

Code Audits: *What, Why and How*

September 13, 2019



Introductions

Orion Planning + Design

- Bob Barber, FAICP
- Carol Rhea, FAICP

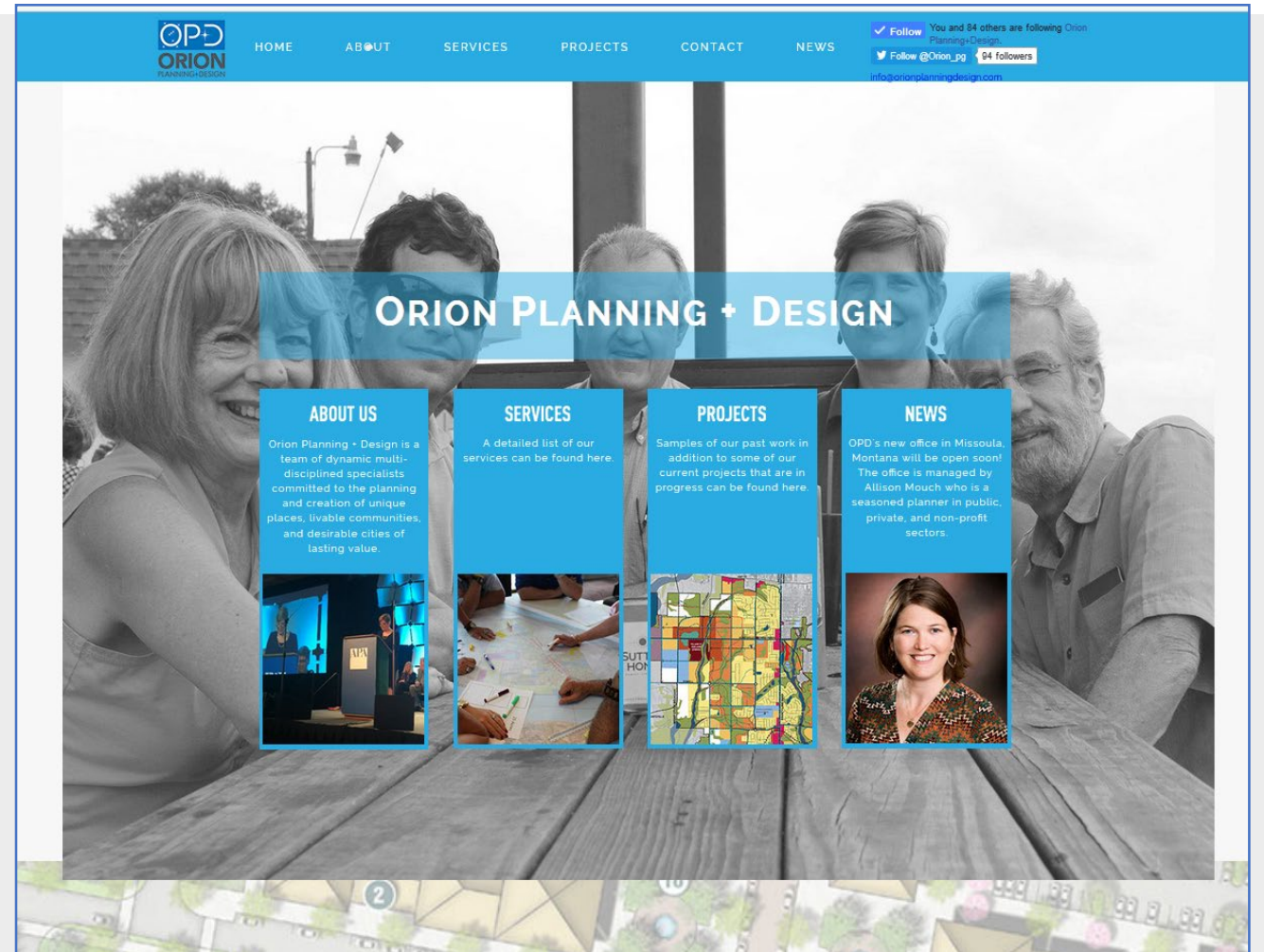
Kathleen Aoki, Administrator

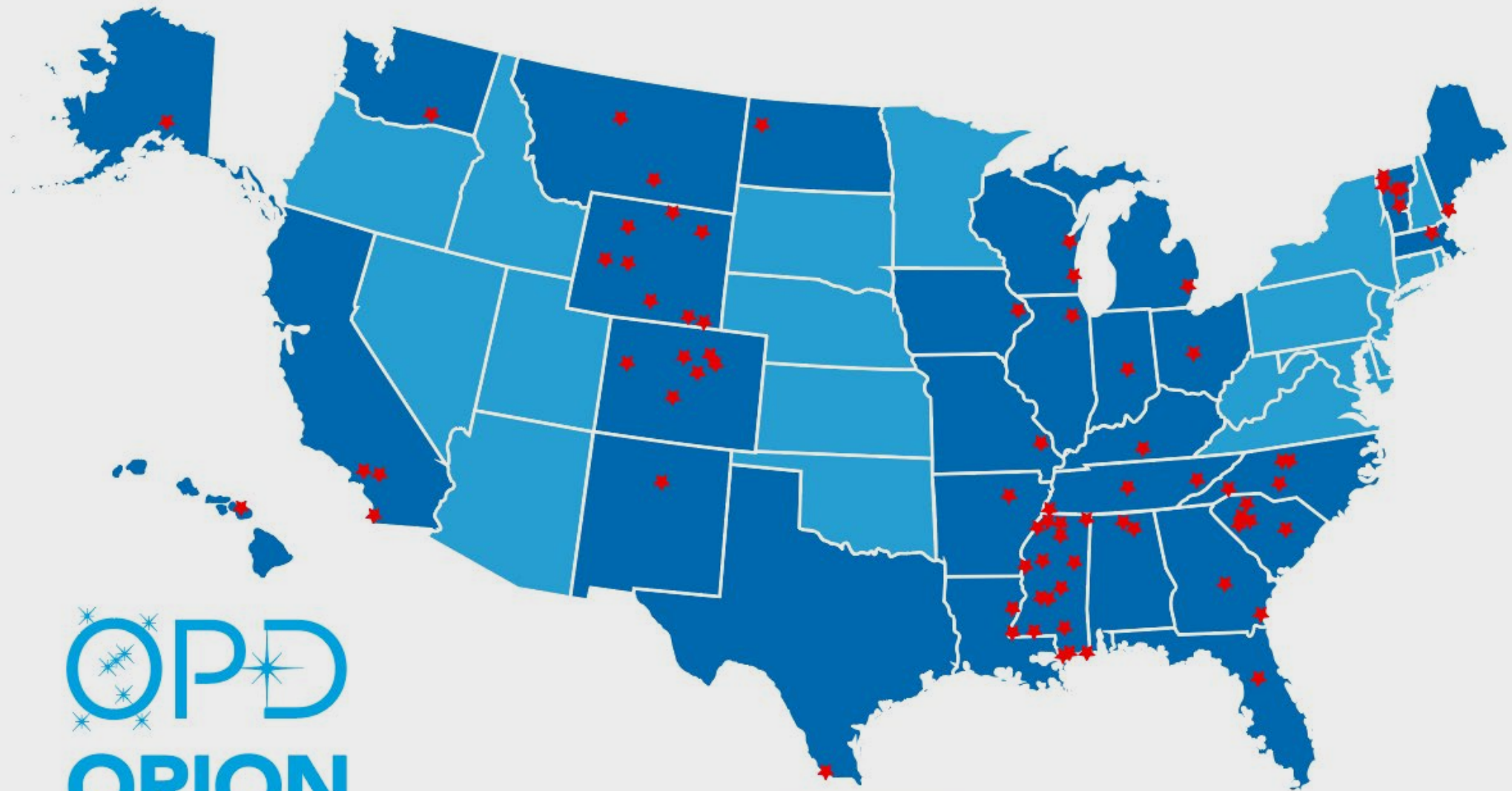
Plan Implementation Division, Maui County
Planning



