

April 10, 2012

Introduction

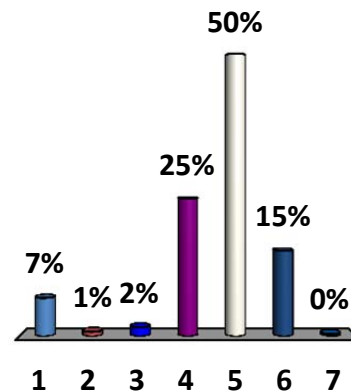
Mayor Byron W. Brown has initiated the first rewrite of Buffalo’s zoning ordinance since 1953. The Buffalo Green Code promises to remake the city’s regulatory framework. The new code will be a Unified Development Ordinance (UDO), which combines zoning, subdivision, and public realm standards into a single regulatory document. The first public forum regarding the UDO was held on Tuesday, April 10, 2012 at the Erie Community College City Campus, where approximately 300 community members convened to learn about and discuss the city’s new approach to the code.

At the forum, the project team presented the key elements of the new code. During the presentation (which is available online at: buffalogreencode.com), the team asked a series of questions to gauge the participants’ level of support and understanding of proposed directions in the UDO. The project team used clicker technology that allowed participants to instantly respond to questions by registering one response from a series of potential replies.

Below are the **questions presented by the project team**, list of potential replies and tabulation of responses shown graphically, comments and questions from community members, followed by *answers provided by the project team*.

It makes good sense to combine zoning, subdivision and public realm controls into one Unified Development Ordinance.

- 1. Strongly disagree
- 2. Disagree somewhat
- 3. Neither agree nor disagree
- 4. Agree somewhat
- 5. Strongly agree
- 6. I don’t understand enough to say
- 7. I don’t know



- What’s the definition of public realm?

All of what is between buildings – streets, sidewalks, parks, other public spaces, everything that connects our urban environment.

- Are there examples of UDOs in other communities? What can we learn from their experience?

Form based codes are typically used in two kinds of communities. Some, like Buffalo, with established development patterns that need to be reinforced. Others are in fast-growing communities where it’s important to coordinate subdivision regulations with zoning.

- Does the public realm include schools, other public buildings, too?

It can. However, in this context, we are primarily concerned with streets, sidewalks, streetscape elements and civic green space.

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- What’s an example of conflict with the subdivision ordinance?

Buffalo’s prevailing subdivision ordinance, especially standards for buildable lots, would prohibit some of our zones from being implemented. The UDO will help us make sure zone requirements and subdivision ordinance are compatible.

- What’s the effect of a UDO on the ability of developers to finance mixed use development?

It’s not necessarily different than conventional zoning where mixed use is allowed. However, the UDO would provide a more clear and predictable development process, which could provide both developers and financiers with more confidence and potentially facilitate the financing of projects that conform to the Code.

- What will be the impact of the UDO on the infrastructure we don’t see – like sewers?

The current code makes a lot of the kind of development we want illegal. The subdivision ordinance makes a lot of our building lots illegal.

- What does the UDO do to deal with our problems of abandoned property?

To the extent that it makes development easier, it spurs investment. But it can’t do anything to increase aggregate demand.

- In the workshops on land use the people of the Peace Bridge neighborhood were very clear that they don’t want an expanded plaza yet the plan allows it. What’s the point of making comment if our comment is ignored?

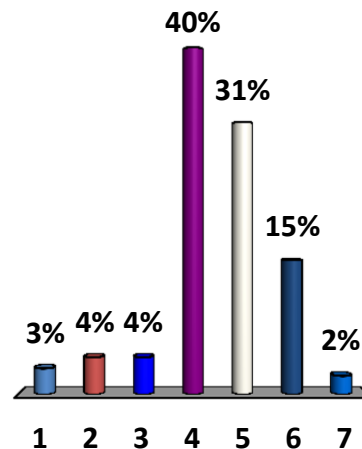
The federal government’s plan to expand the plaza does not require compliance with local land use regulations.

