

Technical Report 10

Analysis of Form-Based Zoning and Potential Applicability for the Highway 99 Commercial Corridor

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What is Form-Based Zoning?

Form-based codes are development regulations that emphasize the future built environment as opposed to traditional zoning codes that originated as a way to isolate and segregate land uses. Form-based codes regulate the key aspects of urban form; such as the height of buildings, how close structures are to the street, specify windows and doors on walls facing the street, and other public spaces. They also govern the streetscape so that streets and buildings work together to create a desirable public place. This approach builds on the idea that physical form is a community's most important and lasting characteristic.

Traditional zoning codes, by contrast, are concerned with a distinct separation of uses and population density. These types of zoning regulation are also known as Euclidean zoning because of the landmark 1926 Supreme Court case, *Village of Euclid v. Ambler Realty*. The Supreme Court established the propriety of zoning as a legitimate police power of a state. The ultimate outcome of Euclidean zoning is sprawl; by encouraging segregated residential, retail, office and civic uses. The only way to easily move between the different uses is by automobile which decreases walkability/health, neighborhood interaction, and the natural environment.

Over the past 30 years, jurisdictions have introduced a variety of tools to regulate the use and development of sites/buildings. The main purpose is to control the growth and development of a geographic area in an organized manner to mitigate incompatible land uses. "Innovations in zoning" have included such tools as: planned unit development, cluster zoning, overlay zoning, floating zones, incentive zoning, flexible zoning, inclusionary zoning and transferable development rights. The term "form-based" zoning first appeared in the late 90's; however, the concept of basing regulation on form has been around for a while under a variety of names – performance zoning and district-based zoning.

The technical definition of form-based Zoning is: "A method of regulating development to achieve a specific urban form. Form-based codes create a predictable public realm by controlling physical form primarily, with a lesser focus on land use, through city or county regulations." (FBCI, June 27, 2006) According to the Form-based Codes Institute there are eight important advantages to form-based zoning regulations.

1. Because they are prescriptive (they state what you want), rather than proscriptive (what you don't want), form-based codes (FBCs) can achieve a more predictable physical result. The elements controlled by FBCs are those that are most important to the shaping of a high quality built environment.
2. FBCs encourage public participation because they allow citizens to see what will happen where – leading to a higher comfort level about greater density, for instance.
3. Because they can regulate development at the scale of an individual building or lot, FBCs encourage independent development by multiple property owners. This obviates the need for large land assemblies and the mega-projects that are frequently proposed for such parcels.

4. The built results of FBCs often reflect a diversity of architecture, materials, uses, and ownership that can only come from the actions of many independent players operating within a communally agreed upon vision and legal framework.
5. FBCs work well in established communities because they effectively define and codify a neighborhood's existing "DNA." Vernacular building types can be easily replicated; promoting infill that is compatible with surrounding structures.
6. Non-professionals find FBCs easier to use than conventional zoning documents because they are much shorter, more concise, and organized for visual access and readability. This feature makes it easier for non-planners to determine whether compliance has been achieved.
7. FBCs obviate the need for "design guidelines", which are difficult to apply consistently, offer too much room for subjective interpretation, and can be difficult to enforce. They also require less oversight from review bodies, fostering a less politicized planning process that could deliver huge savings in time and money and reduce the risk of takings challenges.
8. FBCs may prove to be more enforceable than design guidelines. The stated purpose of FBCs is the shaping of a high quality public realm, a presumed public good that promotes healthy civic interaction.

Is Form-Based Zoning Right for the Highway 99 area?

The community has witnessed the type of development traditional zoning has produced along Highway 99. It is the main reason Team 99 came together to discuss the future, because on the whole, the community does not like what the Highway 99 corridor has become. Is form-based zoning the right tool to help spur redevelopment in the right direction or is it a blend of zoning innovations and design standards?

The Highway 99 Sub-Area Plan project area is approximately 4 square miles and includes an aging commercial strip, mature residential neighborhoods, and a transportation system that favors auto oriented travel. Technical Report #8 Market Opportunities and Constraints has stated that there is an over abundance of commercially zoned property. Clearly, if left alone, the current commercial land supply will exceed future demand. Figure 1 shows the current zoning throughout the planning area. The yellow shades are

