



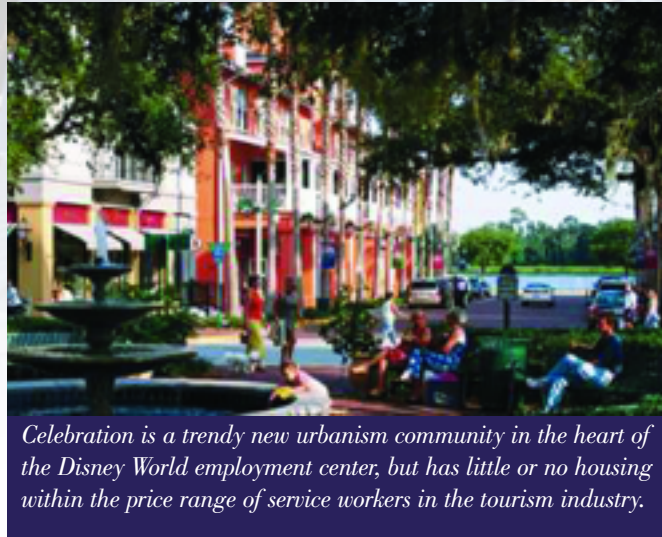
# The Advent of Form-Based Codes: A Critical Time to Ensure Mixed Income Communities

By Jaimie Ross

An entrance road leading to large single family lots of equal size on roads with cul-de-sacs in a subdivision with one way in and one way out. That's a pretty typical suburban development in Florida, and there are certainly families who enjoy that lifestyle. But a growing number of Floridians do not. They are looking for a more urban environment in which large privately owned green space gives way to public parks, and compact residential development is in walking distance to shops and community activities. This is the move from sprawl to smart growth. It is the move from Euclidian zoning to form based zoning.

## Euclidian Zoning

The most common form of zoning found in Florida, as well as the rest of the country, is Euclidian zoning. This type of zoning delineates land uses for specific geographic areas, separating residential, commercial, and industrial from each other. These three categories are further split into even more specific zones such as: single family residential; multi family residential; rural residential; general agricultural; light industrial; heavy industrial; commercial office; conservation and recreation. Those specific zones are further defined by maximum densities. A consequence of Euclidian zoning is economically segregated communities where



*Celebration is a trendy new urbanism community in the heart of the Disney World employment center, but has little or no housing within the price range of service workers in the tourism industry.*

residents have to drive to shops and community services.

## New Urbanism

New urbanism or traditional neighborhood design (TND) is a land use model that breaks from the Euclidian zoning model. New urbanism embraces the development of mixed

use and mixed income communities, where residential and commercial uses co-exist, and housing options are expanded to include attached housing, live-work housing, and rental options, in addition to homeownership.

Although new urbanism does not fit into the Euclidian zoning model, Florida has some 60 new urbanism communities. The new urbanism developments have arisen from the development of greenfields (undeveloped land) or the redevelopment of land that has been master planned through the large scale PUD (planned unit development) or DRI (development of regional impact) process. The PUD and DRI process involve a negotiation of land uses during the master plan process.

With the exception of HOPE VI redevelopments, almost none of the new urbanism communities in Florida include affordable housing. The price points that start off in the affordable range for the town homes in the new urbanism community quickly rise



*The HOPE VI program required new urbanism design for the redevelopment of public housing authority property. With virtually no exception, these HOPE VI developments are the only new urbanism developments in Florida that have affordable housing.*

due to the desirability of the new urbanism community and the pent up market demand for living in a mixed use community. The irony is that affordable housing is a principle of new urbanism (see [www.cnu.org](http://www.cnu.org)). But without a government requirement to ensure that a certain percentage of the housing remains in the affordable housing stock, the affordable homeownership housing built today becomes unaffordable upon resale, and unless the rental stock is built with housing finance subsidies, such as tax credits, the apartments will fetch market rates.

## Form-Based Zoning

Form-based zoning is a new and growing trend that codifies the new urbanism or TND form. In form-based zoning, rather than focus on the use of the land, focus is placed on how the land use is designed. This emphasis on the physical layout, or form, means that commercial and residential areas can be mixed, as long as they conform to the same physical restrictions. As in Euclidian zoning, the form-based method comes with visual aids so that it can be properly implemented. However, since form-based zoning is more complex, it does not simply use zoning map, it is also common to use architectural images that illustrate the forms for different land uses.