- What does it mean that some things are beyond the control of the UDO? Like what?

The city cannot enforce and its ordinances on property owned by the federal or state government, including the State University of New York (SUNY).

A system of conditional uses can make the ordinance both simpler and more flexible.

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- The public notice requirements on public hearings are too limited geographically. If they only have to send a postcard to people who live within 400 feet, lots of people with an interest in the proposed development will have to hear about it some other way – or won't hear about it at all.

The 400-foot standard is a NYS regulation. In many states, the standard is actually lower.

- We need to think about further ways of making sure people know what's going on. Let's use signage right on the property in question to notify people of a pending action or public hearing.

Signs are required by many communities to provide notification of proposed development projects.

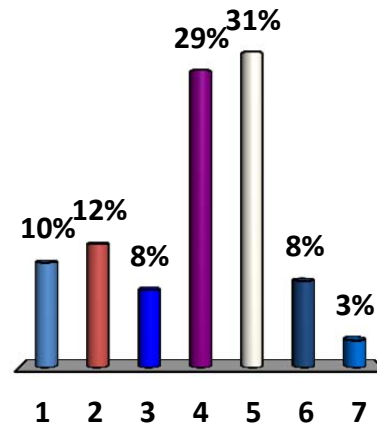
- Providing by-right development is a form of de-regulation that's sold on the basis of an argument that it will promote economic growth. But it's a dangerous turn like the de-regulation of banks or the environment. The process for review on Elmwood Avenue is slow, deliberate, and the public and we get the best results because of it.

The current code doesn't contain many standards that protect the public. So, it's not de-regulation. It's stronger regulation.

- Sometimes it's the use much more than the size or shape of the building that has an impact. For example, what about when someone applies to locate a residence for former sex offenders. Let's make sure we consider the social impacts of development, not just the physical ones.

Because zones are clear, the majority of development can be allowed by-right so special approvals like site plan review need not be required.

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- What will be the approach to “grandfathering” uses in the code? If prevailing uses and practices are contrary to the new code, do they get to stay?

Uses and structures legally established before the new ordinance is in effect are allowed to continue. There are a series of limitations placed on them regarding expansions or alterations. However, if the structure or use is damaged by 50 percent or more of its value, the new code may require it to be replaced with a use allowed in the zone or a structure that conforms to the zone requirements.

- How will a minor variance be defined?

The criteria will be specifically defined in the code.

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But who will decide? Non-conforming uses –like parking pads – won’t be allowed but won’t be removed. Who decides whether they can stay?

When we say “minor variances” we’re not talking about use variances. We should avoid use variances in general. We are mainly talking about lot and structure variances.

- Maybe it’s a language issue, but the terminology of “suburban style” in the N-S zone is confusing to people. The housing built in the Ellicott District over the past 50+ years from the Ellicott Mall and Douglass Towers to more recent single family and town houses is not “suburban.” The names and descriptions of zones should recognize the value of what’s there. Please fix it.
- The plan says to make the Perry neighborhood – site of the ongoing Perry Choice Neighborhood project – green space. We don’t like that. We’re trying to rebuild the neighborhood. Don’t even think about tearing it down. It’s an important neighborhood in the city – a gateway to downtown, the waterfront, the Ellicott District. It needs to be reconnected to the city, not turned into green space. And, it’s not suburban.

The draft land use plan proposes two blocks of the neighborhood as parkland, the rest is proposed for the N-T zone – apartments in a campus setting. The proposed green space has historically been utilized for recreational activities associated with the Commodore Perry housing. The City has been working with the BMHA and its partners on coordinating the Perry Choice redevelopment initiative with the Green Code.