- Comprehensive Planning
- Development Coding
- Design Standards
- Special Area Planning
- Parks and Greenways
- Environmental
- Private Development Design
- Entitlement
- Community Engagement and Training

Hernando, MS ★ Huntsville, AL ★ Boulder, CO ★ Sheridan, WY ★
St. Simmons Island, GA * Missoula, MT





Project Sites



BRANDON COMPREHENSIVE PLAN,
BRANDON, MS



TIMNATH COMPREHENSIVE PLAN,
TIMNATH, CO



VISION 2037: CITY
COMPREHENSIVE PLAN,
OXFORD, MS



NORTH PLATTE COMPREHENSIVE PLAN,
NORTH PLATTE, NE



CORINTH 2040 COMPREHENSIVE PLAN,
CORINTH, MS
(IN PROGRESS)



PASCAGOULA COMPREHENSIVE PLAN,
PASCAGOULA, MS
(IN PROGRESS)



OUR TOWN BELMONT!
COMPREHENSIVE PLAN,
BELMONT, NC



SHERIDAN LAND USE PLAN,
SHERIDAN, WY



TIMNATH LAND USE CODE,
TIMNATH, CO



LAKE GREENWOOD MASTER PLAN,
GREENWOOD, LAURENS, & NEWBERRY
COUNTIES, SC



W. JACKSON STREET PLAZA AND
REDEVELOPMENT,
DUBLIN, GA



HATTIESBURG LAND
DEVELOPMENT CODE,
HATTIESBURG, MS



HELENA DOWNTOWN CODE,
HELENA, MT



WESTSIDE MASTER PLAN,
MADISON, AL

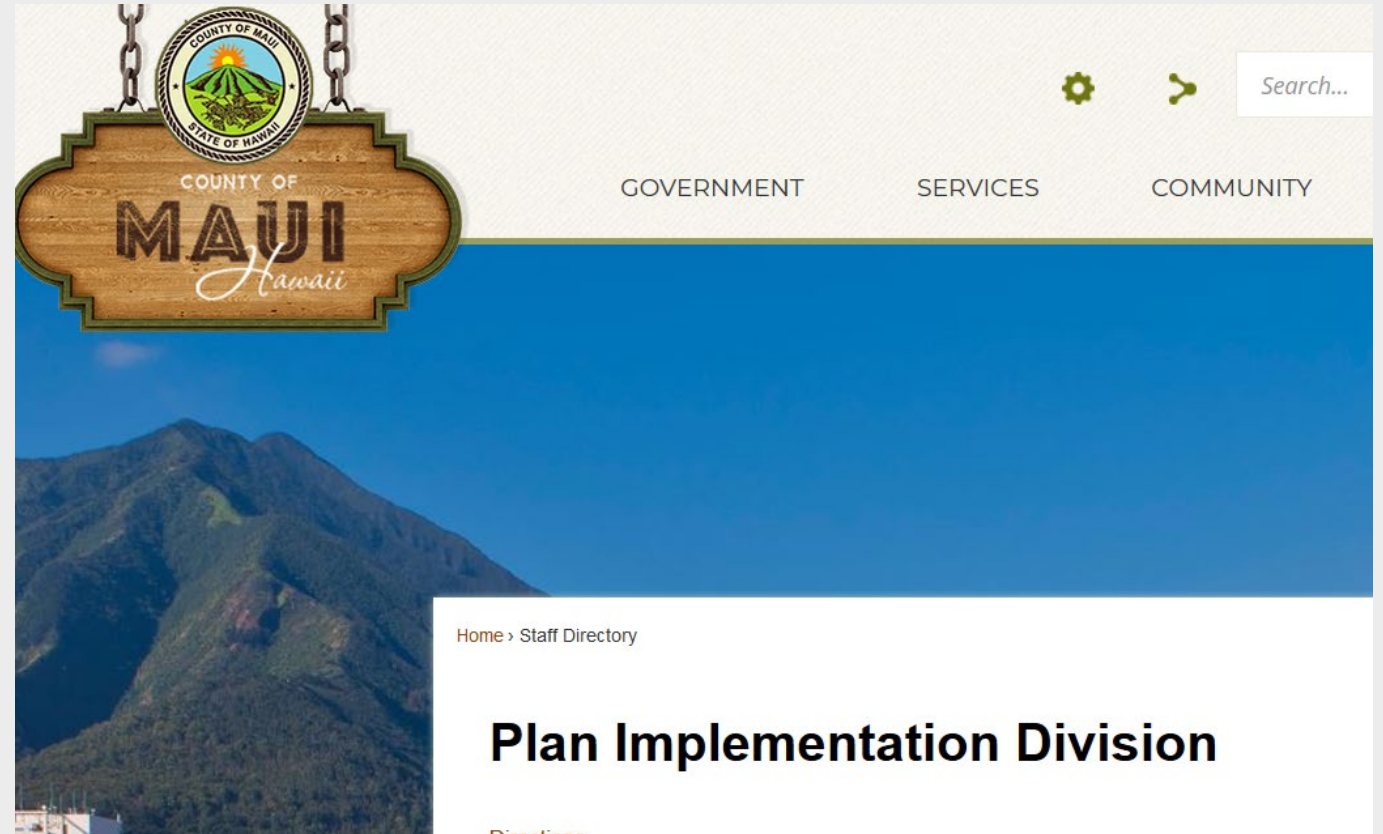


SEVIERVILLE ZONING ORDINANCE,
SEVIERVILLE, TN



DR. MARTIN LUTHER KING, JR.
COMMEMORATIVE PLAZA,
DUBLIN, GA

Kathleen Aoki,
Administrator



Code Audits: What, Why and How

As a planning **methodology**, there is virtually no guidance, research or writing on conducting an outcome audit.

