current boundary, some additional adjustments to the boundary (beyond that recommended under the short-term improvements above) could be considered to further focus revitalization efforts and the applicability of the TOD standards. Areas identified as potential areas for removal from the TOD district boundary should be evaluated against the following questions:

- Is the area in need of reinvestment and/or likely to see targeted infill and redevelopment over the next ten to twenty years?
- Is higher intensity, higher quality development in this location essential to support the implementation of the city's adopted policies and economic development objectives?
- Are property owners in this location willing to give up existing allowances for higher-density development and a broader mix of uses provided through the TOD district in exchange for the less restrictive standards and lower densities allowed by the site's former base zoning district?

If the answer to the first two questions outlined above is "yes," then removal of the parcels in question from the boundary is not recommended. Likewise, if the answer to the third question outlined above is "no," it may not be in the best interest of the city to pursue removal of these parcels from the TOD district boundary or to press for their rezoning.

Advantages:

- May create short-term development opportunities

Disadvantages:

- Some property owners may not be willing to give up existing allowances for higher-density development and a broader mix of uses provided through the TOD district in exchange for

the less restrictive standards and lower densities allowed by the site's former base zoning district

- Reduces the potential for transit and pedestrian-supportive development in the city's urban core over time and reinforces auto-oriented patterns the city has been seeking to minimize in the TOD district
- Would require a significant public process and considerable staff time to evaluate and execute potential recommendations

NEW TOOLS TO ALLOW GREATER FLEXIBILITY AND CREATIVITY

The Sparks Zoning Code already includes several provisions that allow flexibility in how its standards are applied to developments. In particular:

- **Minor Deviations:** Section 20.07.020 authorizes the Community Development Director to grant "minor deviations" from code requirements without a hearing if the applicant "obtains the written consent of the owner of any real property that would be affected..." Examples of minor deviations are provided (dimensions of parking areas, etc.), but the list is not exclusive. The Director must ensure that the deviation "will not impair the purpose of the zoning district or any regulations adopted thereto. Approval of the fire, building, and health departments is required. The Director may impose "mitigation measures" to "address potential impacts."
- **Planned Development:** Chapter 20.18 allows for the creation of tailored zoning, development, and design standards for specific areas, following a public review process and approval by the City Council. The process is intended to provide for "maximum environmental choice...by encouraging flexibility and creativity of design and a greater diversity of building types, open space arrangements, and other aspects of land planning..."
- **Variations:** Chapter 20.16 authorizes the Planning Commission to grant variances "under circumstances in which it is necessary to prevent or to lessen any peculiar and exceptional practical difficulties or exceptional and undue hardships that would result from a strict application and enforcement" of the code (not including the sign regulations). This is not intended to allow creativity per se, but it is as a tool in the code that can help address perceived barriers to development by allowing for the city to approve projects with unusual site conditions. Variations are unusual, since it is difficult for an applicant to demonstrate circumstances that meet the strict definition of a hardship.

Despite these opportunities for creativity and flexibility, we understand there may be a perception that some standards in the code are too rigid (e.g., the parking location standards in the TOD ordinance) and may be acting as barriers to development in Sparks. This section discusses several potential approaches to increasing the level of flexibility available to development applicants.

Short-Term Code Improvements

Recommendation: Continue the Use of the Minor Deviation Tool

As mentioned above, Section 20.07.020 authorizes the Community Development Director to grant "minor deviations" from code requirements. We heard several comments on this section:

- While some applicants were not aware of this tool, staff notes that the tool has been used frequently, typically at the relative end of the development approval process, when it has been used to apply the code standards to challenging projects or sites; and
- The amount of deviation is capped by state law (deviations above this amount require a public hearing and special process).

The issue of minor deviations is in fact controlled by state law in Nevada to a greater degree than is typical in other states. Nevada statutes provide the following:

- For major departures from the zoning rules, statutes authorize the granting of “variances, special and conditional use permits and other special exceptions” by the board of adjustment, planning commission or hearing examiner (NRS 278.315). Public hearings are required prior to these types of approvals.
- For more modest “deviations” from the zoning rules, the statutes authorize the City Council to adopt an ordinance “that authorizes the director of planning or another person or agency to grant a deviation of less than 10 percent from requirements for land use established within a zoning district without conducting a hearing” (NRS 278.319). Written consent of the owner of any real property that would be affected by the decision is required. The approval is an appealable administrative decision. A public hearing is not required.

