

ALTERNATIVES ANALYSIS AND RECOMMENDATIONS MEMO

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Executive Summary

This memo provides an in-depth analysis and comparison of three alternative approaches (Alternatives) to address the issues identified in the City of Fargo Land Development Code (LDC) Diagnostic Report (June 2020). To simplify the comparison between the three, each Alternative consists of the same eight components, or “elements”. These elements determine the characteristics of the Alternative, including the type of tools used, which sections of the LDC are modified, and additional factors related to outreach and education. (see Section 2 and the side bar). Each element is evaluated utilizing the same eight metrics (see Section 3 and the side bar), each with a clearly defined score of “low”, “medium”, or “high”. This qualitative scoring system provides a basis for comparing the Alternatives as well as understanding their pros and cons. The pairing of the Elements and Metrics provide an objective look at the effectiveness of each alternative in terms of addressing the issues in the Diagnostic Report and the dynamics associated with implementing the Alternatives.

The Alternatives, described in detail in Section 4, represent three feasible options to modify the LDC. Each Alternative is cumulative, building on the recommended improvements in the previous.

- Alternative #1, Intermediate Fixes, focuses on strategic revisions and updates to processes, zone standards, graphics, and land uses that can be implemented with no additional planning needed to implement.
- Alternative #2, Core and Corridors, builds on work in the Comprehensive Plan and the Core Neighborhood Plan (in progress) to develop new regulations for downtown, core neighborhoods, and key commercial corridors. Introducing new form-based standards in these selected areas will help to create more predictability for residents and applicants.
- Alternative #3, Comprehensive Overhaul, involves a more substantial update and reorganization of the existing LDC. Form-based regulations may be introduced elsewhere in the City in additional locations targeted for walkable mixed-use development, and subdivision regulations would be updated. This Alternative would coincide with a planning effort to develop a citywide future land use map.

Based on the qualitative comparison across Alternatives, Alternative #2 – Core and Corridors is the recommended Alternative. The Core and Corridors Alternative addresses many of the priority issues identified in the Diagnostic Report, particularly the need for compatibility and predictability in built results and processes, quality and diversity of multi-family residential development, and fostering walkability in commercial areas. This Alternative carries forward processes and standards that are working well, incorporates modern code best-practices, and builds upon the in-progress Core Neighborhoods Plan.

ELEMENTS

1. Development Standards
2. Code Format and Organization
3. Development Review
4. Degree of Change
5. Sections Revised
6. Staff Resources
7. Planning Effort
8. Education

METRICS

1. Estimated Cost
2. Administrative Burden
3. Timeline to Complete
4. Effectiveness
5. Predictability
6. Simplicity/User-Friendliness
7. Education Needed
8. Planning Needed

1. Introduction

In 2019, the City of Fargo hired the Lisa Wise Consulting, Inc. (LWC) Consulting Team (including SRF Consulting) to review and assess the City's Land Development Code (LDC) and related ordinances, document any deficiencies or opportunities for improvement, and develop a preferred alternative to remedy any noted deficiencies. The project began with a public workshop and interviews with City staff, the Planning Commission, and various stakeholders in November 2019 which provided on-the-ground and user-based information regarding what is working or not working within the LDC. This information was supplemented by the Consulting Team's professional analysis of the LDC and summarized in the Land Development Code Diagnostic Report. The Report, released in June 2020, was presented to the Planning Commission on August 4, 2020. Public comments were received through August 11, 2020.

This Alternatives and Recommendation Memo is the final phase of the project. This Memo provides an overview of three specific and distinct options to address the issues identified in the Diagnostic Report and concludes with a recommendation. This Memo will be presented for discussion and consideration at a joint meeting of the Planning Commission and City Commission on November 30, 2020. Following this meeting, the City Commission will direct City staff to develop a Preferred Alternative and associated Work Plan for implementation. This Alternative and Work Plan will be brought back to the Planning Commission and City Commission in early 2021.

2. Elements of Alternatives

This Section provides an overview of the eight Elements that were used in the creation of each Alternative. A description of each Element, and the variables within that Element, are provided below. The Elements are:

1. Development Standards
2. Code Format and Organization
3. Development Review
4. Degree of Change
5. Sections Revised
6. Staff Resources
7. Planning Effort
8. Education

2.1 Development Standards

Development standards, such as height, setback, and parking requirements are the typical tools in a zoning code used to regulate development within the City. This Element refers to the dominant type of tool utilized in the LDC. This can include a combination of use-based (Euclidean), form-based, and performance-based regulations. Zoning tools affect the predictability and flexibility of development. Figure 1 outlines the pros and cons of the development standard types.