1. **Introducing the Topic**
2. **Audit Role and Function**
3. **The Audit Building Support and Consensus**
4. **Determining if Assistance is Needed**
5. **The Art and Science of the Code Audit**
6. **Using the Results**

What is an
Audit?



The World's Second Oldest Profession



It's On Planner's Minds

"Performance and Impact"

1. *Is there a threshold at which a plan can be judged to be effective and who would do the judging (an objective standard)?*
2. ***Should varying plan processes be evaluated for effectiveness of outcomes? How should effectiveness be measured?***
3. *How do investments and policies that support existing concentrations of economic assets yield better outcomes than those that promote job sprawl? How do we define and measure those outcomes (e.g. who benefits?)?*
4. ***What evidence exists to assess the effectiveness and value of a comprehensive plan?***
5. *How should impact be measured? How can effectiveness be judged?*



APA Foundation

Donate

Ways to Give

Mission

Priority Initiatives

Research

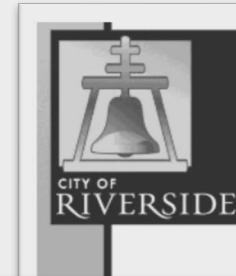
[Home](#) > [APA Foundation](#) > [Foundation Priority Initiatives](#) >

FutureShape

What is FutureShape?

FutureShape will collaboratively produce a research agenda for the planning profession, to be used by funders, researchers and others as a guide to prioritize research activities worldwide. The process will involve several stages of interaction between the research community and other partners, culminating in an in-person convening of

Process Audits Are Common



Assessment of the County's Development Review Process

St. Mary's County, Maryland

By

Zucker Systems
Paul Zucker, President
Brad Remp, Executive Vice President
Mac Birch, Planner and Technology

Audit Report

*Community Development
Department ~ Planning Division*

*Zoning Administration &
Discretionary Permit Process*

April 2013

AU13-05

Outcome Audits Rare

ZONING ORDINANCE REWRITE Phase 1 Assessment



FINAL REPORT

JULY 2015



may have to invest in creating and administering zoning, there is no perfect zoning code or zoning program, and all zoning codes become obsolete over time if not comprehensively reviewed and rewritten on a regular basis. Likewise, there is no model code that every city or county should follow. Each code should be customized to address unique community development needs, resources, and aspirations. A review of best practices indicates that effective codes are characterized by:

1. Use of simple, clear language;
2. Inclusion of tables to help organize information and make it easier to read and compare;
3. Use of quality graphics to convey concepts;
4. Reasonable flexibility in standards;
5. Consistent, predictable processes;
6. Standards that implement plans and policies; and
7. Broad support within the organization evidenced by educated, well trained staff, well trained and committed boards and elected officials, and sufficient resources to effectively administer and enforce adopted standards.

METHODOLOGY

Overview

The methodology for auditing and analyzing Title 19 was detailed in the contracted scope of work and based on our desire to learn as much as possible about Maui's planning and development circumstances and especially Title 19 and its associated plans and policies. The process included a comprehensive review of Title 19 content and administrative processes; a tour of Maui Island (later expanded to include portions of Molokai and Lanai); a summary of the Maui General Plan; and interviews with identified stakeholders. Information gathered through these methods was supplemented by surveying internal and external code users, and by researching literature and other codes regarding issues relevant to Maui.



The Orion team and County staff onsite during Trip 1 to Maui.

Web-based Meetings with Staff

Prior to the audit team's first site visit (Trip 1) and its series of stakeholder meetings, Maui County hosted several web-based meetings between the Orion Planning + Design team and divisions within the Department of Planning. These meetings served several key purposes:

1. They introduced the Orion Planning + Design team to the staff;
2. They provided an overview of how each division uses or impacts Title 19; and
3. They initiated an important dialogue between Orion Planning + Design and staff on what is and is not working in Title 19.

The results of these meetings guided our initial background research and informed the series of questions we had for each stakeholder group, as well as survey respondents.

Planned Mixed-Use District

Existing Land Use Summary

The Planned Mixed Use District (PMUD) as mapped in the 2008 Comprehensive Plan is comprised of five areas containing 1,209 acres of land. Each of these areas is adjacent to Interstate 59 and three of the four areas are largely undeveloped. A brief summary of each area follows.

Vision

The Plan purposes and goals for the PMUD can be summarized as:

1. Promote unified, cohesive development, as opposed to piecemeal;
2. Emphasize pedestrian-oriented development; and
3. Encourage a mix of uses, both within the area as well as within individual buildings.

Existing Zoning Comparison

The mapped PMUDs overlay five different zoning districts: A-1, B-3, B-5, R-1A, and R-4. These districts vary widely in what they currently permit and how they may be developed. Regulations require a variety of setbacks and some design and use standards related to specific uses such as location of dwelling units. There are no provisions restricting parking amount or location and some setbacks could be considered excessive given the intent of the PMUD. More flexibility as well as means to address potential incompatibilities should be added to the regulations.

Districts as a whole may be appropriate or inappropriate as compared to the intent of the PMUD. Some land uses currently allowed by zoning in the NCMUD areas may be incompatible with the intent of the district, and design provisions may need to be altered or added.

Initial Recommendations

In order for the PMUDs as mapped to be cohesive areas that meet the intent of the district, significant rezoning or zoning district reform will have to occur to allow, and especially mandate, the type and intensity of uses, green spaces and building patterns described in the district characteristics. Specific recommendations to consider for the LDC update include:

- Require pedestrian-scale development. Setbacks, lot sizes, lot width, and signage will need to be amended. Review construction of parking areas to meet local wall conditions.

Prohibit off street parking between the off street parking areas be visually and landscape buffers, or low walls. That uses potentially incompatible with to mitigate impacts.

The visual and functional goals of the

Phase One Background Report Page 33



DESIRED PLACE TYPES



Suburban Corridor



Suburban Center



Tourism Entertainment



Tourism Accommodation

CODE DEFICIENCIES

- The Zoning Ordinance promotes single lot development instead of master planned development
- Cumulative uses in districts allow non-complementary development and conflicts between land uses not permitting control over the proper mix of uses
- Accessory structures not controlled
- No requirements or incentives for preservation, or reservation of land identified for future recreation or open space in adopted plans
- Different commercial districts not distinctive enough except for signage requirements
- Master planning of large lot commercial development not required in all commercial districts, or incentivized leading to parcelization and lack of internal coordination
- Current development does not take advantage of open space including rivers
- No preservation of open space
- No treatment of use transitions
- Requirements for loading docks are excessive
- Few shared parking lots
- No corridor access management plans
- No cross-connection requirements to help reduce corridor traffic congestion
- Limited standards regarding improved drainage techniques
- Digital sign standards are unclear leading to some instances of inappropriate signs

City of Sevierville, Tennessee

A Few Pointers from AICPA

1. The audit is to be performed by a persons having adequate technical training and proficiency as an auditor.
2. In all matters relating to the assignment, an independence in mental attitude is to be maintained by the auditor or auditors.
3. Due professional care is to be exercised in the performance of the audit and the preparation of the report.

