

DRAFT FORM-BASED CODES BRIEFING PAPER
Opportunities, Case Studies, and Possible Application in Gwinnett County

I. PURPOSE

The purpose of this briefing paper is to provide an overview of form-based codes and how they differ from traditional codes (Gwinnett County’s existing model). This document is intentionally non-technical in nature. Its primary purpose is to outline how form-based codes work and the potential benefits and drawbacks to adopting the regulatory format for zoning in Gwinnett County. The document also addresses key technical and administrative changes necessary to implement a form based code.

II. ISSUE DEFINITION

As Gwinnett County implements its 2030 Unified Plan through preparation of a Unified Development Ordinance, it asked Jacobs to consider the best and most forward-thinking policy tools available for regulating land use and development. As part of that investigation, Gwinnett County leadership has requested that Jacobs review the practice of form-based codes. The objective of this exercise is to determine if and what type of form-based coding is a good fit for the County’s land use objectives, administrative structure, and development environment.

III. DIFFERENCES IN TRADITIONAL AND FORM BASED CODES

A. Traditional Codes

The traditional approach to regulating land use in the U.S. has been to prepare a Comprehensive Plan with policies that are tied to a Future Land Use (FLU) map. The FLU map establishes the appropriate long-range use and function of land. Following the FLU map’s development, a zoning map and zoning ordinance are prepared and enacted with more specific development regulations and procedural requirements. Among many other roles, these items then stipulate the process an applicant would need to follow in order to obtain rezoning approval in accordance with the FLU map.

This conventional, proscriptive “form follows function” is often referred to as Euclidean zoning. It is named for the court case (Euclid v. Ambler) that established the Constitutionality of zoning. Euclidean zoning is based on the belief that in order to protect the health, safety and welfare of the community, it is necessary for a community to enact a zoning map and ordinance. The zoning map and ordinance establishes zones of uniform land use, such as single family neighborhoods of similar homes, and spatially separates them from other uses in other zones that allow incompatible uses (such as industry) due to their noise, smoke and traffic. This practice stems from the public health concern surrounding industrial uses prevalent during the early periods of suburban expansion in the late 19th and early 20th century. Conventional codes place an emphasis on the separation of incompatible land uses, ensuring appropriate uses within each of those districts. This regulatory environment encourages consistency of land use type over consistency in area character.

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B. Form-Based Codes

Form-based codes reverse the adage of “form follows function” to one of “function follows form.” The use of these codes has risen in popularity during a time of decreased suburbanization, retreat of industrial activity and return of population to U.S. cities. Its proponents seek to preserve and/ or recreate the look and function of walkable urban neighborhoods and streets of the pre-war (pre-automobile) era. These codes are based on the notion that dividing land uses into zones unnecessarily segregates neighborhoods and separates residents from needed jobs, services, and daily commerce.

Form-based codes are grounded in the belief that buildings with the same form can have variable uses. They embody the idea that the arrangement and form of an area’s buildings are more important than the separation of different land uses. They also emphasize the harmonious arrangement of a building’s visual aspects, including building heights, density, architectural materials, and parking lot location. Form-based codes stress the relationship of the building to (1) the street and (2) other buildings and also ensure that the setting includes formal public or private open spaces. Form-based codes seek to create a fluid relationship between the buildings and the street to form attractive, interconnected public spaces like outdoor rooms that constitute the “the public realm.”

The Regulating Plan

The core, defining element of form-based codes is the regulating plan. The Form Based Code Institute defines a regulating plan as “A plan or map of the regulated area designating the locations where different building form standards apply, based on clear community intentions regarding the physical character of the area being coded.” The regulating plan is typically the result of an in-depth public involvement process that clarifies the boundaries and unique policy directives of each area being coded. The regulating plan is an intrinsic component of form-based code implementation and is directly referenced in the code text as a part of the zoning law.

C. Hybrid Codes

Some communities who find the intent of form-based codes attractive but who wish to avoid re-calibrating the community’s entire development framework elect to employ hybrid codes. Hybrid codes allow communities to maintain conventional zoning and development regulations while incorporating some form-based code elements to targeted areas of a community. When form-based elements are incorporated into a conventional code, they often take the form of overlay districts or special districts. These “new” districts often apply to specific neighborhoods, older sections of downtowns, or newly created activity centers.

