

"Speaker 11: Jean A. Roush-Burnett of Lowndes, Drosdick, Doster, Kantor & Reed, P.A."

Practical Issues in New Urbanism: The Legal Perspective

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Themes of New Urbanism.

“Suburban” Neotraditionalism vs. Infill Neotraditionalism. “Suburban” Neotraditionalism sounds like a contradiction in terms, but is used herein to refer to projects like Celebration or the City of Orlando’s Southeast Sector Plan where neotraditional communities are developed in the historically suburban parts of a community, in areas previously undeveloped. The current draft of Lake County’s new comprehensive plan requires “Suburban” neotraditional development in projects over a certain size threshold.

“Suburban” neotraditional development presents planners and urban designers with a clean palate for the creation of design criteria. This contrasts with infill neotraditional projects, which are represented by the City of Orlando’s Traditional City Overlay District and the Naval Training Center Redevelopment Project. When imposing neotraditional design standards on infill development or redevelopment, urban designers are much more constrained by the need to be consistent – or at least compatible – with the existing development pattern in the area.

Achieving Neotraditional Design. Generally speaking, from a legal perspective, it is difficult to mandate neotraditional design. Most successful suburban neotraditional projects voluntarily utilize that type of design. It is a private sector decision that is in large part market driven. Celebration is an example of voluntary neotraditional design. It is difficult to mandate suburban neotraditional design on a large scale without heavily incentivizing it. Making such incentives meaningful may necessitate downzonings that may themselves create Harris Act problems. It is possible to mandate limited neotraditional principles in a limited fashion, especially in the context of infill redevelopment, but even then community buy-in is critical.

Communities should watch for those rare opportunities to mandate neotraditional design, which may occur where they are the seller of the property or have some other major stake in the situation. Even if a local government is in a position to mandate the design style, if the market does not support that style of design, either the project envisioned won’t happen or won’t happen well.

Scale. Scale is an important factor to consider in drafting traditional design regulations. In this context, scale means the scale at which the regulations will be applied, not the size of the development covered by the regulations. For example, regulations applied to a 500 acre development in a master plan type of review can be much broader than regulations applied on a lot by lot basis in a 500 acre development in an architectural type review.

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Case Studies.

City of Orlando Traditional City Design Standards

The City of Orlando readopted its Growth Management Plan in 1991. For years prior to that date, both City staff and downtown property owners had actively campaigned to preserve the residential areas close to downtown from the incursion of office and commercial land uses. By 1991, that battle had largely been won, and the requests for rezoning had largely ceased. At that point, the planners turned their attention to preserving and enhancing the urban design in the areas close to downtown, in office and commercial areas as well as residential areas.

The Traditional City is defined in Orlando's Growth Management Plan as "the recognizable geographic boundaries of the subdivisions platted prior to World War I" (See the City of Orlando Growth Management Plan, Urban Design Element, Goal 1, available online at <http://www.cityoforlando.net/planning/cityplanning/cpgmp.htm>.) To implement to Growth Management Plan, the area was rezoned with a Traditional City Overlay. The Traditional City Overlay covers an area of more than 12 square miles, characterized by a gridded street pattern, a heavy tree canopy and brick streets, constructed prior to World War II. Many of the residential areas in the Traditional City have front porches and detached garages with garage apartments. The commercial districts have building walls pushed up to the street, with parking in the rear.

To preserve the character of the Traditional City as redevelopment occurs within the overlay district, certain design standards apply. For example:

For residential uses:

The garage must be set back farther than the principal structure; and
Front porches are permitted to project into the front yard setback.

For commercial and office uses:

Buildings must be pushed to the sidewalk or else have a street wall.
Pedestrian entrances must be oriented toward the sidewalk

The regulations are fairly detailed and fine-grained, reflecting the fact that they are applied on a lot by lot basis as infill development and redevelopment occur.

Southeast Sector Plan.

In the mid-1990's, the City was in the process of annexing a large undeveloped area in the southeast, on Narcoossee Road east of the Orlando International Airport. As part of the annexation negotiations, the City agreed to make major investments in roads and sewer and water infrastructure in the area. The need for right-of way brought together the City and about 12 major landowners along the road corridor. Several of these major landowners were already committed to neotraditional design and sustainability. Others became converts, to a greater or lesser degree.

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After several years of negotiations the following resulted:

- Adoption of the Southeast Sector Plan and its implementing regulations, including a land use plan for the area, which are codified as Chapter 68 of the City Code. The Plan applies to a 19,300 acre area.
- Annexation of 12,500 of those 19,300 acres into the City.
- Dedication of the right-of-way for Narcoosee Road as a four-lane divided road at no cost to the City. The road construction was completed in June 2000.

This project was a “suburban” neotraditional project in the sense that it involved undeveloped land on a fringe area of the City. It is a hybrid between a mandated and a voluntary project, because the regulations now found in Chapter 68 of the Orlando City Code (www.municode.com) were first negotiated between the City and the landowners, then adopted by ordinance and codified. These regulations go further than what could safely be mandated, and not as far as a developer might impose voluntarily.

One important feature of the Southeast Plan is the Primary Conservation Network, interconnected wetlands and uplands that protect environmentally sensitive areas and provide wildlife habitat, while allowing passive recreational uses.

Orlando Naval Training Center Redevelopment – Baldwin Park

The redevelopment of the Orlando Naval Training Center (NTC) Main Base is the largest and most significant redevelopment project that has ever occurred in Central Florida. It started when the Federal Base Realignment and Closure Commission (BRAC) identified the Naval Training Center, Orlando, Florida for closure in July 1993. The closure and transition to other uses began in 1995 and continues through 2002. The project is known as Baldwin Park, a reference to Lake Baldwin, which is its centerpiece. Lake Baldwin was named after H.B. Baldwin, the Undersecretary of the Navy at the time the Naval Training Center was commissioned in 1968. The name also echoes the “park” in many of Orlando’s other traditional neighborhoods, such as College Park, Delaney Park and Thornton Park.

Citizen input was a valued component of the design process. A Visual Preference Survey was conducted to determine the type of development area residents desired for the NTC property. At three different meetings, hundreds of citizens viewed and rated 240 slides depicting single-family homes, multifamily homes, pedestrian areas, transit possibilities, commercial land uses, offices, streets, parking, signs and civic buildings. The survey results were presented at an all-day workshop where residents rolled up their sleeves, grabbed markers and put their ideas paper. At the end of the process, several principles crystallized which were to guide the redevelopment:

- The project should incorporate the principles of sustainability and traditional neighborhood design;

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- The project should incorporate a mix of land uses and housing types, with a pedestrian-friendly scale;
- The project should enhance and protect the unique environmental elements of the site, the lakes, wetlands and natural systems;
- The project should be designed to fit seamlessly back into the surrounding neighborhoods, both in terms of residential densities and street connections (characteristic of infill neotraditional development);
- The project should restore the grid street network, reconnecting the Base to the surrounding neighborhoods.