Audit Role and Function

- *Identify where and how to update development codes*
- *Analyze decision making on variances and special exceptions/special conditions as indicators of needed change*
- *Compare local practice with best practices from across the county to identify gaps*
- *Identify inconsistencies with federal or state laws*
- *Reduce non-conformities*
- *Provide clarity on provisions that need revision*
- *Shows inconsistencies and inefficiencies in process*
- *Assess user friendliness*

Do You Need and Audit?

**My friend keeps saying
"cheer up man it could be
worse, you could be stuck
underground in a hole full
of water."
I know he means well.**

- Blueprint for Updates
- Building Support
- Streamlining Focus

An Audit Can Build Support and Consensus



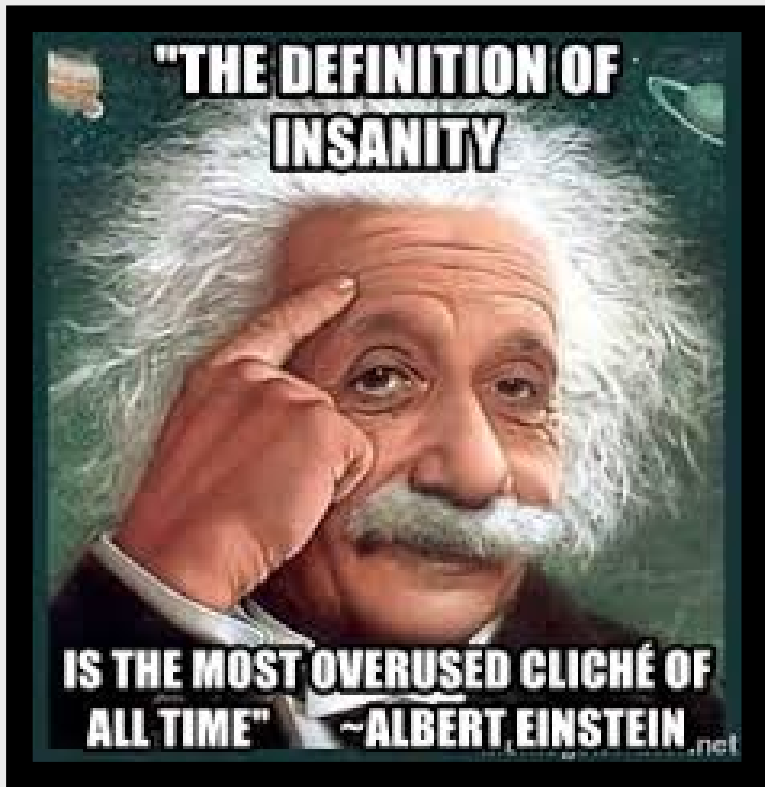
- Lays out the rationale for why changes are needed
- Shows how user friendly and understandable today's codes should be

Succeed in Developing Support

- **Convincing Leaders and Stakeholders**
- **Creating a Compelling Argument**



Securing Funding and Time



- Have a few key supporters from different sectors surrounding you at key meetings, presentations, etc.
- Repeat quote: *The definition of insanity is doing the same thing over and over and expecting different results.*
- The costs of NOT doing an audit.



Determining If You Need Help



- Understanding needs and limitations
- What type of audit is appropriate for the situation?
- Refining the scale and scope
- Consider your capacity

Writing an RFP



- **Be clear!**
- **Allow room for creativity in approach**
- **Don't forget the outreach**
- **Define the budget**
- **Staff capacity and involvement**
- **Need for an attorney**

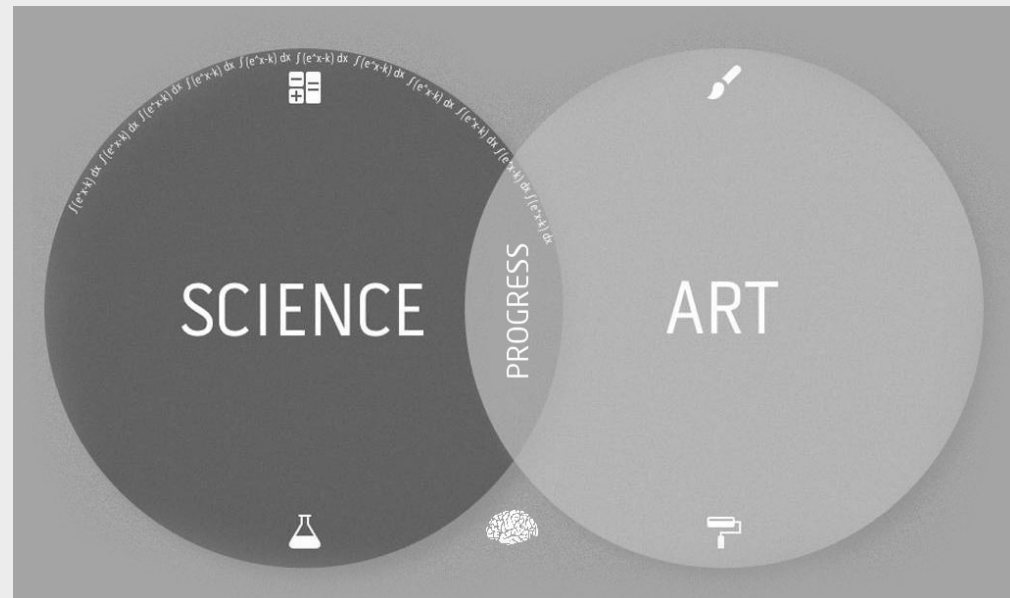
Choosing the Right Partner



- Local knowledge, outside perspective – value in balancing both
- It's not always about 'comparable' experience
- Works as an extension of staff
- Good communication

Understand the Art and Science of Code Auditing

- Schedules and Expectations
- Content and Quality
- Public Participation
- Deliverables and Milestones



Crafting the Report

- **Background**—is this important?
- **Findings**—what are they and how should you report them?
- **Conclusions**—do you need them and how will you use them?
- **Recommendations**—
 - Be concise
 - Be strategic
 - Be honest
 - Be constructive
- **Effective organization**
- **Linking results with next steps**