The minor deviation authorized in state law clearly has a numeric limitation (10 percent or less) that does not appear in the current Sparks code, and we recommend that the Title 20 text be revised to clarify that limitation. The authorization also clearly is an appealable administrative decision under the statute, and that should be acknowledged in Title 20. With those limitations noted, however, we believe there are other strategies worth pursuing that could enhance the usefulness of this tool.

First, we perceived a general lack of awareness about the minor deviation tool in our interviews. This is important for purposes of this report because it suggests a perception of a barrier to development (even though the tool in fact is already in use frequently). We do not recommend that the city encourage all applicants to expect to use the minor deviation tool on every project; that would of course undermine the integrity of the code. The minor deviation could be mentioned, for example, in the user’s guide suggested earlier in this report, the Design Standards Manual, and/or the TOD manuals.

In addition, Section 20.07.020 itself should be rewritten to list the areas of the code where the minor deviation authority may be applicable – and, just as important, where the minor deviation tool may not be used. We do not recommend that the minor deviation be used to depart from any important resource protection standards (for example, riparian area setbacks). The current text is vague. Other Nevada codes are more explicit about where the authority may be used; for example, the Las Vegas code identifies building setbacks, wall heights, accessory structure setbacks and heights, planting areas and materials, and loading and stacking spaces (19.18.080.B).

Internally, the city staff should document the use of the minor deviation tool, including the successful justifications used to secure deviations. Going forward, such information should be evaluated regularly (perhaps annually) to determine whether changes are frequent enough or significant enough to be considered as code amendments.

Advantages:

- The minor deviation tool can be a helpful way to extend flexibility to a project applicant for unusual projects or challenging sites, yet where a variance would not apply.

Disadvantages:

- The minor deviation tool can be overused and undermine the integrity of the code if it is not used judiciously and sparingly.
- It requires regular oversight by city officials to ensure that it does not become a “loophole” that is abused.

Mid- and Long-Term Code Improvements

All of the recommended actions in this section would take at least six months or more to plan and complete and are considered mid- and-longer term improvements.

Recommendation: Consider Adoption of an Alternative Equivalent Compliance Tool

An alternative equivalent compliance procedure allows a development to occur that may not strictly adhere to the letter of the code, but is consistent with the code’s general purpose and intent. An applicant must submit a site-specific plan that proposes an alternative design shown to meet the intent of a particular standard to an extent equal to or exceeding that achieved by strict application of the standard.

The term “equivalent” in the name is important, because **this tool should not be seen as an effective lowering of the bar**. Criteria for approval of alternative equivalent compliance typically require the application to show that the proposed alternative design achieves the intent of the subject development standard to the same or better degree than strict application of the standard, and imposes **no greater impacts on adjacent properties than would occur through strict compliance with the subject standard**. Also, to obtain the increased flexibility available through alternative compliance, **an applicant must provide some type of compensating public benefits** (such as affordable housing, additional open space, additional floodplain protection, protection of scenic views, public park or recreational facilities, public art, or public plazas) that have a reasonable relationship to the type of flexibility being sought. The city and the community must receive some benefit in exchange for this increased flexibility.

We recommend that the city consider adopting such a procedure not immediately, but as part of the long-term code update. The alternative equivalent compliance procedure should require prospective applicants to hold a pre-application conference with city staff to ensure they have a clear understanding of what may be necessary to demonstrate the requisite equivalent or greater degree of compliance. Such an application would be submitted concurrently with the application proposing development subject to the standard from which alternative equivalent compliance is sought, and would be subject to approval by the same entity authorized to decide the associated development application.

The applicability of the tool would require further discussion. While it might ultimately be available for a wide range of development standards (open space, access and circulation, parking and loading, landscaping, lighting, and fences/walls and screening—as well as design standards), the community might want to opt for a narrower focus in the short-term while gauging the effectiveness of the new tool.

In our interviews, city officials and code users were interested in the concept of alternative compliance, but emphasized that such a tool would need to be drafted carefully and be project-specific (i.e., approval of one alternative would not set a precedent for other applications). There were also concerns that such a tool might effectively “lower the bar” over time, if alternative

approvals became the norm rather than the exception; and that such a tool might put too much political pressure on staff. We agree that these concerns are significant.

In our experience, the communities that have found alternative compliance to be most useful are those that have taken the time to identify upfront acceptable types of “equivalencies” to specific standards, rather than having to start that analysis from scratch with each new application. That work is part of a long-term effort and should be completed as part of the drafting of the new Sparks code. For instance, as each section of the nonresidential design standards is updated or rewritten for the new code, code drafters should consider whether any type of “equivalency” would be appropriate. (“Are there other types of building materials that we might accept that may not be technically compliant with these standards?”)