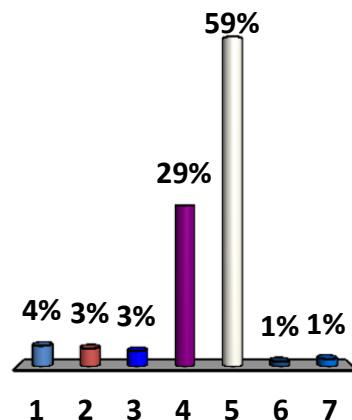
- The zone for the medical campus also takes a major part of the Fruit Belt – streets like Lemon, Maple, Mulberry. Such a designation is not consistent with the neighborhood or the prevailing type of development.

The Fruit Belt – east of Michigan Street – is zoned N-2R in the draft land use plan.

- I agree and, at the same time, disagree with the “by-right” concept. But it depends on how we zone some of the least appealing existing land uses. We don’t want to see more of Consumer Square or office parks. No planner in his right mind would propose an office park. And stores like Target will go away eventually. The zoning should promote that.
- Businesses on William Gaiter Parkway have special access to a non-residential street. Unfortunately, some of the businesses there gain access to their property using adjacent residential streets. The code should make sure that trucks accessing such businesses use the appropriate street intended for commercial activity.

The form-based approach (building type, siting, massing, frontage, parking, etc.) makes sense when applied to Neighborhood Zones.

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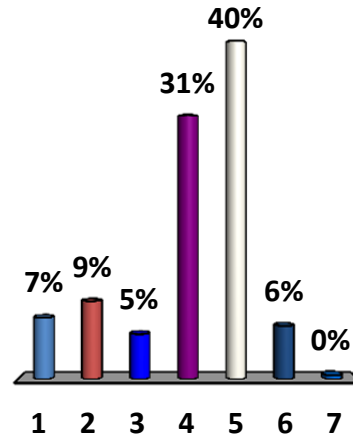


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- Zones should be divided along rear property lines not down street center lines. The idea is that the two facing sides of any street ought to be the same, not in contrast.

In the Neighborhood Zones, corner shops should be allowed as a conditional use.

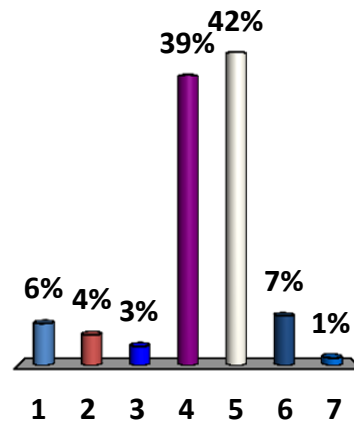
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- We need a clear definition of what a “corner shop” is.
We’re working on it. It’s important to note that a corner shop isn’t always on the corner.
- Keep in mind that corner shops provide important services and amenities and help promote the walkability of urban neighborhoods.

Using a combination of form-based and traditional controls in the District Zones makes sense.

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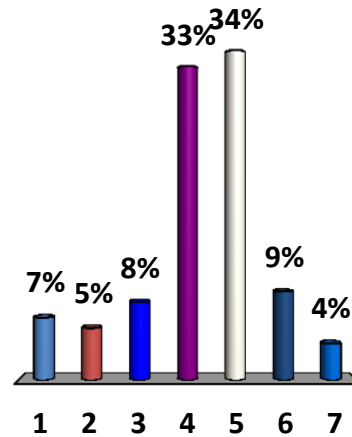


- It’s important to have a clear definition of neighborhoods, districts, and corridors.

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The General Development Plan option for campuses allows those institutions flexible but predictable development.

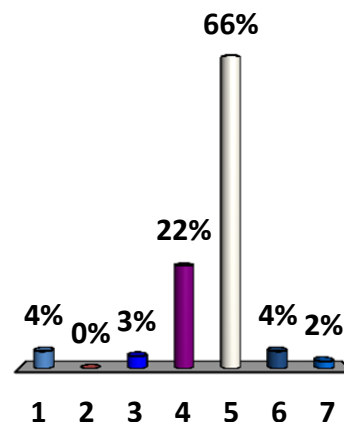
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- We should exclude the Trico building from the Buffalo Niagara Medical Campus.
- We need to include mixed use development in the medical campus. People residing in Allentown and the Fruit Belt should be able to mingle with the people who would heal them. We celebrate Ulrich's but there used to be 20 bars between Michigan and Main.
- It should be a requirement, not an option, for major institutions and district users to submit a plan for development and update it annually.