RECOMMENDATION	DEGREE OF DIFFICULTY	RESOURCES NEEDED
all relevant departments and divisions in the planning process as integral leaders.	●○○○○○	Political and administrative resolve to pursue; good co-writers.
up the community planning process so that they remain relevant guides for decision-makers, landowners, citizens, and developers.	○○○○●	Political and administrative resolve to pursue; good co-writers; support from the community.
Implement Organizational Change		
19 revision process to rebuild trust between the county, citizens, and stakeholders, and between county departments.	○○○○●	A unified resolve of elected and appointed leaders and staff.
Assess the political, organizational, and social capital needed to support transformation.	○○○○●	A unified resolve of elected and appointed leaders and staff.
to work in cross-department, cross-function, cross-platform, and cross-team teams to accomplish plan goals, maximize code effectiveness, and change when it occurs.	○●○○○○	A unified resolve of elected and appointed leaders and staff.
Political Review Committee that meets regularly to discuss: proposals (need to determine these), and between divisions and departments, role in development review or approval should departments such as police, fire and public safety, management, housing and human concerns, and invited on an as-needed basis.	●○○○○○	Support from the executive branch and staff leadership.
(or repurpose an existing position) in Title 19 and other areas of community planning efforts.	○○○○●	Support from the executive branch and Council.

TITLE 19 EXISTING TABLE OF CONTENTS	OPD RECOMMENDATIONS
19.10.060 - Rule making authority.	This section of the code has been used to greatly amend or extend the authorities established under this code. We recommend redefining rule-making so that it is limited to interpreting only adopted code provisions and establishing administrative procedures required to fulfill its intent.
Chapter 19.11 - SERVICE BUSINESS RESIDENTIAL DISTRICT	
19.11.010 - Purpose and intent.	
19.11.020 - Permitted uses.	Merge with a general table of uses by district category and use specific conditions as needed.
19.11.030 - Accessory uses and buildings.	Merge this section with general use specific standards for accessory uses. Note: "Pools, hot-tubs and Jacuzzi spas" along with "other landscape features" should have a blanket allowance in the code for all districts and uses; these can be governed as "incidental structures."
19.11.040 - Special uses.	TVRs are listed here; decide if you will continue dealing with them separately or consolidated with other short-term rentals.
19.11.050 - Development standards.	Merge with a general dimensional standards table by district category.
Chapter 19.12 - APARTMENT DISTRICT	
19.12.010 - Purpose and intent.	
19.12.020 - Permitted uses.	Merge with a general table of uses by district category and use specific conditions as needed.
19.12.030 - Accessory uses and buildings.	Merge with a general table of uses by district category and use specific conditions.
19.12.040 - Reserved.	
19.12.050 - Development standards.	Merge with a general dimensional standards table by district category.

TRIP 1 ISSUES - SUMMARY MATRIX

ISSUES	COUNTY STAFF										TRIP TOURS	EXTERNAL STAKEHOLDERS								
	Real Property Tax	County DOT	DPW & HDOT	Parks & Recreation	Zoning Admin. & Enf.	Long Range Planning	Environmental Mgmt	Water Supply	Current Planning	Plan Implementation		Travel & Tourism	MPO & HEAL	Planners, engineers, etc.	Dev., Builders, Owners	Economic Dev. Groups	Prop. Owners Assoc.	Environmental Groups	Farm Bureau	AG Working Group
PLANNING APPROACH & POLICY																				
1. Underlying code is old and doesn't reflect current goals, priorities, or contemporary development practices					X	X			X	X			X	X	X	X	X	X		X
2. Over reliance on interpretive policy memos					X	X			X	X				X	X					
3. Confusing relationship between code and plans: plans are viewed as regulatory and advisory			X		X	X	X	X	X	X	X			X	X	X	X	X		
4. Extraordinarily large number of plan implementation actions (over 1100) increases management complexity and challenges					X	X			X	X							X			
5. Code language describes uses in ways that are difficult to translate to zoning definitions, tables OR definitions are not updated to reflect plan language; creates conflicts					X	X		X	X	X			X	X	X	X				
6. The number (quantity) of plans and planning layers (county, state, federal) is a real challenge; no "vertical integration" between plans					X	X		X	X	X				X	X	X				
7. Layering of plans and processes creates inconsistency and the challenge of interpretation					X	X			X	X				X	X	X	X	X		
8. Need to allow a project district to be modified concurrent with a community plan					X	X			X	X				X	X					

SUMMARY LIST OF RECOMMENDATIONS

The following matrix contains a summary list of all recommendations for Title 19. Each recommendation is accompanied by three types of information:

- Easy → Difficult
1. The degree of difficulty implementing the recommendation

2. Resources needed to implement the recommendation stated in general terms—due to the number of variables, cost of implementation is not included

3. Priority where 1=urgent, 2=important, 3=desirable, and 4=should be considered, but could be part of a future update

RECOMMENDATION	DEGREE OF DIFFICULTY	RESOURCES NEEDED	PRIORITY
I. Create a Simplified, Hybrid Code			
A. General Code Items			
1. Thoroughly review Title 19 at least once every five years and make comprehensive amendments as needed to address new community issues.	○○●○○	Support of planning commissions, the community, and Council.	3
2. Improve the predictability of Title 19 by: 1) limiting the use of administrative rules and discretion (by boards/planning director), 2) tightening up regulations, terms, and definitions so that they are more objective, and 3) making as many uses as possible permitted with specific conditions.	●○○○○	Political and administrative resolve to pursue.	1
3. Develop a 'User's Guide' for navigating the zoning code.	○○●○○	Political and administrative resolve to pursue.	3
4. Establish an ombudsman, or applicant advocate, to assist developers and the public with the process, connect applicants to appropriate departments and facilitate a faster, smoother permitting/development review/zone change process.	○○●○○	Political and administrative resolve to pursue.	3
5. Create a UDO by merging Title 19 with codes related to subdivision, environmental regulation, mobility and other land development regulations.	○○○●○	Support of planning commissions, the community, and Council.	4

USE TABLES TO BETTER ORGANIZE INFORMATION

Title 19 has many tables containing use, accessory use, and dimensional standards information. While the best written codes include use and dimensional standards tables, they design them to have greater impact than the tables currently in Title 19.

The typical Title 19 table looks something like the following, an excerpt from 19.16.030.A:

Accessory uses	Criteria or limitations
Dwelling units	One or more, located above or below the first floor of a permitted use
Energy systems, small-scale	Provided there will be no detrimental or nuisance effect upon neighbors

or the following from 19.16.050:

	B-1	Notes and exceptions
Minimum lot area (square feet)	6,000	
Minimum lot width (in feet)	60	
Maximum building height (in feet)	30	Except that vent pipes, fans, chimneys, antennae, and equipment used for small-scale energy systems on roofs shall not exceed forty feet

These tables apply to only one district, so it isn't possible to compare districts easily. Their formatting is not particularly attractive or helpful to the reader who wants to quickly grasp the information.