City officials indicated that they are comfortable with more decisions being handled by professional planning staff, so long as there are call-ups by the Council.

Advantages:

- An AEC tool can encourage development by creating a perception that city is open to considering creative and “outside the box proposals.”

Disadvantages:

- The AEC tool must be monitored carefully to ensure that the alternatives being proposed are in fact equivalent to what would otherwise be required under the code. It may not lead to an effective lowering of the bar and undermine the integrity of the code.
- It may be challenging to define appropriate types and levels of public benefits that adequately mirror the increased flexibility sought by the applicant.
- The process of determining appropriate equivalencies and appropriate public benefits can become a haggling process that the city may not wish to engage in.

Recommendation: Consider Allowing Major Deviations in Limited Circumstances

To complement the existing minor deviation tool, the city might consider authorizing additional flexibility in limited circumstances where the ten percent minor deviation threshold could be exceeded. The particular mechanism could be a new discretionary approval (but not the existing SUP process, which is specifically designed to focus on the appropriateness of particular uses). The statutes specifically acknowledge that some requests for deviations will be greater than 10 (or even 30) percent. The Sparks Charter also grants wide authority, by granting the Council the power to “Zone and plan the City, including the regulation of subdivision of land, as prescribed by chapter 278 of NRS.” (Charter 2.090.5).

Such requests for major deviations must require a public hearing. They could be heard by a hearings examiner, the full planning commission, or the council. They also would not rise to the full level of a variance, in that they would not require a showing of hardship or other typical variance criteria. The statute refers to “other special exceptions,” which are undefined (and thus left to definition by the local government) but clearly different from variances. We did not find other examples of such a major deviation tool in our review of other Nevada code examples, but it would appear to be authorized under the statutory provisions. We have discussed this issue with the city attorney, who expressed support, so long as the important constraints above are observed.

Advantages:

- A major deviation could encourage development by furthering the perception that city is open to considering creative and “outside the box proposals.”

Disadvantages:

- A major deviation process would require the drafting of a new procedure in the code.
- Focusing attention on major deviations might encourage applicants to try for that approval, rather than spending their time and resources on finding creative solutions that comply with code standards as written.
- As with the minor deviation and AEC tools, a major deviation process would require close monitoring to ensure it does not undermine the integrity of the code.

Recommendation: Consider Providing Greater Authority to Approve Unlisted Uses

We understand from city staff that there has been discussion regarding whether to modify the code to provide greater flexibility to consider proposed uses that are not specifically listed in the current code. We understand one proposal under discussion is to convert the current lists of SUPs into by-right uses (with use-specific standards), and then allow an applicant to propose any unlisted use in any district through an SUP process. The theory presumably is that such a policy would provide maximum flexibility to consider unlisted uses and thus encourage development. Clarion recommends against adoption of this approach, primarily for the uncertainty and lack of predictability it would create for all parties, as noted below.

Advantages:

- Allowing unlisted uses to be approved through an SUP process would provide maximum flexibility for the city to consider any application brought to its attention, regardless of whether the use is contemplated in the current plans or code.

Disadvantages:

- Landowners who have relied on the current lineup of zoning districts to protect their property values (i.e., to protect them from incompatible uses) would all of a sudden face great uncertainty about what might be built on adjacent or surrounding land.
- Allowing unlisted uses to be approved through an SUP process could significantly undermine the integrity of the existing zoning districts in the code, since the character of each district would be subject to change with every new SUP zoning application.
- Allowing approval of unlisted uses through an SUP process also would undermine the comprehensive plan, since the zone districts would quickly become disconnected from the plan classifications they are intended to implement.
- Staff would have a difficult time making findings as to the appropriateness of a proposed use, given the uncertainty of what might ultimately be approved on surrounding properties.

Recommendation: Reevaluate City Policy for Auto-oriented Uses Along Corridors

As part of the larger evaluation of the appropriateness of certain uses in various districts (see the discussion later in this report), the city should focus particular attention on auto-oriented uses along major corridors, such as Victorian Avenue. We understand that past and current policy has been to phase such uses out over an extended period (30 years or so). The intent was to transition the

corridors over the long term to more pedestrian-oriented spaces. Current uses are grandfathered in. We heard that some council members and city officials would like to revisit that policy, especially regarding existing buildings that were originally built for auto-oriented uses, and where it may be costly to redevelop such sites to meet new standards.