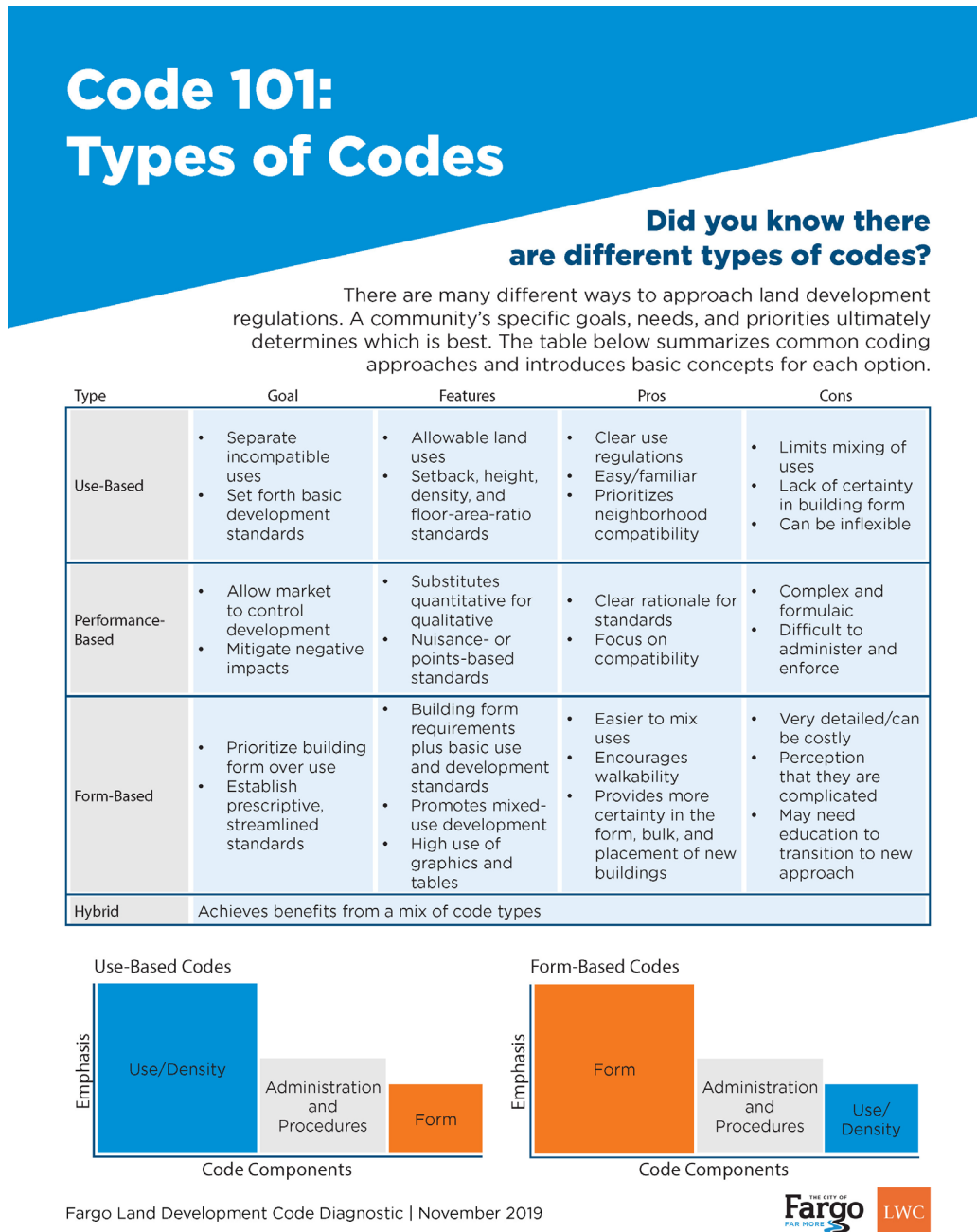


Figure 1: Development Standard Overview

2.2 Code Format and Organization

This element considers the way the LDC is formatted and structured in the document overall and as well as on a page. Options range from no change from the existing structure to a complete reformat and reorganization of the LDC. Page layouts, restructuring, and design impact the simplicity and user-friendliness of a Code, as well as the timeline to complete the given Alternative depending on the degree of change. Figure 2 shows a sample of a code page layout with more graphics.