IV. HISTORY OF FORM-BASED CODING

A. The Emergence of Form-Based Coding

Form-based codes originated from increasing criticism over the 20th century that attacked conventional codes as overly restrictive and inflexible. Andres Duany and Elizabeth Plater-Zyberk’s 1982 master-planned community of Seaside, Florida brought form-based codes to the forefront. Since that time, Duany and Plater-Zyberk have remained two of the most influential personalities driving the form-based code movement. By placing greater attention on traditional neighborhood design, proponents argue that form-based codes begin to address growing needs associated with climate change, rural land preservation, and rising oil prices. Elements of traditional neighborhood design include integrated land uses centered upon a downtown or neighborhood and a grid system with pedestrian-orientation and short, walkable blocks. As such, traditional design encourages development in limited areas, preserves rural land, and leads to fewer miles traveled, reducing the number and length of inter-community trips.

**New Urbanist Critique of
Conventional Zoning**

Form-based codes developed out of the new urbanist movement whose advocates promote incorporating neo-traditional design elements that emphasize walkability, mixed uses, and social interaction to encourage community function and livability. These critics of conventional zoning argue that a focus on separation of uses omits careful attention to the most important and lasting characteristic of a community’s sense of place: its urban form. Conventional zoning critics argue that this emittance in Euclidean zoning has led to suburban sprawl and consumption of eco-logically important natural environments while detracting from a high quality of life.

Over the last several years, variations of form-based codes have been implemented across the country. These variations apply the principles of form-based code to the unique built environment and political context in which they will be applied. **Section VI** of this report provides examples of existing form-based codes and others that are in draft form. One of the most commonly referenced models of form-based code is the SmartCode, discussed below.

B. Proliferation of the SmartCode and Transect-Based Coding

The SmartCode divides a community into different areas or transects (see **Figure 1**), providing design criteria for streets, blocks, open spaces, and buildings based on geographic locations from rural area to urban core. The SmartCode emphasizes the neighborhood as the basic unit of urban form. The Center for Applied Transect Studies (CATS) is a lead advocate of the SmartCode and application of other transect-based codes. CATS along with other partners, including the Form-Based Codes Institute and Congress for New Urbanism, provide many free resources to communities interested in pursuing SmartCode implementation in their community.

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Figure 1: Transect Example from the SmartCode



Source: Center for Transect Studies

V. EVALUATION OF FORM-BASED CODING

A. Advantages of Form-Based Codes

Form-based codes are based on the notion that the form of the built environment matters most. As such, form-based codes are commended for leading to predictable and desirable development patterns that promote high quality of life consistent with the surrounding environment.

Principle advantages of form-based codes include the following:

- *They are prescriptive, rather than proscriptive.* Form-based codes lay out what the community wants to see, rather than restricting the land use. As such, form-based codes produce a more predictable development outcome than a conventional code.
- *The transect-based code promotes the development of a balanced community.* As demonstrated in **Figure 1**, a transect-based code provides levels of development zones that mimic the natural environment. The simplest zone conserves rural areas while the most complex zone provides a walkable urban core. The result is more balanced community that meets the needs of all community members and has logical rather than abrupt transitions from one area to the next.
- *They ensure that private development contributes to the public realm.* The integration of new developments with the surrounding environment is a top priority of form-based codes. By doing so, they create coherent public spaces such as parks, pedestrian walkways, and an overall sense of place sometimes referred to as the community's "living room."
- *Vehicle miles traveled are reduced.* Form-based codes concentrate development around downtowns and neighborhood centers. Uses are mixed rather than separated – moving jobs, homes, and commercial/retail uses closer together rather than further apart.
- *Readability.* Form-based codes use graphics, diagrams, and photos to explain requirements, which can make them easier for the general public and developers to

read and decipher than a traditional code. Conventional codes are typically text-heavy, with limited diagrams and descriptive images.

- *They codify a community's DNA.* Community members often site their community's historic and neighborhood centers as their community's most defining character area. Form-based codes provide an opportunity to codify this existing character and facilitate its continuation as infill and adjacent development occurs.