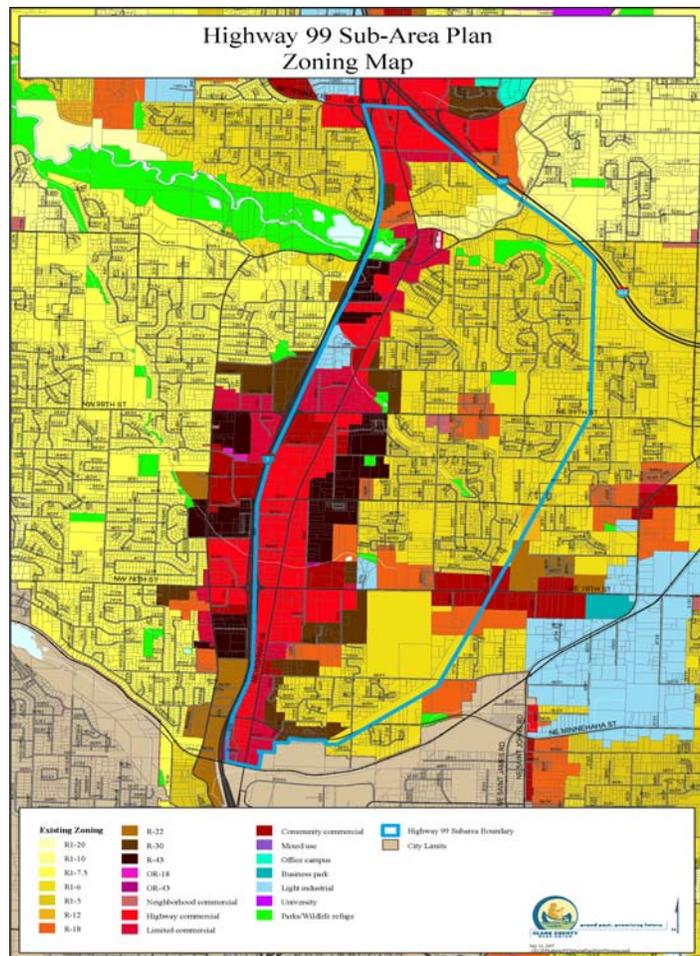


Figure 1 | Highway 99 Zoning Map

urban low density residential and the red tones are commercial. Technical Report #3 Transportation noted that the area is well situated with connections to Interstate-5, the Padden Parkway, and several arterial roadways. In addition, it is highly likely that the Highway 99 corridor will see some sort of high capacity transit opportunity in the future. Technical Report #2 Visual Preference Survey reinforces the Community Design Forum comments that a predictable built environment matching community values is a critical element for successful redevelopment in the planning area. Technical Report #9 Health Impact Assessment analysis illustrates that the auto-oriented configuration of the planning area and lack of pedestrian amenities impacts the health of the community.

As discussed above form-based Zoning is primarily concerned with the features of buildings. The type of use is a secondary consideration. There are, of course, some uses that must be prohibited from locating in certain places such as those that generate excessive amounts of noise, dust or truck traffic. However, many other land uses can co-exist and benefit for their proximity to each other. Form-based zoning regulates the physical characteristics of each building type or class. Each building type is summarized in the building standards listing the permissible uses in general terms, i.e. residential or retail. Street standards for the various street types are also delineated in order to ensure the streets and buildings work together to form an aesthetically pleasing public space. Landscaping standards are also prevalent among form-based zoning ordinances ensuring continuity throughout the area and providing a sense of place for residents and visitors alike.

Key Findings

The Highway 99 corridor would be a good candidate as a special revitalization district to achieve the community vision.

- It is apparent that to spur redevelopment in the Highway 99 corridor, a variety of tools is necessary and must work in tandem.
- Large scale revisions to zoning codes have the potential for unanticipated problems, whether a form-based approach or a more conventional structured code.
- Form-based zoning seeks to recapture a development pattern that focuses on “form” before “function” and would provide overall structure to the urban form.
- Form-based zoning is relatively new and would require re-educating the community, planners, developers and decision makers. Other successful jurisdictions have experienced the need to have an on-going community process to refine the code and how it shapes the built environment.

Form-based zoning, if combined with other mechanisms is a powerful tool in revitalization districts where overall zoning does not change; instead focusing on redevelopment and the built environment. Other tools include re-zoning areas outside of the revitalization districts as needed. Streetscape standards included in the form-based code would extend throughout the planning area. Implementing an FBC would entail establishing a review committee that would include architects, planners, community, and engineer; developing educational materials, and adopting other economic development incentives/tools such as creating a public development authority, adopting a planned action ordinance with supplemental environmental impact statement and incorporating a sustainability program.

Appendix A proposes revitalization districts and draft form-based code language using many of the design elements in the Mixed Use Design Standards.

Attachment A

Clark County UDC Title 40 (Appendix D)
Special Revitalization District Form-Based Code

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ATTACHMENT INFORMATION TO BE COMPLETED AT A LATER DATE