CHAPTER 5.3
SOCIAL JUSTICE

Encourage Infill Development

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INTRODUCTION

Infill development is the process of developing vacant or under-developed parcels within areas that are already largely developed.[1] As populations fluctuate and the needs of a community transform, vacant land becomes increasingly common place. Instead of directing development outward, infill development helps replace existing vacant lots and promotes land conservation through the reduction of greenfield development. Successful infill development programs often focus on improving neighborhoods, creating more efficient mixes of jobs and housing, reducing blight, and reinvesting in the community.[2] Infill can return cultural, social, and recreational vitality to dilapidated areas within a community.[3]

Infill development occurs on a variety of scales, including the rehabilitation of an entire block or the construction of a single-family home on a vacant lot within a developed block.[4] Different infill programs may be appropriate depending on the type of development needing to be achieved. Infill developments are also not limited to a particular type of use. Municipalities frequently permit residential, commercial, or a mixture of uses in infill development areas in order to accomplish a variety of goals. Traditional barriers to infill development include neighborhood opposition, inflexible building codes and difficulty in land assembly.[5] To address some of these barriers many communities have created

incentive programs to make infill a more attractive option. These incentives may reduce fees or relax building and design requirements. When creating incentives to develop infill areas, local governments may attach a variety of sustainable building requirements, such as minimum energy production (see Zero Net Energy Buildings (Commercial and Residential)).

EFFECTS

Encouraging infill development can positively impact a community in a variety of ways. Vacant and underdeveloped lots are typically integrated, or readily able to be integrated, into existing infrastructure, including sewers, roads, and public transit services.[6] This greatly reduces the cost of development and the need for additional resources associated with having to connect to these essential utilities. Further, infill development helps combat sprawl, which is often comprised of low density development and the separation of uses, thus increasing a community's reliance on automobiles.[7] Infill development can increase the density of an area which, in combination with expanded public transit, can decrease the emission of greenhouse gases.[8] Developing homes in close proximity to existing public transit and integrating non-residential and residential uses reduces the number of vehicle miles traveled.[9] By reducing sprawl, infill development also conserves natural resources, protects biodiversity, and promotes watershed protection.[10] A community is also able to benefit from the redevelopment and cleanup of areas that may be contaminated with hazardous substances or pollutants.[11]

By facilitating the concentration of development in established areas and on dilapidated sites, a municipality can provide businesses with an already established market.[12] The businesses and the municipality are able to economically benefit from the increased spending within city limits.[13] Furthermore, vacant and abandoned lots cost a municipality money and pose numerous safety hazards, such as increased risk of fires and crime. Each year over 12,000 fires break out in

vacant buildings in the U.S., most of which are the product of arson, resulting in $73 million in property damage annually.[14] Municipalities frequently will also have to bear the cleaning and demolition cost associated with these properties.[15] Additionally, neighboring property owners are impacted by vacant lots through decreased property values of their properties.[16] Redevelopment of these areas is not only essential to restoring the economic viability of a neighborhood, but it also permits the preservation of historical areas through their revitalization.[17]

EXAMPLES

Avondale, AZ

Avondale established an infill incentive program aimed at certain neighborhoods in order to reinvigorate existing historic areas and support new mixed-use development that would promote the historic identity of the area.[18] The neighborhoods targeted by the infill incentive program contain many vacant or underutilized areas and exhibit at least one of the following characteristics: high vacancy rates, larger number of older buildings, and continued decline in population in relation to the City as a whole.[19] Qualified residential projects on residentially-zoned property within the infill incentive district are subject to reduced fees. New residential construction projects receive a 50% reduction in the normal planning and permit fee as well as the development impact fee.[20] Rehabilitation or remodeling projects are allowed a 50% reduction in planning and permit fees and are not subject to development impact fees.[21] Qualified commercial projects have the same incentives as residential projects, but with the added benefit of additional incentives being available subject to approval by the city council.[22] These additional incentives are based on additional criteria, such as high-wage job creation.[23]

To view the provision, see Avondale, AZ- Code of Ordinances § 19-61 (2014).