B. Disadvantages of Form-Based Coding

Form-based codes are not free from criticism. Gaining local buy-in of form-based codes can create a bottleneck for communities looking to adopt them. Although this can be an issue with any major code overhaul, they bottleneck can be more prominent in communities changing from conventional to form-based codes. They stem from a different school of thought than conventional zoning and break with conventional zoning practices that, in some cases, have been around almost 100 years. This is an issue because old habits die hard; overhauling the foundation of land use laws requires strong political will and community support. Revamping the zoning and development process and the eventual administration of form-based codes requires the training of staff, education of community developers, and the buy-in of elected officials and the public.

Principal disadvantages include the following:

- The real estate community's understanding and acceptance is questionable. The real estate community may be wary to accept new form-based code standards. Absorbing and understanding a new development review process will likely increase their cost of development. The real estate community, accustomed to business as usual, may also find form-based code regulations overly prescriptive and invasive in the individual creativity traditionally afforded private development. As a result, developers may choose to develop property elsewhere to avoid the headaches of a new code.
- *Implementation in suburban, built-out environments is a difficult process that will have limited effect* in areas that are already built-out in a pattern that is not congruent with the prescribed form of pre-automobile small towns and neighborhoods. If different land use and street patterns are already well-established, then achieving the desirable character laid out in form-based codes will likely require replacement or redevelopment of large areas of land because existing uses will linger under grandfathering laws.
- *Consumers' understanding and acceptance is questionable.* Community members, like the real estate community, may find new form-based regulations overly prescriptive and invasive in private development. Because of this, an in-depth public involvement process is necessary before undertaking development of a form-based code. Typically, a series of neighborhood-by-neighborhood charrettes and other public workshops are needed to develop the codes. Even when this occurs, it can be difficult to develop consensus on what the urban form of any particular environment should be. This can be particularly challenging in a polarized political environment.
- *Increased Cost of Administration.* Administration of form-based codes may result in higher costs due to training of staff and the education of development community and elected/appointed officials. In addition, because these codes are more prescriptive, staff

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may require additional time to review development proposals. Although design review is inherent of form-based codes, it is not uncommon for conventional zoning codes to also include design components. Many communities have been successful in addressing new design regulations without adding new staff. In addition to the option of training existing staff, some communities appoint Design Review Boards that include design professionals or retain the services of a local architect as a consultant to the staff, where more design expertise is desired.

- **Legal considerations.** Like any code update or revision, there are legal considerations for implementing form-based codes. White and Jordan¹ point out that since form-based coding is a relatively new phenomenon, there has not been much published directly on litigation. In *Berman v. Parker* (348 U.S. 26; 1954) the Supreme Court established that it is Constitutional for local governments to use zoning to regulate aesthetics. However subsequent case law establishes that every ordinance imposing design-based standards has to demonstrate that it is based on a rational standard grounded in broadly-accepted values of the community and consistent with the existing character of the community. Otherwise design standards could be seen as an arbitrary imposition of the tastes of a few that limits the choice of the majority. The rational basis for the choice of design standards should be documented in the Comprehensive Plan and then summarized in a statement of purpose and intent within the ordinance. A design-based code also has to navigate between the extremes of being so vague that it is subjective and impossible to interpret (“a harmonious design is required”) or too prescriptive and detailed (“The depth of eaves must be 1.5 times the height of the fascia”). All design standards also need to be subject to variance procedures that will provide an avenue of relief for hardships that may occur in specific instances. Finally, as with all new ordinances, the greater the departure from the community’s current practices, the greater will be the incidence of non-conforming uses. Therefore, a community that adopts a new form-based code will need to give careful consideration to its plan for “grandfathering” existing development as well as those development proposals being reviewed at the time of the new code’s adoption.
- **Limited Examples of Best Practices.** Form-based codes are relatively new in their application. As such, limited case studies exist from which to glean lessons learned over the long-term. **Section VI** briefly considers the characteristics of form-based codes in select communities.

VI. FORM-BASED CODE CASE STUDIES

Research indicates that over 300 communities have adopted some form-based codes in some shape or form and several others are in the process of developing them.² Due to the complexities and resources required of overhauling an entire zoning code, communities have taken diverse approaches to incorporating form-based regulations in their codes.

¹ White, Mark S. and Dawn Jourdan, “Neotraditional Development: A Legal Analysis”, in Land Use Law & Zoning Digest, Vol. 49, No.8: August, 1997.