Figure 2: Pages from a Form-Based Code, incorporating more graphics and tables

2.3 Development Review

This element considers the process in which new projects are reviewed and approved. This includes by-right approvals, discretionary review, or customized or negotiated review, such as through PUDs and COs. This also includes consideration of the flexibility and ease of the development review process and relates to administrative costs and overall predictability of the regulations.

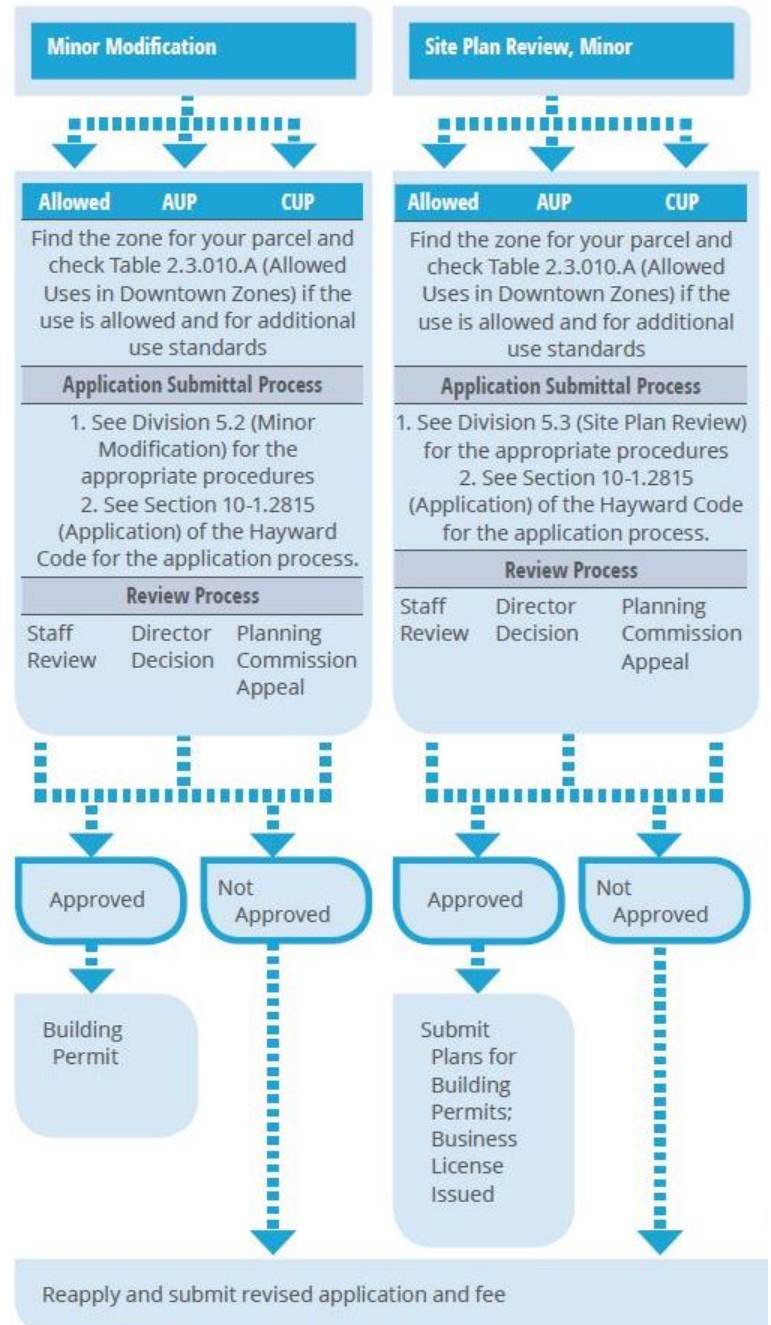
2.4 Staff Resources Needed

This element includes the amount of City staff time devoted to the Alternative, in terms of implementing the changes as well as advising on technical components. It includes reliance on existing staff resources and the need to add or supplement existing resources with new staff or outside expertise such as a consultant) which impacts cost, administrative costs, and simplicity of the update process.