Aurora, CO

A developer intending to develop or redevelop a parcel contained in the "infill incentive boundary area" is able to apply for an incentive under this ordinance.[24] To be eligible for the program, the project must comply with certain criteria. For example, commercial infill developments must be limited to 5,000 square feet or less for a single-story project or 10,000 square feet or less for a multi-story project. Further, residential infill projects are limited to a minimum of two residential units and a maximum of eight units.[25] Once the criteria are met, the developer and the City are able to enter into an agreement that provides for a grant to offset development related fees as well as sale and use taxes. For instance, for a period of up to two years after the agreement, the City may reimburse the developer, contractor, subcontractor, or supplier for the materials and equipment used during construction by up to 50% of the revenues produced by the levy of the City sales tax.[26] The City also places a cap of $25,000 on the amount that can be offset through the incentive program.[27]

To view the provision, see Aurora, CO- Code of Ordinances § 130-564 (2016).

ADDITIONAL EXAMPLES

Surprise, AZ Code of Ordinances § 109-48 (2016) (establishing an infill incentive district where certain new residential developments can receive a 100% waiver of development impact fees).

Fresno, CA Code of Ordinances § 12-4.1202 (2013) (exemption of development impact fees for replacement or reconstruction of a small residential development that has been destroyed).

Auburn, WA Municipal Code § 18.25.040 (2009) (residential infill developments are permitted increased maximum density and allowable building height).

El Paso, TX Code Ordinances § 20.10.280 (2017) (side, front, and rear setback requirements of the base zoning district may be reduced up to 100% by city council for infill developments).

CITATIONS

[1]*Infill Development*, MRSC Local Government Success (Nov. 30, 2017), https://perma.cc/XYS5-VUPS.

[2] *Infill Development*, Connect Our Future, https://perma.cc/7G69-4CBA (last visited May 21, 2018).

[3] MRSC, *supra* note 1.

[4] *Id.*

[5] *Id.*

[6] Robert H. Freilich, *Smart Growth in Western Metro Areas*, 43 Nat. Resources J. 687, 697 (2003).

[7] *See* Michael P. Johnson, *Environmental Impacts of Urban Sprawl: A Survey of the Literature and Proposed Research Agenda*, 33 Env't and Plan. A: Econ. and Space 717, 718 (2001).

[8] Sarah DeWeerdt, *Urban Density Alone Won't Get Americans Out of Their Cars*, Anthropocene Magazine (Dec. 26, 2017), https://perma.cc/9CGV-3RPV.

[9] *Id.*

[10] *See* University of Delaware, *Benefits of Infill and Redevelopment Activities*, Complete Communities, https://perma.cc/634J-JS86 (last visited May 23, 2018).

[11] *Id.*

[12] Kelli Russel & Kelsey Knight, *Urban Infill & Sustainable Development* 5 (2013).

[13] *Id.*

[14] National Vacant Properties Campaign, *Vacant Properties: The True Cost to Communities*, Smart Growth America (Aug. 2005), https://perma.cc/L6MS-9ZXC.

[15] *Id*.

[16] *Id*.

[17] University of Delaware, *supra* note 10.

[18] Avondale, Arizona Code of Ordinances § 19-61 (2014).

[19] *Id*.

[20] *Id*. at §19-64.

[21] *Id*.

[22] *Id*. at § 19-65.

[23] *Id.*

[24] Aurora, Colorado Code of Ordinances § 130-564 (2016).

[25] *Id*.

[26] *Id*. at § 130-565.

[27] *Id*.

Please note, although the above cited and described ordinances have been enacted, each community should ensure that newly enacted ordinances are within local authority, have not been preempted, and are consistent with state comprehensive planning laws. Also, the effects described above are based on existing examples. Those effects may or may not be replicated elsewhere. Please contact us and let us know your experience.