² According to the consulting group PlaceMakers, there were 323 form-based codes either adopted or in development in the U.S. or Canada in July 2010, as reported in “Brave New Codes.”

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1. **Communitywide Form-Based Code.** A handful of dense, major cities including Miami, Florida and Denver, Colorado have completely overhauled their conventional codes replacing them with form-based ones.
2. **Form-Based Code as an Option to Conventional Code (Parallel Code).** Some communities have developed a form-based code as an alternative option to implementing the conventional code. Arlington County Virginia and King County Washington are two such communities demonstrating this approach.
3. **Area Specific Form-Based Codes.** Many communities have chosen to adopt area-specific form-based codes that apply to only limited areas. Locally, the City of Statesboro and Cobb County are in the process of developing such limited form-based codes.

Table 1 lists examples of the aforementioned typologies of form based codes.

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Table 1. Form-Based Code (FBC) Case Studies

Community & Date Implemented	Typology	Characteristics	Best Practices & Lessons Learned
King County, WA <u>Form-Based Code Project</u> <i>Underway 2011</i>	Area specific FBC with possible application countywide	King County encompasses the Seattle area with a population of approximately 1.9 million people. During 2009-2010, King County Washington initiated a feasibility project to study replacing the County's current conventional code with a form based code. The feasibility study is based on recommendations of the County's 2008 Comprehensive Plan and includes a draft code. An area zoning study is being conducted in 3 demonstration areas (1 urban and 2 rural); studies are being used to determine if the form-based code should be applied in these specific areas.	- The County's demonstration based implementation allows gradual buy-in of FBC by the public while permitting conventionally managed development to occur until the community commits to formal adoption in specific areas.
Denton, TX <u>Form-Based Code</u> <i>Being drafted 2011</i>	Area Specific FBC	The City of Denton is located northwest of Dallas and has a population of approximately 120,000 people. The City adopted the Downtown Implementation Plan in 2010. A form-based code is being developed to implement the plan in the downtown area	
Arlington County, VA <u>Columbia Pike Special Revitalization District Form-Based</u> <i>adopted 2003</i>	Area Specific FBC	Regulates land development by "setting careful and clear controls on building form – with broad parameters on building use to shape clear public space (good streets, neighborhoods and parks) with a healthy mix of uses." - regulating plans (maps) govern the standards that apply to each property - building envelope standards - architectural standards - street specifications - streetscape standards - parking requirements - directions for code use imbedded in text	- The code has been modified multiple times to correct issues with the original regulations.
Denver, CO <u>Denver Zoning Code</u> <i>adopted June 2010</i>	Communitywide FBC	Denver is a consolidated city/county with an estimated population of just over 600,000 people and an urban growth boundary that restricts development beyond the core land area. The new Zoning Code regulates land use by identifying several districts in which development occurs. Uses in those districts are held to the same development and design standards. Contexts include the suburban neighborhood, urban edge neighborhood, urban neighborhood, general urban neighborhood, urban center neighborhood, downtown neighborhood, and special context and districts.	- Original drafts of the code were much more prescriptive but drew criticism from area architects, leading to eventual changes to the code. - A 6-month transition period provided for all remapped properties, during which both the Denver Zoning Code and Former Chapter 59 were available to property owners for certain types of applications.

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Table 1. Form-Based Code (FBC) Case Studies