2.5 Degree of LDC Change

The degree of LDC change is the amount of change from the existing structure, regulatory mechanisms, and review mechanisms of the existing LDC. Change can be classified as “none”, “minor”, or “major”. This does not necessarily correspond to change in the zoning map, development patterns, or long-term vision for the City. This element relates to ease of use, administrative costs, and simplicity of the update process.

Figure 3: Sample Development Review Flowcharts



2.6 LDC Sections Revised

Related to the degree of change, this element includes an assessment of the estimated number of Articles or Sections that are modified as part of the Alternative. This may include a few, many, or most/all of the LDC which impacts cost, administrative costs, and simplicity of the update.

2.7 Additional Planning Needed

This element includes consideration of the amount of additional planning work needed prior to beginning and/or completing the Alternative. The element considers the possibility of updating the Comprehensive Plan, developing a Citywide Future Land Use Map (FLUM), completing in-progress work (e.g. the Core Neighborhoods Plan) or no additional planning work. This relates to cost, timeline, as well as overall planning needed as part of the Alternative.

2.8 Additional Education Needed

This element considers the amount of education on planning and zoning concepts and tools for City staff, the Planning Commission, and the City Commission. Depending on the chosen Alternative, new concepts will be introduced that will have to be implemented and administered at each approval level. Intimate knowledge of each new concept will be crucial to the success of the chosen alternative.

Figure 5: Fargo Land Development Code Articles

Article	Title
20-01	General Provisions
20-02	Base Zoning Districts
20-03	Overlay and Special Purpose Districts
20-04	Use Regulations
20-05	Dimensional Standards
20-06	Subdivision Design and Improvements
20-07	General Development Standards
20-08	Review and Decision-Making Bodies
20-09	Development Review Procedures
20-10	Nonconformities
20-11	Violations and Enforcement
20-12	Definitions
20-13	Fargo Sign Code

Examples of Staff Education

- Webinars and Online Courses (e.g. Planetizen and the Form-Based Code Institute)
- Conference attendance (virtual or in-person)
- Outside Consultant-led Training Sessions

Examples of Commission and Public Education

- Open House(s) at City Hall
- Staff or Consultant Led Study Sessions
- Presentations at neighborhood /community meetings and/or at community events (ex. Farmers Market)

Case Study - Las Vegas, NV Downtown Form-Based Code

As part of the Form-Based Code (FBC) project to implement the Downtown Plan, LWC hosted a series of educational sessions and workshops on FBC with staff, Planning Commission, City Council, and the public. LWC coordinated this effort in conjunction with the Form-Based Code Institute (FBCI) who provides training courses to explain FBC fundamentals and advantages, as well as best practices for preparing FBC standards and administering FBCs in development projects. To further community education and better understand unique neighborhood characteristics, LWC facilitated several days of stakeholder meetings and an all-day design workshop to collaborate on potential form-based development scenarios.

3. Evaluation Metrics

The “Evaluation Metrics” are the criteria used to compare each Alternative. The metrics are the same for all Alternative elements, allowing City staff and decision makers to understand the pros and cons of each Alternative. Each metric has an associated score of “Low”, “Medium”, and “High” to establish the criteria for ranking the Alternatives across metrics.

A breakdown of the evaluation metrics and scoring system is described below:

Estimated Cost: This is the approximate monetary cost to implement the alternative which can include the cost of staff time and/or outside expertise.

- **Low** – Inexpensive. All or most changes can be implemented utilizing existing staff resources.
- **Medium** – Moderate cost. Most changes can be implemented by City staff with the potential involvement of outside expertise.
- **High** – An expensive process that involves substantial City staff resources and/or outside expertise.

Long-range Administrative Expense: This is the estimated cost of City staff time to administer the LDC following the Alternative, including interpretation of LDC provisions and time spent during the entitlement process.

- **Low** – A low amount of staff time needed, as the LDC is predictable, clear, user-friendly, simple, and utilizes a great degree of by-right approvals.
- **Medium** – A moderate amount of time needed to administer the LDC. A balance of by-right approvals and complex entitlement processes.
- **High** – An extensive amount of time is needed to review projects, answer questions, and support negotiated zoning (e.g. PUDs and Rezones).