The Metro Rail Corridor should be based on Transit-Oriented Development (TOD) principles.

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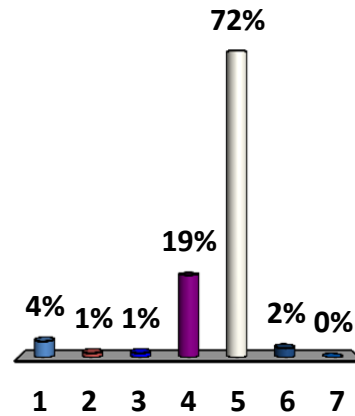
What is TOD – we need a refresher course.

In general, it involves zoning that encourages high-density and mixed used development around transit stations while promoting increased walking, biking and public transportation use.

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It makes sense to apply flexible use categories instead of naming every imaginable use.

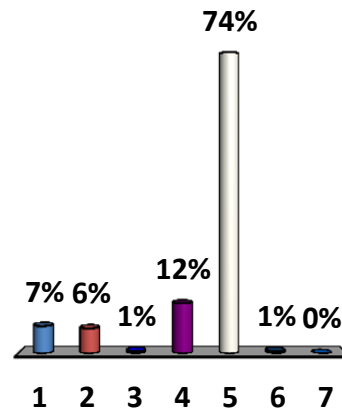
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No comments

Minimum parking requirements should NOT be included in the UDO, allowing the market to decide how much parking is needed.

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- Let's look at parking on side streets. When major uses don't provide enough parking, the overflow often goes to residential streets nearby. Can we consider residential permit parking or other restrictions?

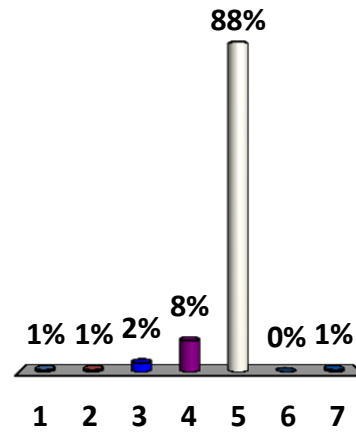
There is a NYS regulation that restricts residential permit parking.

- Should we be thinking about parking maximums?
- We have been fighting the incursion of parking lots, into our residential neighborhood, that are being constructed by a major institution. What in the UDO is going to help us protect our neighborhood from being overrun by surface parking lots?
- Portland is an example of a city that has limited parking and improved transit and alternative transportation modes at the same time to change the way the city works.
- Let's find a way for form-based code to encourage underground parking. It's extremely common in some areas – not even in a basement but just a half a level down.

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Landscape and sustainability standards should be included in the UDO.

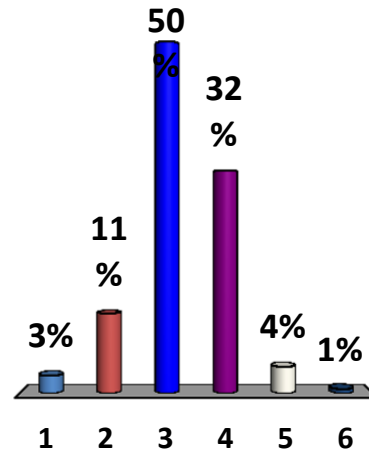
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- Include building energy efficiency in the sustainability standards.
- Greenways ought to support regional bio-diversity – allowing connections for species.

In terms of the overall approach to creating the Unified Development Ordinance we are...

1. Way off base
2. Have some work to do
3. Headed in the right direction
4. Pretty much right on the money
5. I still don't understand enough to say
6. I don't know



- Once accepted, what will be the process for continual improvement? We want to build a foot higher or lower. We want to allow sidewalk tables, etc.