Many newer codes are using tables that greatly enhance readability. For example, consider the following page showing how zoning district information is communicated in a code we created in 2015.

ZONING CODE3.0 ZONING DISTRICTS ESTABLISHED

3.5.2 R-12 SUBURBAN NEIGHBORHOOD (R-12)

PURPOSE

The purpose of the R-12 Suburban Neighborhood District is to provide areas for the development of low density, single family residential and related uses. It is the intent of this ordinance that existing residential developments be protected from rezoning to non-residential uses and that new developments be constructed according to sound, reasonable, and desirable regulations as stated within this ordinance.

TYPICAL BUILDING TYPE

PRINCIPAL INTENSITY AND DIMENSIONAL STANDARDS

Minimum lot area (sq)	12,000
Minimum lot width (ft)	100
Maximum floor area per dwelling unit (sq)	1,800
Maximum building coverage (% of lot area)	30
Maximum height (ft)	40
Maximum front yard depth (ft)	30
Minimum side yard depth (ft)	0
Minimum rear yard depth (ft)	25
Setback front line	See Section 4
Development Standards	See Section 5
Mobility Standards	See Section 6
Parking Requirements	See Section 7

NOTES: (1) = square foot, (2) = feet
Height limits shall not apply to signs, antennas, chimneys, or other mechanical apparatuses or utility equipment to be placed above the roof level and not intended for human occupancy or to be used for any commercial or advertising purposes.

TYPICAL LOT PATTERN

TYPICAL DEVELOPMENT CONFIGURATION

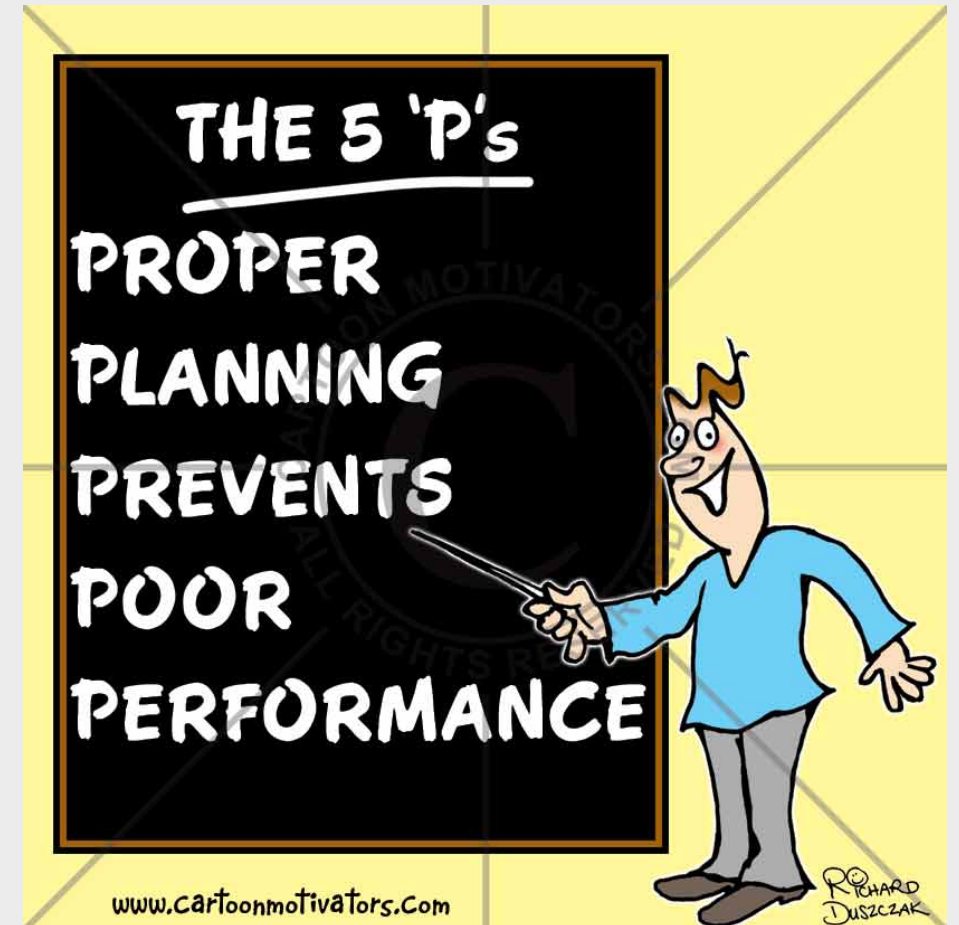
Using the Audit

- **Going from Reflection to Results**
- **Managing the Update**

Considerations Before Beginning

How do you go from reflection and analysis to results?

- What are you updating?
- **Where do you start?**
- What type of Code are you creating?
- **What organization should you use?**
- What type of public involvement?
- **How should you approach drafting?**
- How are you going to review the drafts?



What are you Updating & Where do you Start?



A Comprehensive Review of the Erlanger Zoning Ordinance

**DRAFT ASSESSMENT
THE CITY OF ERLANGER, KENTUCKY
JANUARY 10, 2018**

Prepared By:
Rundell Ernstberger Associates
Orion Planning + Design

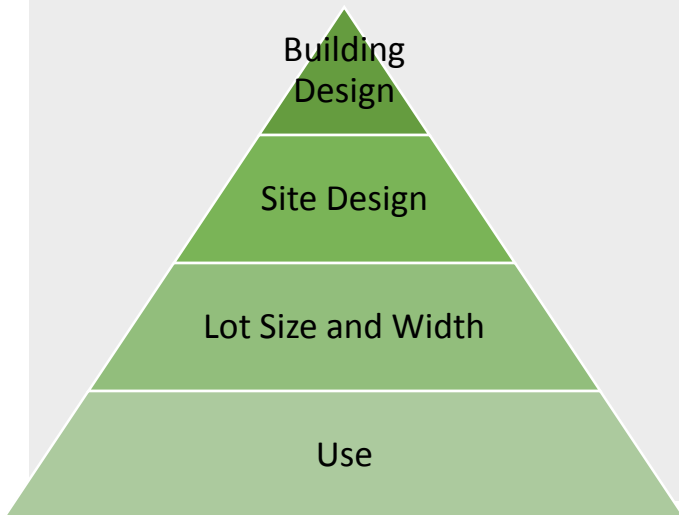
EVANSVILLE – VANDERBURGH COUNTY UNIFIED DEVELOPMENT CODE TABLE OF CONTENTS

Amendments	xxx
Acknowledgements	xxx
Article 1 Purpose and Scope	8
1.01 Title	8
1.02 Authority	8
1.03 Intent and Purpose	8
1.04 Jurisdiction	8
1.05 Interpretation and Scope	8
1.06 Official Zoning Map	9
1.07 Zoning Map Rules & Interpretations	9
1.08 Zoning of Annexed Areas	10
1.09 Omissions	10
1.10 Severability	10
1.11 Repeal of Existing Code	10
1.12 Effective Date	10
Article 2 Applicability and Conformity	11
2.01 General Applicability	11
2.02 Uniformity within Districts	11
2.03 Conformity with Other Laws	11
2.04 Compliance Required	11
2.05 Application of Deed Restrictions	11
2.06 Transition Rules	12