Timeline: The timeline is the approximate amount of time it may take to complete the work identified in the alternative. The time it takes to implement an alternative will depend on staff time, the Planning Commission/City Commission approval process, community engagement/education, and possible time for third-party expertise.

- **Low** – Short amount of time to implement, <12 months.
- **Medium** – A moderate amount of time to implement, <24 months.
- **High** – A longer amount of time to implement, 24+ months.

Effectiveness: This metric assesses the effectiveness of the alternative in addressing the issues identified in the Land Development Code Diagnostic Report.

- **Low** – The alternative addresses only a few of the issues identified in the Diagnostic Report.
- **Medium** – The alternative addresses many of the issues identified in the Diagnostic Report.
- **High** – The alternative addresses most, if not all, of the issues identified in the Diagnostic Report.

Predictability: This addresses the expected degree of predictability in the physical type of the development and the process in which that development is approved. Lists of allowed land uses already include a degree of predictability, whereas basic development regulations only address overall building envelope, which is typically much larger than the desired size, scale, and form of new buildings. This metric considers whether or not additional form, or design-based regulations are included in an effort to improve development predictability.

- **Low** - The alternative results in a low level of predictability in the development outcomes and approval process. Development approvals would still be potentially subject to negotiation and/or arbitrary conditions.
- **Medium** - The alternative results in a moderately predictable development outcomes and approval process, with greater degree of predictability in certain geographies. More objective standards would produce a more predictable building and thereby a more predictable process, little to no negotiations or conditions necessary.
- **High** - The alternative results in a highly predictable development outcomes and approval process citywide due to the Code consisting only of objective standards with clear development goals.

Simplicity/User-Friendliness: This metric relates to how simple or easy it will be to use and administer the Land Development Code, following the completion of the alternative. This metric is based on best practices and a common industry understanding of degree of user-friendliness/simplicity based on utilization of techniques (such as more prescriptive zoning district regulations) and processes (e.g. less reliance on negotiation). Individual perception of simplicity and ease of use may vary based on experience and familiarity with land development.

- **Low** - The alternative introduces a minimal amount of new user-friendly provisions and overall simplicity of the LDC.
- **Medium** - The alternative simplifies some of the complex procedures within the LDC and creates a moderately more user-friendly experience for the applicant, community member, and/or City staff person.
- **High** - The alternative results in a much simpler system for City staff to administer as well as an easy to use LDC for applicants and community members.

Education: This is the additional education needed on specific aspects of planning such as (Form-Based Codes, economics, or housing) to help inform decisions regarding implementing alternatives.

- **Low** - Little, if any, new concepts introduced via the alternative.
- **Medium** - Education needed regarding some new planning and zoning concepts in order to implement and administer the alternative.
- **High** - Significant degree of education and outreach regarding many new planning and zoning concepts and a substantial amount of time is needed to understand how they function within the LDC.

Planning: This is the additional land use planning needed to implement certain aspects of an alternative.

- **Low** - No major planning initiatives/studies are needed in to implement the changes within the alternative.
- **Medium** - Some small area plans needed to support development of the alternative.
- **High** - Major planning studies and initiatives needed to implement the major changes to the LDC, including a citywide Future Land Use Map (FLUM) and revisiting of the policies in the Comprehensive Plan, *Go2030*.

4. Alternatives

4.1 Overview

This Section provides an overview of each Alternative with detailed information on each Elements identified in Section 2 and the Metrics based on the scoring criteria established in Section 3. Table 1 compares each Alternative across the eight Elements. Table 2 provides the scoring across all metrics for each Alternative.

Table 1 – Alternatives Overview

Elements	Intermediate Fixes (#1)	Core and Corridors (#2)	Comprehensive Overhaul (#3)
Development Standards	Use-Based Standards	Hybrid (Use & Form-Based) Standards	Hybrid (more Form-Based Standards)
Code Format and Organization	No Change	Minor Change – Integrate new zones and procedures into existing code	Major Change – Reorganize and restructure
Development Review	Continued Negotiated Zoning (PUDs and COs for mixed-use, larger multi-family, and infill projects)	More by-right approval of mixed-use and multi-family in core and corridors	More by-right development in additional parts of the city (outside core and downtown). Discretion still needed as appropriate.
Degree of LDC Change	Minor	Focused changes	Full rewrite
LDC Sections Revised	Few/None	Many new and revised Sections	Full rewrite
Staff Resources Needed	Some – Mostly in-house	Some – Outside expertise needed	Significant effort and coordination with outside experts
Additional Planning Needed	None	Neighborhood Plans (in progress) plus key commercial corridors.	Citywide Future Land Use Map
Additional Education Needed	No	Yes	Yes
Note: Elements which are the same across Alternatives (e.g. legal issues such as Reed V Gilbert) are not listed.			