STREAMLINING CODE PROCEDURES TO IMPROVE EFFICIENCY

Beyond introducing new tools to allow greater flexibility and creativity, there are other opportunities to streamline the procedures and administration of the code to improve efficiency and reduce potential barriers to development in Sparks. Generally, all the interviewees we spoke with are interested in bolstering economic development by bringing new projects to market as quickly as possible, while still maintaining Sparks' reputation for high development quality.

We heard from interviewees that Sparks' staff and officials work hard to try to develop workable solutions to individual projects and that, relative to other communities in the region, Sparks provides a high level of service and common-sense administration of their code.

On the other hand, we also heard that the overall system for obtaining development approvals in Sparks is viewed by some as cumbersome and uncertain. Some interviewees noted that the Sparks process tends to be more interpretive and that there is not always consistency between staff in project review, resulting in a lack of predictability and extended timelines. Such perceptions can cause potential applicants to hesitate before bringing applications to the city, weighing the time and cost of an expensive and unpredictable process against the benefits of building or doing business in the city. Making changes to the code to make the development review process more efficient and more effective may help shift this balance in the city's favor.

Codes that are efficient and effective generally share three key strategies: 1) the general framework for development permitting is not redundant, 2) the procedures used and the review standards relied-upon by both the applicant and local government result in a reasonable degree of certainty, and 3) the review processes are streamlined to the greatest extent possible without sacrificing relevant local oversight. The following revisions are proposed to pursue these strategies and make the code more procedurally effective.

Short-Term Code Improvements

Recommendation: Allow Administrative Approval of Minor Amendments to Approved Permits

In addition to allowing administrative approval of minor deviations to original project applications original applications, the code should authorize the city's professional staff to approve minor amendments to already-approved projects, rather than having such changes repeat the original approval process and requiring an expensive trip before the original approving body. This does not currently appear to be allowed. For instance, Section 20.13.078 requires all amendments to special use permits to "follow the same procedure as for a new application." In contrast, many other jurisdictions would distinguish between major and minor amendments to approved applications, with the latter subject to administrative approval.

Codes typically provide guidance as to what is a major versus a minor amendment. This is sample language from another jurisdiction:

SAMPLE LANGUAGE: AMENDMENTS TO PERMITS OR OTHER FORMS OF APPROVAL

- A. Minor Amendments.** Unless otherwise specified in this Code, minor amendments to any permit or other form of approval issued by the Director or the Planning Commission under this Article may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such minor amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this Code, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this Code by reason of such amendments). Minor amendments shall consist of any of the following:
1. Any change to any permit or other form of approval that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original application from administrative review had it been requested at that time; and provided that the minor amendment does not result in an increase of more than ten percent in the amount of square footage of a land use or structure and does not result in a change in the types of uses in the project.
 2. Any change to any permit or other form of approval that was originally subject to final review by and was approved by the Planning Commission, provided that:
 - a. The minor amendment does not result in an increase in the approved number of dwelling units;
 - b. The minor amendment does not result in an increase in the amount of square footage of a non-residential land use or structure;
 - c. The minor amendment does not result in a change in the housing mix or use mix ratio; and
 - d. The minor amendment does not result in a change in the character of the development.
 3. In either 1. or 2. above, the Director may refer the amendment to the Planning Commission.
- B. Major Amendments.** Amendments to any permit or other form of approval that are not determined by the Director to be minor amendments shall be deemed major amendments. Major amendments shall be reviewed and processed in the same manner as required for the original application for which the amendment is sought.

Advantage:

- Allowing administrative approval for modest changes to already-approved projects can help extend flexibility to projects where unusual or challenging site conditions are discovered after the initial approval, or where minor changes are sought to respond to changing market conditions.

Disadvantage:

- Administrative approval means less public review for changes to approved projects, so it is important to thoughtfully set the threshold for what types of changes would be acceptable with little or no additional public review.

Recommendation: Clarify Appeals Procedures and Consider Shorter Appeal Timeframes

Several interviewees suggested that the city’s 21-day SUP appeal period is too long and could be shortened, as is done elsewhere in the state. We have several observations on the issue following our review of Title 20 and the statutes.

First, the authority to hear appeals of administration decisions perhaps should be reevaluated. Section 20.07.025 (*Board of Appeals*) establishes a Board of Appeals, but its authority is limited to decisions solely arising out of the Design Standards Manual. “A. In order to hear and decide appeals of orders, decisions or determinations made pursuant to authority contained in the design standards

manual adopted under authority of SMC 20.04.120, there shall be and is hereby created a board of appeals. B. The board of appeals...exercises those powers...with respect to zoning regulations arising from the implementation of the design standards manual.”