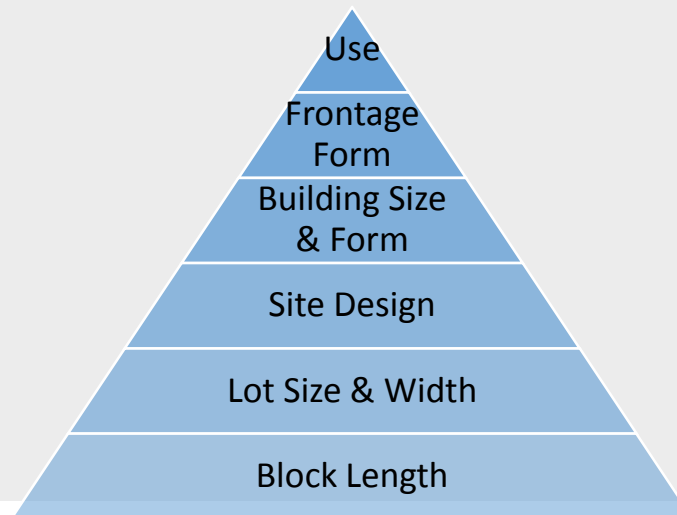
What type of Code are you creating?



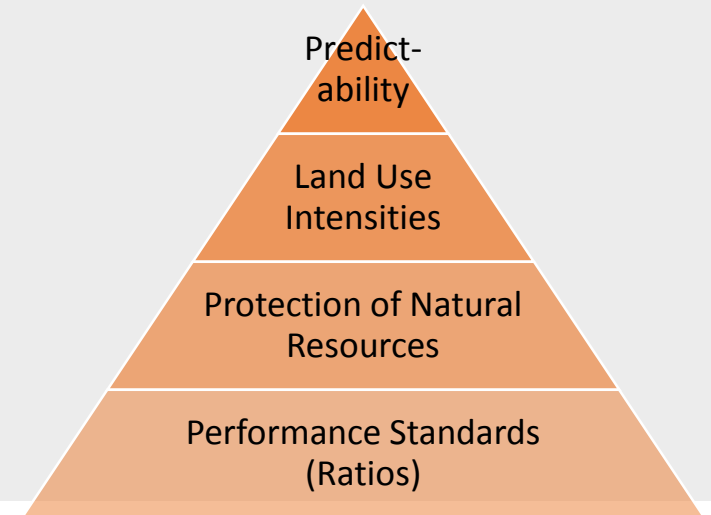
EUCLIDIAN



FORM



PERFORMANCE



How should you organize your approach?

- File System
- **What program will you use?**
- Color-coding

Green Text = Options that you should consider and tailor to your community.

Orange Text = Graphics

Blue Text = Definitions

Green Highlight = Links you should check prior to adoption and periodically afterwards to ensure they are not broken.

Pink Highlight = Cross References to other parts of the ordinance or other policies and ordinances.

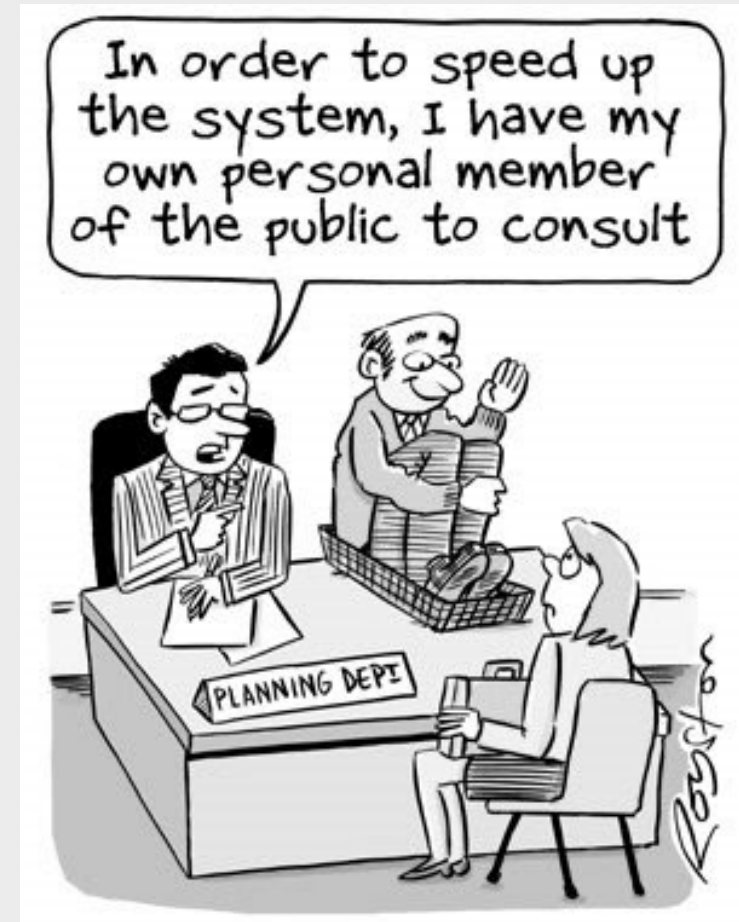
Yellow Highlight = Questions



What is our approach to public involvement?

