



Overcoming Legal and
Political Barriers to
Urban and Sustainable
Development

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Part One:

Traps for
the
Unwary



Single-Family
Residential
Development is the
Default Mode.



Trap Alert!

Interstate Land Sales Full Disclosure Act

- Enacted in 1968 to prevent fraudulent sale of unbuildable land
- Now used by buyers to wiggle out of contracts
- Most developers find exemption
- Exemption for land zoned single-family residential difficult for TNDs

Commercial Uses should be kept separate from Residential Association:



- Residential, commercial common areas need to be maintained differently
- Developer may wish to control commercial areas indefinitely
- Residential Associations subject to Chapter 720, Florida Statutes.



Trap Alert!

Real estate taxes on common area, FS §193.023

- Common elements of residential association not subject to real property tax
- Value of common area included in value of individual lots
- Mixed use associations don't qualify for tax break



Trap Alert!

Income Tax Treatment of Homeowner Association

- Section 528 of IRS exempts association from taxes on assessments
- Doesn't apply unless association is "substantially residential" (85%)



Trap Alert!

Some cities and counties demand separation between churches or schools and places that serve alcohol.



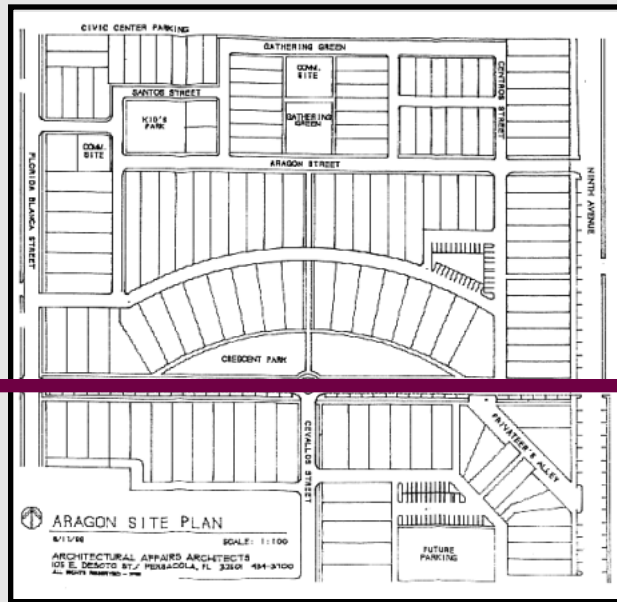
Trap Alert!

Building codes and irrational interpretations

Aragon

Gateway
Redevelopment
District

Historic Pensacola
Preservation
District





Building Code and Zero Setback:

- Porch enclosed with one-hour rated firewall finished with fixed shutters
- “Windows” are false openings
- Alternative was to shorten porch



Anatomy of a Mixed-Use Building

Third & Fourth Floor:
Residential Airspace
Condominium

Second Floor: Office

First Floor: Retail





Trap Alert!