Other appeal requests go directly to the City Council, by the terms of the code. Section 20.07.030 provides that “every action or decision of the planning commission or of any person engaged in the administration or enforcement of this title, other than a recommendation or other action or decision routinely reviewed by the city council, may be appealed to the city council.” In other words, the City Council has reserved for itself the right to hear appeals of administrative decisions involving the code generally, but not the Design Manual. In practice, we understand that most appeals go the council, and the Board of Appeals is largely inactive.

While this may reflect longstanding practice in Sparks and ensures direct involvement by Council members in the appeals process, it is not the only approach authorized by state law. It would be possible for Sparks to assign authority for appeals of all administrative decisions (not just those involving the design manual) to the Board of Appeals. That is a common approach in many communities, and can have the advantage of “de-politicizing” the appeals process by removing such decisions, at least initially, from elected officials. Greater certainty and predictability could be achieved if the council was freed up from day-to-day code administration issues, thus allowing them to concentrate on larger projects and policy issues.

The 21-day appeal period applies to appeals of planning commission (20.07.030.C) and HRC (20.95.100) decisions to the council. It does not appear to apply to administrative appeals to the Board of Appeals. As noted, several interviewees felt that the 21-day (SUP) period is too long and extends the period of uncertainty before a project may move forward. Statutes do allow the city council to set a shorter period, as is done in other communities around Nevada. Las Vegas, for instance, requires appeals of planning commission decisions on Special Use Permits to be filed with their council within 10 days (19.18.060.J). The disadvantage of a shorter appeals process is that affected parties have less time to evaluate the potential impacts of a decision and to determine if the cost and time involved in an appeal would be worthwhile. We have seen both longer and shorter appeal times be embraced in different communities for these competing reasons.

For purposes of this project, and because the longer time can be seen as one barrier to investment in Sparks, we recommend that the city initiate a process to determine if a shorter, expedited appeal period would be acceptable to city officials and residents. While this is listed in the “short-term” code improvements section, the process of evaluating this policy change may perhaps take longer than six months.

Advantages:

- A shorter appeals process provides earlier certainty to an applicant, thus allowing construction to begin more quickly and reducing the time spent in the entitlement process.
- Shortening the appeals process could help to convey a general message to the development community that Sparks is focused on streamlining the development process and moving projects more quickly from concept to execution.

Disadvantage:

- With a shorter appeals process, affected parties have would less time to evaluate the potential impacts of a decision and to determine if the cost and time involved in an appeal would be worthwhile.

Recommendation: Consider Extending Permit Approval Times

We heard requests to amend the Sparks code to allow extensions of time for approved projects that have slowed or stalled because of market conditions during the current recession. Our research shows that communities across the country are granting similar extensions. A common approach is to extend the baseline approval in the code for all applications, and also to allow subsequent approvals on a case-by-case basis, either administratively or by council approval.

For example, Garfield County (the Glenwood Springs area on the western slope of Colorado) recently amended its code to extend approvals for land use change permits from one year to two years, with an additional year permitted subject to administrative approval; and to extend preliminary subdivision plan approvals from one year to two years, with an additional extension permitted by the Board of County Commissioners.

In Sparks, the Special Use Permit expiration period should be examined. The current code (20.13.080) provides that the permit expires after one year if the permitted use has not been established, or construction to accommodate the use begun and diligently pursued. A period of two years should be considered, with an additional one-year extension authorized by the council. Site plan review also should be considered for extension from one year to two years (Section 20.31.090).

Advantage:

- Granting extensions to existing project approvals gives developers more time and flexibility to modify or renew financing and make other adjustments necessary to recalibrate the original project to adjust to a changing market.

Disadvantage:

- Allowing old approvals to stay active simply maintains the “old economy.” Old approvals should be allowed to expire to make room for new applications with projects that reflect post-recession development priorities.

Recommendation: Adjust Information Submission Requirements by Application Type

Over the long term, and as part of a comprehensive code update, the city should conduct a review of the submittal requirements for each application type to ensure that the submissions are tailored to meet the information needed by the city to review the size and scope of application. Big projects should require full applications, but there may be opportunities to streamline the submittal list for smaller projects. The goal should be to ensure that Sparks does not use a one-size-fits-all approach to application submittals, whether they are large or small, which results in unnecessary expense and preparation, especially for applicants with smaller projects. Such an approach is often seen as a barrier to small-scale development and investment in the community.