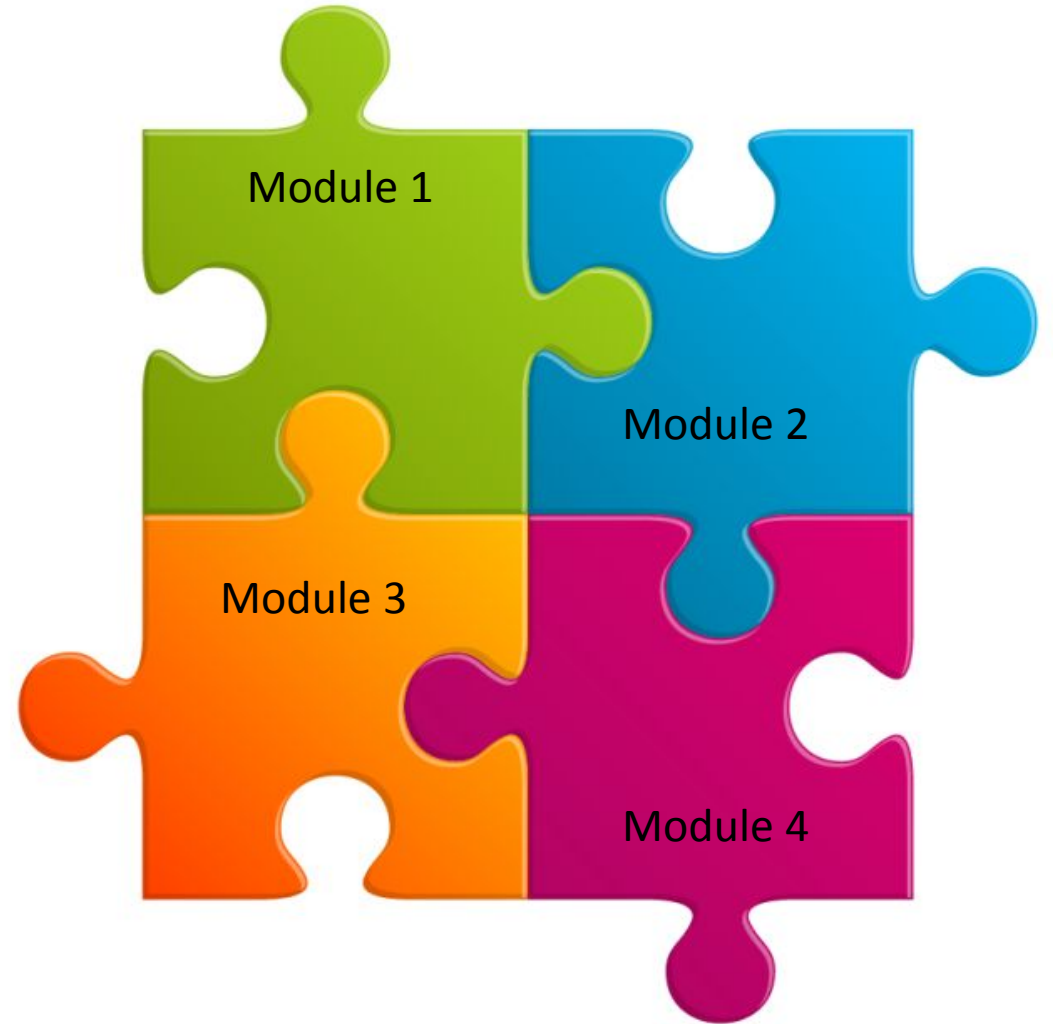
How and when do you get input?

- Have a feedback group
- Begin with the end in mind
- Identify tools to use
- Make sure you have the equipment and it works!



What approach will you use to draft articles?

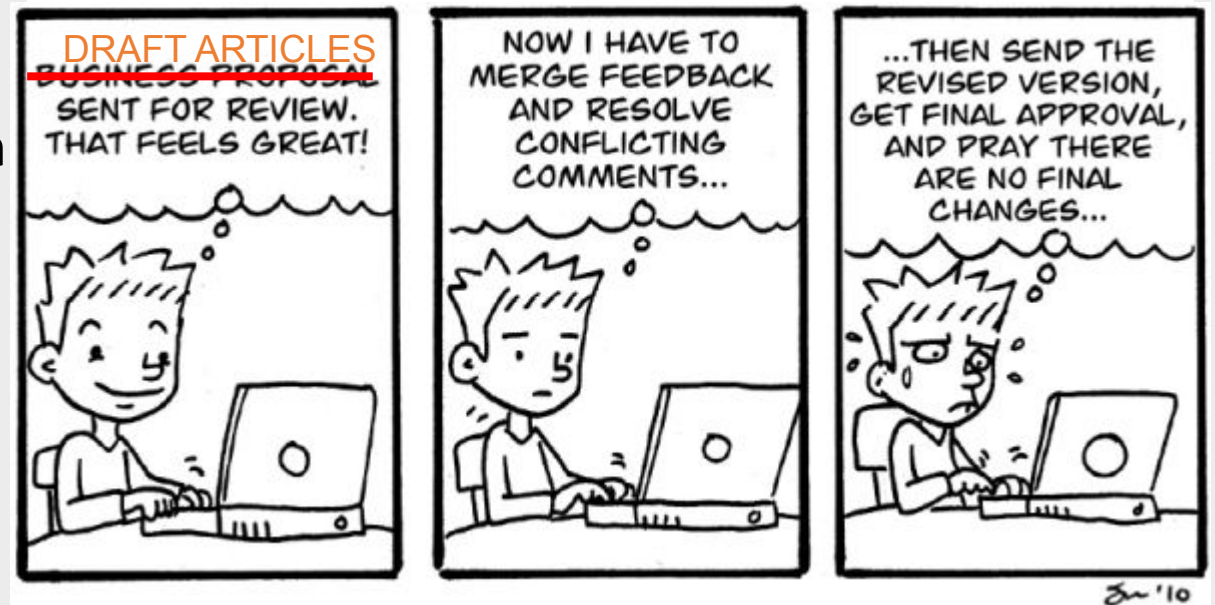
- **What type of code are you creating?**
- **Break TOC into modules**
 - First Module (uncomplicated articles)
 - Second Module (the districts)
 - Third Module (development standards)
 - Forth Module (process & definitions)



How will you review modules?

What is your review process with staff & task force?

- Review preliminary draft articles with staff
- Review of draft articles with task force
- Preliminary review of draft articles with public
- Comprehensive review of document
- Testing of new Code



Dos, Don'ts & Wish I Hadn'ts!

- Ensure that staff takes the time to review each draft article
- Truly spend time with staff to conduct comprehensive review of full document
- Have staff review current applications and then discuss with consultant
- Make sure to create a reasonable timeframe to write document – it usually takes longer than you think
- Each time you craft a new article read through draft articles to make sure that something doesn't need to be changed
- Do a final review to check position of graphics, cross-references, etc.
- Create a sheet of editing standards to guide the development of each article and quality review
- Interview stakeholders

A word cloud centered around the word "Success" in large white letters. Other words include "Goals", "Achieve", "Future", "Success", "Accomplishment", "Plan", "Innovate", "Insight", "Vision", "Improve", "Solutions", "Growth", "Optimize", "Problem-Solving", "Implementation", "Winning", "Planning", "New Ideas", "Performance", "Strategy", "Attainment", "Value-Add", "Creative", "Solutions", "Innovating", "Achievement", "Winning", "Planning", "Solutions", "Growth", "Optimize", "Problem-Solving", "Implementation", "Winning", "Planning".