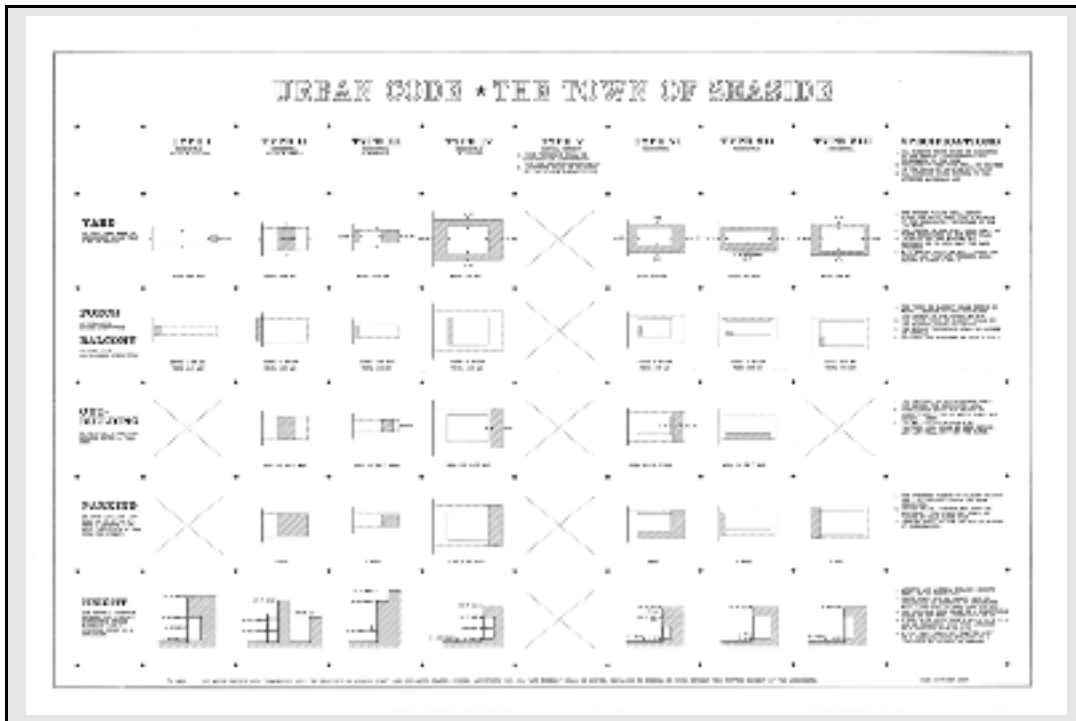
Nix on Mixed-Use Condos

- Florida Condominium Act doesn't allow owner of commercial unit to veto amendments to declaration
- Risk of restrictions on commercial uses
- Loss of tax exemptions



Trap Alert!

Florida law imposes
new, tough restrictions on
architectural control by
homeowner associations



720.3035, Florida Statutes (2007)

The authority of an association or any architectural...committee of an association to review and approve plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel...shall be permitted only to the extent that the authority is specifically stated or reasonably inferred as to such location, size, type, or appearance in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants.

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Trap Alert!

The FCC says, don't let anything stand between a man and his satellite dish.

FCC Rules



- Can't prohibit use of dishes up to one meter across
- Can restrict where placed if still good signal
- Prior approval is "unreasonable delay"



Trap Alert!

Under Florida Statute 163.04, covenants and restrictions can't prohibit solar collectors, clotheslines or other renewable energy devices.

Part Two:
Imploded projects:
The New Ghost
Towns

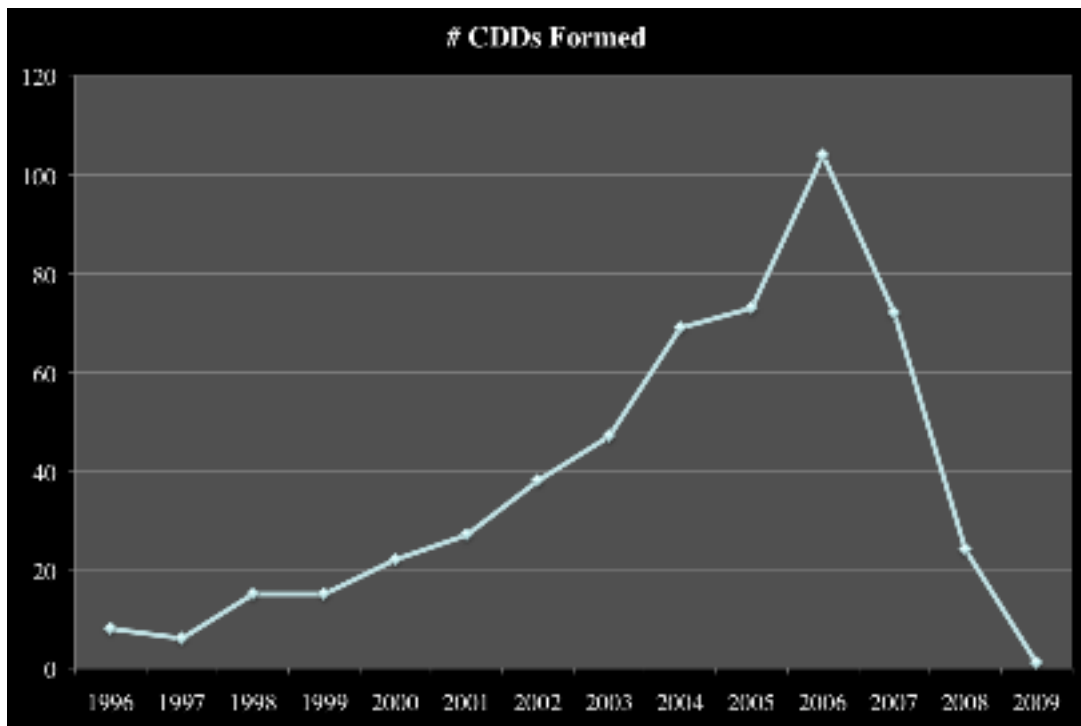


Community Development Districts—
Too much bond money spent too fast.



Exponential Growth of CDDs in Florida

- Statute enacted in 1980
- In 1990, 14 CDDs in Florida
- By 2000, a total of 101 CDDs
- 104 created in the year 2006 alone
- Now 578 CDDs
- Two-thirds were created in last seven years







Private HOA amenities usually financed
with conventional financing







We have concluded that it would be best for the nation to simply leave them be; let the failed exurban subdivisions sit there as weed-engulfed monuments that culminate decades of folly. Repositioning or redeveloping would simply reinforce the pattern of inefficiency.

Perhaps the only worthwhile addition to these sites would be to add a classical pediment engraved with:

"My name is <insert developer name here>

"Look upon my works, ye Mighty, and despair!"

Cheerio,

--Todd