Additionally, in cases that are not covered by the refined submittal standards, the city should consider amending the code to authorize the director to waive certain submission requirements when they are clearly not applicable to a specific project. This might be especially applicable on amendments or modifications to existing approvals where studies and reports have already been completed or only warrant an update.

For phased or staged projects, such as subdivisions, the city can establish triggers for requiring additional information following the initial project approval and identify what happens to the approval if the additional information does not support further approvals. For example, an applicant might be allowed to postpone a new traffic study for a later phase of a project so the applicant does

not have to estimate those traffic impacts too far in advance, but the city should also retain the authority to impose updated development conditions on that phase of the project based on the future traffic study.

Our team has reviewed the Sparks applications and offers the following recommendations.

- **All Applications**—suggest revising the applications to allow for the submission of electronic PDF files rather than hard copies of all the submittal information. This would cut down on the cost to prepare large application packages and reduce the amount of paper used. This would be an option, rather than a requirement. For example, instead of preparing 27 packets for a special use permit, the applicant could submit 25 thumb drives and two hard copies, one being the original. Also, add boxes on all applications that allow applicants to check off whether the application meets the criteria for a project of regional significance.
- **Rezoning Application and Master Plan Amendment Application**—the application calls for a list of the Sparks Master Plan goals and policies. It would be helpful if the current Sparks Master Plan, rather than the draft Master Plan, was available on the City website.
- **Special Use Permit and Site Plan Review Application**—a number of items on the Residential/Non-residential project data sheet are more relevant to new construction, but are required even when no new construction is being requested. For example, an existing residential house may trigger a special use permit for an office use. No new construction is proposed, but the application requires detailed information that is not easily accessible such as the building height or irrigation demand calculations. If there is no new construction proposed with the application, some of these items may be unnecessary. Suggest removing the following items from the checklist when no new construction is proposed.
 - Portion of site within the slope categories
 - Building height
 - Site area breakdown
 - Estimated water demand (can be difficult to quantify if it is an existing building and there are no proposed changes to the landscaping).
 - Estimate sewage to be generated
- **Tentative Map Application**
 - Item #7.j. of the application checklist needs to be updated to reflect the correct number of packets.
 - The application calls for a location of any known hazards such as seismic faults or abandoned mines in the vicinity of the proposed subdivision. Finding accurate seismic fault locations and abandoned mine locations is difficult unless a preliminary geotechnical study has been conducted. Suggest removing this item from the checklist (because the information provided is not going to be that accurate unless it came from a geotechnical study), or requiring a preliminary geotechnical study as part of the tentative map checklist.
- **Variance Application**
 - Item #6.k. of the application checklist needs to be updated to reflect the correct number of packets.

- If the project request is in the Cooperative Planning Area, then each packet shall include the Cooperative Planning Area application. In addition, a minimum of twenty–seven (27) review packets shall be required.

Advantage:

- Updating the applications can help minimize potential barriers to development, or perceptions of barriers, by reducing application costs for smaller projects.

Disadvantages:

- Time and staff resources required to prepare new submission materials.

Mid- and Long-Term Code Improvements

Recommendation: Simplify the Amendment Process for the Planned Development Handbooks

A large part of the city has been master planned and zoned through the use of planned development handbooks, which are authorized under Chapter 20.18: *Planned Development Review*. There are currently 44 separate handbooks. This has resulted in many of the newer parts of the city having “custom” zoning, which is not unusual in many fast-growing cities in the west, where the rate of growth in the boom years often outpaced the ability of local governments to improve their development codes. While the Sparks PD handbooks typically apply to larger multi-lot areas, sometimes they have been applied to individual sites (e.g., Sparks Crossing shopping center).

With such a large number of handbooks, we heard that some are working well and appropriate to guide future development, while others are seen as dated and in need of revision by some property owners. In this latter category, there are perceptions that some handbooks set standards too high and are seen as barriers to development, while others are simply not reflective of current economic conditions.

For purposes of this project, the primary concern with the handbooks is establishing a simpler, more effective amendment process to ensure the handbooks may be updated to respond to changing conditions. The current process for originally approving handbooks requires four meetings: two public hearings at the tentative approval stage (Planning Commission, followed by City Council) and two meetings at the final approval stage (again Planning Commission followed by City Council). There is no clear amendment process written in the text, and changes go back through the original process from scratch. We heard the amendment process typically takes about six months. Also, we understand that staff recognizes a distinction between major and minor amendments, though this distinction is not captured in the text of Title 20. Minor amendments allow concurrent hearings for tentative and final review, shortening the process somewhat. We understand that only a handful of minor amendments have been processed.