Table 2 – Alternative Metrics

Metric	Intermediate Fixes (#1)	Core and Corridors (#2)	Comprehensive Overhaul (#3)
Estimated Cost	Low	Medium	High
Long-Range Administrative Expense	Low	Low/Medium	High
Timeline	Medium	Medium/High	High
Effectiveness	Low	Medium	High
Predictability	Low	Medium	High
Simplicity/User-Friendliness	Low/Medium	Medium	Medium/High
Education	None	Medium	High
Planning	None	Low/Medium	High

4.2 Recommendation

Based on the qualitative comparison of the Alternatives, (Staff/Consultant) preliminary recommended alternative is Alternative #2, Core and Corridors. The final recommendation may be adjusted based on City Commission input and incorporated into a preferred alternative. Nevertheless, the Core and Corridors alternative provides the City with the means to address many of the issues identified in the Diagnostic Report in a feasible and cost-effective manner while also building upon existing regulations and procedures that are working well. In addition, this alternative will further implement the goals of *Go2030* related to walkability, encouraging a variety of housing types, and contributing to predictable and well-designed residential, commercial, and mixed-use development. The changes to the LDC are mostly minor, such as modification to procedures to allow flexibility and updates to the DMU and UMU Districts to promote more walkability and predictability. The larger changes include eliminating the use of Conditional Overlays and creating objective design standards for new multi-family developments outside of the downtown (and other areas envisioned to be regulated with new form-based regulations). While this Alternative may require more substantial staff resources and a longer timeline, these are feasible changes that will have a significant impact in providing a clearer land development process for all parties (City staff, applicants, and residents) that further implements the long-term goals of *Go2030*.

4.3 Alternatives

Alternative #1 - Intermediate Fixes

The “Intermediate Fixes” alternative addresses the most straight-forward issues identified in the Land Development Code Diagnostic Report. The alternative includes modification of specific regulations and processes such as parking; Site Plan Review; adding a new Minor Modifications process; adding more/updating graphics; and minor improvements to the DMU/UMU zones (without increasing the geographic distribution of these zones). This alternative will include minimal changes to the overall LDC structure or organization; does not make major improvements to predictability, housing affordability, or subdivisions; and continues to rely on the PUDs and COs processes where needed. Apart from the Site Plan Review process, the Minor Modifications process, and codifying the Parkland Dedication process, the development review process will remain the same. This alternative can most likely be implemented utilizing existing staff resources with minimal (if any) additional new planning or educational efforts.

Addressing LDC Issues

- **General Standards:** Minor improvements to parking, paving, landscaping regulations which are prohibitive and not context- sensitive.
- **Best Practices:** More graphics and diagrams in the LDC, clearer application process, and more flexible development standards.

Intermediate Fixes (#1) Metrics Scores	
Estimated Cost	Low
Long-Range Administrative Expense	Low
Timeline	Medium
Effectiveness	Low
Predictability	Low
Simplicity/User-Friendliness	Low/Medium
Education	None
Planning	None

Intermediate Fixes (#1) Elements	
Development Standards	Use-Based Standards
Code Format and Organization	No Change
Development Review	Continued Negotiated Zoning (PUDs)
Degree of LDC Change	Minor
LDC Sections Revised	Few/None
Staff Resources Needed	Some – Mostly in-house
Additional Planning Needed	None
Additional Education Needed	No

Alternative #2 - Core & Corridors

The “Core & Corridors” alternative would build upon the “Intermediate Fixes” alternative and implement focused regulatory changes to development within the downtown, core neighborhoods, and major commercial corridors. The regulatory changes emphasize more predictable development outcomes and less reliance on negotiated zoning in the downtown and core neighborhoods as well as a revisioning of the commercial corridors to implement the goals of *Go2030* related to walkability. The alternative will utilize a hybrid approach, incorporating new form-based regulations and objective design standards where appropriate, with little change to existing zones in areas not envisioned to change (e.g. newer residential subdivisions).