Community & Date Implemented	Typology	Characteristics	Best Practices & Lessons Learned
Statesboro, GA <u>Center-City Form-Based Code</u> <i>being drafted (2011)</i>	Area Specific FBC	Will apply to “urban core” character area identified in the City’s Comprehensive Plan. Will promote comparable development to what’s already in urban core. Use is secondary to physical design.	<ul style="list-style-type: none"> - FBC being incorporated as a part of overall zoning and development regulations update. - The project includes the conceptual development of 1-2 sites in the Urban Core to illustrate how the form—based code will be applied in the downtown vicinity.
Mableton, GA <u>Draft Mableton Smart Code</u> <i>drafted 2010</i>	Area Specific FBC	<p>Mableton is a main-street based, community located in Cobb County. The Smart Code implements the Create Mableton Plan, which envisions the community building on its existing structure:</p> <ul style="list-style-type: none"> - includes 6 transect zones: natural zone, rural zone, suburban, urban transition zone, urban center zone, and urban core zone - includes a transit overlay district - includes several images that depict building disposition and configuration 	<ul style="list-style-type: none"> - Easy to follow
Peoria, IL <u>Heart of Peoria Form Districts</u> <i>Adopted in 2010</i>	Area Specific FBC	<p>The City of Peoria is the oldest community in Illinois with a population of 113,000 and equal distance from Chicago and St. Louis. Peoria developed a set of form based districts to encourage redevelopment and promote desired development in urban core of the community. The form districts are integrated with the rest of the code and include four distinct areas: the Warehouse District, West Main, Sheridan Triangle, and Prospect Road, all within the City’s historic core.</p>	<ul style="list-style-type: none"> - Detailed coding for targeted redevelopment areas that reflect historic areas of community
Covington, GA <u>Zoning Ordinance</u> <i>adopted June 2008</i>	Conventional Code with form based code characteristics	<p>Covington is a small town with an historic downtown core built during the pre-war period. It had a grid to start with and has large parcels of developable land at the periphery where it makes to extend the downtown pattern. The new zoning ordinance encourages mixed-use development and incorporates a civic design element that governs physical form and encourages walkability.</p> <ul style="list-style-type: none"> - 3 mixed use districts are incorporated in the new ordinance (mixed use neighborhood, corridor, & downtown) - civic design section that regulates building design, streetscape dimensions, blocks, sidewalks, and front yards for all districts 	<ul style="list-style-type: none"> - Code borrows best practices from form-based code, but is more conventional in orientation

VII. LESSONS LEARNED

Several options exist for form-based codes. Some form-based codes will fit better in some locations and development environments than others. The following circumstances stipulate the right conditions or “framework” under which form-based code application is likely to be successful.

- A full scale form-based code (replacement of an entire zoning ordinance) requires a very specific development environment characterized by strong neighborhood center(s) structured around one or multiple grid road networks. Typically, a regulating plan can also be logically applied to the entire community. (see Section III.B for an explanation of a regulating plan)
- Form-based codes in a built-out situation require that the application area include a traditional core, marked by a grid system, pedestrian-oriented streets, and other such characteristics. The intent of these codes is to extend the traditional development pattern outward as redevelopment and infill occur.
- Form-based codes may work well for a large-scale greenfield situation – similar to a planned unit development (PUD) – the developer or governmental entity outlines the design characteristics that will drive the development of the area, which is then codified. This allows for incremental development.

By comparison, the land areas of unincorporated Gwinnett County may be too irregular to apply transect-based zones within a meaningful regulating plan. The unincorporated area of Gwinnett County is comprised of neighborhoods, corridors, and employment centers, but excludes the downtowns that form the crux of the New Urbanist transect-based land regulation.

A. Practical Implementation

Considering the unique environment in which a form-based code is to be implemented is paramount to success and can avoid wasted code writing and messy implementation. Many communities may be better suited to pursue a parallel or hybrid code rather than a full-fledged form-based code.

- **The Parallel Code.** The parallel code (both types of codes are in effect simultaneously) is appropriate for communities with large planning staffs and sufficient budget. This would allow the developer of each property to choose to use either the conventional zoning or form-based code. It is a flexible way to allow for a couple of form-based projects and see how they go. Some caveats of a parallel code include the following:
 - Two different codes are simultaneously in effect, which would require staff and officials to be well-versed in both regulating documents.
 - It is likely to lead to inconsistent development patterns that are not compatible at the community level.
- **The Hybrid Alternative.** In many communities, hybrid codes that provide limited, area-specific applications of form-based codes are a practical application of the form-based approach. The hybrid code allows communities to allocate limited energy, resources,

and time to developing and implementing form-based regulations in only those areas where the conditions needed for successful implementation already exists. Such environments may include greenfield development, infill areas, or redevelopment opportunities.

Finally and most importantly, any and all form-based code goals are best developed early on through the preparation of the Comprehensive Plan. These goals should emerge from an in-depth public involvement process that has broad community buy-in for form-based coding. Without the strong support of the Comprehensive Plan, the community may lack sufficient legal backing for changing the existing code to a form-based code.

B. Effective Form-Based Codes

According to the Form Based Code Institute, an effective form-based code should lead to a yes response to each of the questions.