The Nevada statutes address the revision of PD ordinances in the following manner:

- By local governments (NRS 278A.410): “No modification, removal or release of the provisions of the plan...may affect the rights of the residents of the planned unit residential development to maintain and enforce those provisions. No modification, removal or release of the provisions of the plan...is permitted except upon a finding by the city or county, following a public hearing that it: (a) Is consistent with the efficient development and preservation of the entire planned unit development; (b) Does not adversely affect either the

enjoyment of land abutting upon or across a street from the planned unit development or the public interest; and (c) Is not granted solely to confer a private benefit upon any person.

- By residents of a planned unit residential development (NRS 278A.420) provides that may, “to the extent and in the manner expressly authorized by the provisions of the plan, modify, remove or release their rights to enforce the provisions of the plan, but no such action may affect the right of the city or county to enforce the provisions of the plan.”

Thus, the statutes do constrain the amendment process and do establish criteria that must be met, but do not appear to prohibit Sparks from simplifying and/or abbreviating the process set forth in Title 20. The PD tool is intended to provide developers tremendous flexibility—custom zoning in terms of uses and standards. However, once a Final Planned Development Handbook has been approved the law favors predictability. Residents of a Planned Development have a reasonable expectation that the uses and standards will be preserved because they live in a master planned community.

We do not recommend changing the initial, four-hearing approval process established for original handbook approvals at this time. **However, we do recommend the city consider always allowing concurrent review of tentative and final plans for all applications to amend the handbooks, unless there are mitigating circumstances identified by the Planning Director or City Attorney.** There is no recommendation to codify the major versus minor distinction, on the theory that amending a handbook is always a “major act.” The city attorney has been consulted on this recommendation and concurs.

Beyond simplifying how to amend the handbooks, the 44 handbooks themselves are an administrative challenge for city staff to maintain, track, and enforce. Over the longer term the city may be interested in converting some areas covered by the handbooks to straight zoning. Some PD approvals originally may have been necessary to authorize development that today is permissible under the regular code (or would be under future amendments to the code). Rather than having to maintain 44 separate “mini zoning codes” separate from Title 20, it ultimately would be simpler if some of these areas could be rezoned to fall under Title 20. Any particular issues could be handled with use-specific or location-specific standards, rather than having to maintain a whole separate zoning handbook. We should note, however, that this could be a time-consuming and extensive process. It may also be politically charged; the handbooks are often client-driven and were expensive to prepare, and many neighborhoods or applicants may resist eliminating them altogether. We are not aware of any Nevada communities that have successfully changed their PD zoning into traditional zoning as of yet. In other communities, we have occasionally seen this transition occur as part of citywide code updates, when older special area standards become unnecessary following the adoption of new citywide standards that address the same issues.

Advantage:

- Allowing concurrent review of tentative and final plans will allow handbooks to updated more quickly and thus respond to changing market conditions.

Disadvantage:

- Concurrent review of tentative and final plans allows less time for the community to become informed about proposed revisions, and may not allow sufficient time for public input.

Recommendation: Consider Reducing the Amount of Discretionary Review

Sparks relies heavily on discretionary review to negotiate conditions and to minimize land use conflicts. Discretionary review typically involves a public hearing, general standards, and a final decision made by the City Council or Planning Commission, rather than staff. Discretionary review is a powerful tool that is necessary to control difficult land use situations. This can include controversial uses with the potential for major impacts (such as a casino) that the city wants the ability to consider individually. Discretionary review ensures that these types of uses are not permitted outright, but instead receive careful scrutiny at a public hearing. Discretionary review also means, however, that an applicant has less certainty of the outcome in a particular project, and a lack of uncertainty can be a prime barrier to investment in any development project.

An advantage of discretionary review is that it provides the city the ability to craft conditions that relate to the specific project and neighborhood. The review process, though, for more straightforward projects can be more time-consuming, expensive, and unpredictable for applicants, decision makers, and staff. Additionally, some applicants will view the process as a waiting game until they are in front of the final decision-maker. Project issues that could be ironed-out early in the application review process will be held until the City Council weighs-in. Projects may be “designed at the podium” during the public hearing – a problem we heard about from at least one property-owner representative. Project conditions that should be studied and engineered are often negotiated at the public hearing rather than set out in advance of the application.