In addition, this alternative would incorporate more by-right approvals, new and more widespread mixed-use zones, and objective commercial and multifamily residential design standards to reduce the need for discretionary review and PUDs. Conditional Overlays would be eliminated as an option, although existing COs would remain. This alternative would likely include some modification to existing LDC structure and organization to incorporate new zoning districts and improved page layouts. Planning is limited to Core Neighborhood Plan (in progress) and some additional planning/rezoning along commercial corridors (e.g. Veterans Boulevard). Education regarding new zoning tools (e.g. Form-based Code) and planning efforts are needed prior to implementation.

This alternative would best be pursued with additional staff resources (e.g. additional staff or outside support) with specialized expertise. More time and cost prohibitive issues identified in the Diagnostic Report (such as issues with subdivisions and housing affordability) may not be addressed.

Addressing LDC Issues

- **Walkability & Design:** New form-based development regulations for Downtown, Commercial corridors, and core neighborhoods.
- **Best Practices:** Objective development standards support by-right and predictable entitlement. Elimination of Conditional Overlay process.

Core and Corridors (#2) Metric Scores	
Estimated Cost	Medium
Long-Range Administrative Expense	Low/Medium
Timeline	Medium/High
Effectiveness	Medium
Predictability	Medium
Simplicity/User-Friendliness	Medium
Education	Medium
Planning	Low/Medium

Core and Corridors (#2) Elements	
Development Standards	Hybrid (Use & Form-Based) Standards
Code Format and Organization	Minor Change – Integrate new zones and procedures into existing code
Development Review	By-right approval in core and corridors
Degree of LDC Change	Focused changes
LDC Sections Revised	Many new and revised Sections
Staff Resources Needed	Some – Consultant expertise needed
Additional Planning Needed	Neighborhood Plans (in progress) plus key commercial corridors.
Additional Education Needed	Yes

Alternative #3 - Comprehensive Overhaul

The "Comprehensive Overhaul" alternative builds upon Alternatives 1 and 2 by expanding planning and

rezoning efforts to additional areas outside of the downtown, core neighborhoods, and key commercial corridors resulting in a more comprehensive overhaul of the existing LDC's content, structure, and organization. This alternative assumes very little of the existing LDC would be retained and would involve an update to all zones. Additional citywide planning efforts will be needed to support the development of new zones and updates to the City zoning map.

While this alternative includes expansion of form-based standards and by-right approvals, it does not anticipate a citywide form-based code nor eliminate the need for discretionary review of certain projects.

This alternative would also consider more extensive economic analysis of residential development feasibility (e.g. "missing middle housing" typologies) and development of tools for affordability, such as inclusionary housing requirements. Additionally, this alternative incorporates single family residential design standards and substantial revisions to subdivision regulations requiring coordination with other City departments (e.g. Public Works). This alternative would also require a substantial amount of staff resources for education, planning, and coordination with consultant expertise. Most (or all) issues in the Diagnostic Report would be addressed.

Addressing LDC Issues

- **Walkability & Design:** More form-based design standards in residential, commercial, and mixed-use areas that prioritize walkability and predictable building design and form.
- **Best Practices:** Creation of a Future Land Use Map to guide development decisions. Highly predictable entitlement process due to more widespread form-based standards.
- **Housing and Affordability:** Zoning district changes aimed at encouraging "missing middle" housing types. Potential inclusionary housing requirements for new projects
- **Subdivisions:** Updated process addressing easements, streets, utilities, and lot sizes.

Comprehensive Overhaul (#3) Metric Scores	
Estimated Cost	High
Long-Range Administrative Expense	High
Timeline	High
Effectiveness	High
Predictability	High
Simplicity/User-Friendliness	Medium/High
Education	High
Planning	High

Comprehensive Overhaul (#3) Elements	
Development Standards	Hybrid (more Form-Based Standards)
Code Format and Organization	Major Change – Reorganize and restructure
Development Review	By-right development in most of the city. Discretion still needed as appropriate.
Degree of LDC Change	Full rewrite
LDC Sections Revised	Full rewrite
Staff Resources Needed	Significant effort and coordination with outside experts
Additional Planning Needed	Citywide Future Land Use Map
Additional Education Needed	Yes