The form-based model was developed to counter the urban sprawl that was the consequence of the Euclidian model. Specifying items such as sidewalk width, window size, building density, and architectural items allows a community to create an environ-

## The Advent of Form-Based Zoning:

ment where the town model that they envision is more likely to succeed. For example, a city that wants to foster downtown development is more likely to have a vibrant downtown if they have proper sidewalks, adequate parking, buildings that front along the sidewalks, proper signs, and other specifics that Euclidian zoning does not deal with. Ultimately, form-based zoning embraces the new urbanism model. And typically, the form-based model is not used jurisdiction wide, although Miami is on the precipice of adopting a jurisdiction-wide form-based code, known as “Miami 21.” The Miami 21 Zoning Code is a form-based code guided by tenets of new urbanism and smart growth principles (see [www.miami21.org](http://www.miami21.org)).



*CityPlace in West Palm Beach was the redevelopment of a distressed area that housed the extremely low income in substandard conditions. This new urbanism community is now home to high priced residences in a mixed use vibrant downtown hotspot.*

## How Does Affordable Housing Fit Within the Form-Based Code?

Form-based zoning creates opportunities for affordable housing through its focus on design/form rather than use. It encourages a mix of uses and does not deny development based on more intensity or density in the way Euclidian zoning does. It creates a regulatory environment that is more conducive to producing affordable housing by





*Baldwin Park is the new urbanism redevelopment of the former Navy Base in Orlando, publicly owned land that was redeveloped without providing for affordable housing.*



*Baldwin Park*



providing developer benefits such as development by right and expedited permitting.

When local government adopts a form-based zoning code for a portion or all of the land within its jurisdiction it is increasing the development value of privately owned land. The right to develop in the new urbanism model is bestowing development benefits and incentives that should be coupled with a requirement that a certain percentage of the housing developed be affordable. Without an inclusionary housing requirement, the government has used its land use authority to increase private property values without securing the public benefit of affordable housing.

Best practices for ensuring an adequate supply of affordable homes in each new urbanism community include:

- A determination of the percentage of housing that should be affordable. This number may range

from 10- 25 percent, and is typically derived from housing needs data and an accommodation for what is economically feasible.

- The percentage of affordable housing should be further defined by target incomes. The definition should be segmented to provide a percentage of homes within reach of extremely low, very low, low, and moderate incomes. Different products will be used to meet the differing target income groups. For example, accessory dwelling units ( a commonly permitted housing type in new urbanism developments) provide rental housing opportunities for extremely low income people. Modest single family homes or town homes may be appropriate for low or moderate income people.
- A mechanism must be in place for ensuring affordability long term or in perpetuity. Deed restrictions can be used for long term affordability and community land trusts are an excellent mechanism for permanent affordability. The need

for ensuring long term or perpetual affordability is particularly acute in new urbanism communities, as the desirability of the community will drive the price or rent up just as soon as the restriction is removed.

In Florida, the need to include an inclusionary housing requirement in all form based codes is fundamental; it is a planning and legal obligation of the Florida Growth Management Act. Section 163.3177 of the Florida Growth Management Act requires every local government to provide for housing its entire current and anticipated populations, including those at all income levels.

Florida is the poster child for lost affordable housing opportunities in the context of new urbanism. It is time to turn that around and ensure that an appropriate amount of housing within each area developed pursuant to a form-based code or pursuant to a master plan for new urbanism is affordable for the long term. **HNN**



*Enterprise Partners produced a symposium with a panel of three national experts on inclusionary housing to address the City of Denver's form based zoning efforts, (left to right) Jaimie Ross, 1000 Friends of Florida; Kalima Rose, PolicyLink, California; Rick Garcia, Councilman and President Pro-tem, City and County of Denver; and John McIlwain, Urban Land Institute, D.C. The forum was held in Denver in May 2009.*

### Five main features in a form-based code:

- 1. Regulating Plan:** The regulating plan denotes what land is covered under the different form-based regulations, similar to what the zoning map does under Euclidian zoning.
- 2. Public Space Standards:** This portion of form-based zoning pertains to the parts of the plan that are for public use, such as the sidewalks and streets. For example, including pedestrian amenities such as benches, wide sidewalks, trees, and multiple trashcans encourage foot traffic.
- 3. Building Form Standards:** These standards make the design of the buildings conform to its use and the use of the public space around it. This can include requirements such as maximum or minimum building height, minimum window coverage, minimum or maximum distance to sidewalks and any other physical characteristic that would affect how the building can better relate to the space around it.
- 4. Administration:** A clearly defined application and project review process.
- 5. Definitions:** A glossary to ensure the precise use of technical terms.

Additional provisions include architectural materials, landscape design, acceptable signage, and environmental guidelines.

For more information contact the Form-Based Codes Institute **[www.formbasedcodes.org](http://www.formbasedcodes.org)**