Form Based Code Checklist

Source: Form Based Code Institute

Is the code enforceable?

- Does the code implement a plan that reflects specific community intentions?
- Are the procedures for code administration clearly described?
- Is the form-based code effectively coordinated with other applicable policies and regulations that control development on the same property?

Is the code easy to use?

- Is the overall format and structure of the code readily discernable so that users can easily find what is pertinent to their interest?
- Can users readily understand and execute the physical form intended by the code?
- Are technical terms used in the code defined in a clear and understandable manner?
- Does the code format lend itself to convenient public distribution and use?
- Are the intentions of each regulation clearly described and apparent even to planning staff and citizens who did not participate in its preparation?

Will the code produce functional and vital urbanism?

- Will the code shape the public realm to invite pedestrian use and social interaction?
- Will the code produce walkable, identifiable neighborhoods that provide for daily needs?
- Are parking requirements compatible with pedestrian-scaled urbanism?
- Is the code based on a sufficiently detailed physical plan and/or other clear community vision that directs development and aids implementation?

VIII. FORM-BASED CODE APPLICATION IN GWINNETT COUNTY

As discussed above, zoning and development regulations must consider the context in which they are to be implemented and accepted to be successful. Gwinnett County's current conditions and vision for the future, communicated in the 2030 Unified Plan, are the most important items to consider when determining if and what type of form-based coding is appropriate for the county.

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Select Current Conditions in Gwinnett County

- *Built-out, redevelopment-focused future land use plan* – Unincorporated Gwinnett is mostly built-out in a conventional zoning pattern; the community wishes to preserve rural areas while redeveloping other declining developed areas.
- *Weak economy* – Currently it is challenging anywhere to stimulate development; according to some developers in Georgia, it is particularly difficult to obtain funding for either vertical or horizontal mixed-use projects (a core ingredient of form-based codes). Financing challenges stem from the increased scrutiny financiers and investors are under to evaluate the risk and return of mixed versus single use development projects
- *Conservative development community; small staff for administration* – Major change and the ability to implement it will be difficult. Incremental changes are likely to be most readily accepted by the Gwinnett community.
- *Limited ability to apply transect-based zoning* – Gwinnett County is oddly shaped due to the juxtaposition of many municipal boundaries within it. An urban transect might be conceived as radiating from the downtown core of one of the cities, and then stepping down into the unincorporated area surrounding it. There are few instances of high density urban cores already built within the unincorporated area. As a result, today the great majority of the land in the unincorporated area of Gwinnett County would fall into the T2 and T3 transect as depicted in **Figure 1**. Nonetheless a transect could still be applied around several of the major Activity Centers identified in the Unified Plan where a new, dense urban core has been envisioned but not yet constructed.
- *Limited Staff* – Gwinnett County's currently has limited staff available for development review. There is a question about whether they have sufficient time to address design-intensive review of each forthcoming project. Addressing form-based elements in limited areas would likely provide a more manageable caseload for the current staff.

Gwinnett County's 2030 Unified Plan

The 2030 Unified Plan provides a detailed vision of where the community desires to go. The plan outlines several character areas, which are specific geographic areas with a unique sense of place or that have the potential to develop into a unique environment. Some of the County's mixed-use character areas meet the desirable traits of an environment where form-based coding would be an effective tool for fostering desirable growth. The supporting text for these character areas, provided in the Unified Plan, establishes a basis for developing area-specific design standards for mixed-use development and urban street-frontages. These character areas could serve as a springboard for developing area-specific form-based codes as a part of the Unified Development Ordinance.

Recommendations

With these conditions in mind, it makes sense for Gwinnett County to take a limited rather than aggressive approach to implementing form-based codes. It is recommended that, if there is policy support for pursuing a form-based code, Gwinnett County should consider testing form-based coding or a hybrid code in specific areas where it would be most effective. The Unified Plan's character areas, as discussed above, provide sufficient support and vision to develop

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design guidelines for these areas of the community. The County may also consider conducting additional small area studies to develop an overall plan in areas where very prescriptive design standards are desired. Doing so would ensure that end result is clear and consistent administration is possible on a manageable scale. A prerequisite for success is that the fundamental form of the selected area(s) can be influenced.

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IX. CITATIONS AND REFERENCES FOR MORE INFORMATION

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