The city’s current reliance on discretionary review is quite extensive. Major applications that are submitted either directly for discretionary review or may end-up subject to discretionary review include Special Use Permits (Planning Commission or City Council), Rezoning (City Council), Variances (Planning Commission), and Planned Development Review (Planning Commission and City Council).

We heard from a number of interviewees that Sparks should consider reducing the level of discretionary review where possible to reduce uncertainty on the part of applicants in the approval process. City officials already have embraced this approach, and recently reduced the number of uses that require Special Use Permits, changing them to administrative approvals.

We recommend ongoing consideration of the issue as part of the future comprehensive code update. Specifically, we recommend that the city consider two actions.

- First, there may be additional uses that can be approved at the administrative level, based on objective standards in the code. We raised the question repeatedly in interviews but no one had immediate suggestions what these uses might be. As part of the comprehensive code update, we recommend establishing a working group that can go through the use lists with staff and recommend those decisions that could be shifted from the City Council or Planning Commission to an administrative process, subject to clear, objective standards.
- Second, we recommend establishing appeal to the Council/call-up to the Council as a specific process. An example of a call-up provision from the Henderson code follows: “City Council Call-Up of Development Applications: Whenever the procedures of this chapter give the Planning Commission decision-making or appeal authority on a development application or permit request, any member of the City Council shall be authorized to “call-up” the application for final action at the City Council. In order to call-up an application, a City Council member must notify the Community Development Director within nine days of the date that the City Clerk received written notice of the Planning Commission’s final action. In the event of City Council call-up, public notice shall be provided in accordance with the same

procedures that applied to the Planning Commission’s original action. In the event of call-up, the City shall be responsible for all costs associated with the re-notification.”

Advantage:

- Replacing discretionary review with administrative review subject to clear standards provides applicants with greater certainty, since they can prepare plans that meet a detailed, objective code, rather than entering into a negotiated process that may be unpredictable.

Disadvantage:

- Even with clear standards in the code, there may be intense political pressure on staff to approve projects that may not be ideal. (The call-up provision is useful to address this, however.)

OTHER SUBSTANTIVE CODE IMPROVEMENTS

Mid- and Longer-Term Code Improvements

Recommendation: Complete Updates to the Sign Regulations

Generally, the sign industry representatives we spoke with were pleased with the Sparks regulations, especially relative to those of surrounding jurisdictions. We heard just a handful of possible issues to address:

- Consider more over-the-counter permits for smaller signs (e.g., 4X4). Staff used to have the authority to process those, but we understand that authority was removed in prior code revisions.
- There were concerns that current sign standards are not being enforced (such as the restriction on changing electronic message sign matrix unit, two to 3 minutes, and the amount of allowable opacity).
- Need more flexibility on signage standards for multi-tenant properties, especially where later tenants may be limited by actions of existing or previous tenants. (Potentially lessees can be discouraged from signing a lease if their visibility via signage will be overly restricted.)

Currently, revisions to the sign code are underway, with a focus on ensuring that standards are content-neutral and appropriately tailored to various types of situations (versus applying one-size-fits-all rules for all areas).

Advantage:

- An updated sign ordinance will help address new technologies and ensure that the adopted standards are effectively enforced.
- Updated sign regulations can help ensure that new development in Sparks is attractive and contributes to property values and the overall quality of life in the community.

Disadvantage:

- Updates to sign ordinances can be politically contentious and time-consuming, and thus can take staff time away from other important projects.

Recommendation: Review Landscaping Standards

We heard from one interviewee that the landscaping ordinance should be reviewed regarding the amount and types of plant material required. The amounts were said to be more than is typically required in other surrounding jurisdictions, and thus could impose excess development costs and be an impediment to investment in Sparks. Our review of the Sparks requirements shows that they are generally similar to Reno's requirements, with a few minor exceptions. For example, the Sparks landscaping requirement is 20 percent for residential districts and 25 percent for office. The Reno requirements also are 20 percent for residential districts, but only 20 percent in the professional office district. Both communities have a 15-percent requirement for general commercial districts. Based on our experience with other codes across the country, local requirements are somewhat higher than is typically found for commercial or commercial districts, which are often as low as ten percent; however, we believe this is a positive distinction that sets Sparks apart from other communities in a positive way.

While it would be possible to reduce these numbers somewhat to reduce development costs, this decision could have a potentially significant negative impact on community character over time. We would recommend a more thorough review of the regulations and a more in depth discussion with policy makers before proceeding.

Advantages:

- Reduced landscaping standards would decrease development costs.

Disadvantages:

- Could have a potentially significant negative impact on community character over time.