

ZONING PRACTICE

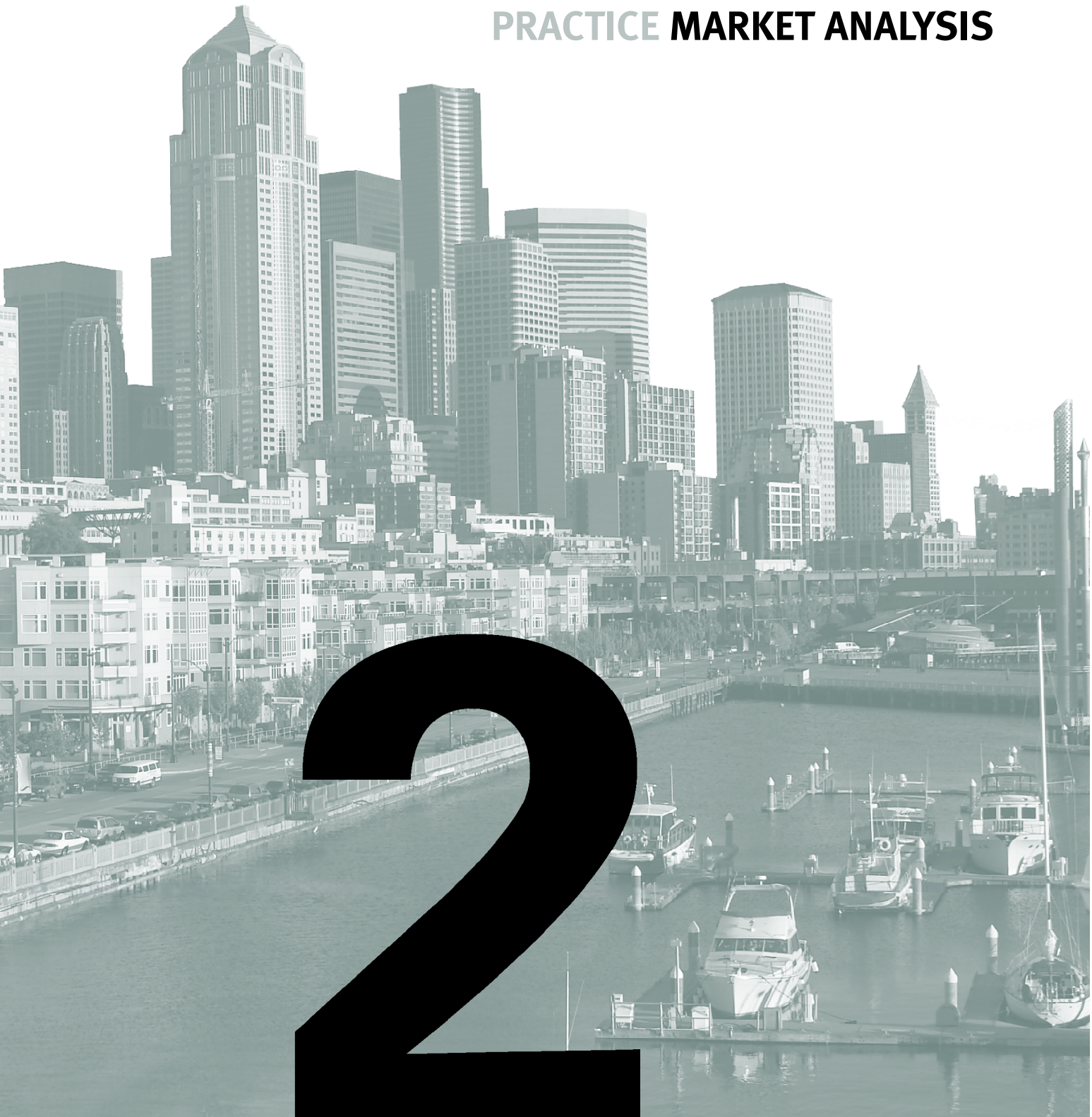
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PRACTICE MARKET ANALYSIS



Market Analysis: A Zoning Necessity

By Tony Smith, AICP, and Steve Friedman, AICP

Market and economic feasibility analysis are not traditionally associated with the development of zoning regulations.

However, these techniques have much to offer to the zoning discussion, particularly as it and related regulatory tools become increasingly associated with efforts to define community aspirations. The growing popularity of design guidelines, form-based codes, and extensive discretionary design review processes suggests an increased interest by communities in carefully controlling development to achieve specific goals. As this focus on guiding and harnessing market and economic forces becomes more prevalent and fine-grained, it is increasingly important that regulators consider these underlying forces and their potential interactions with regulations.

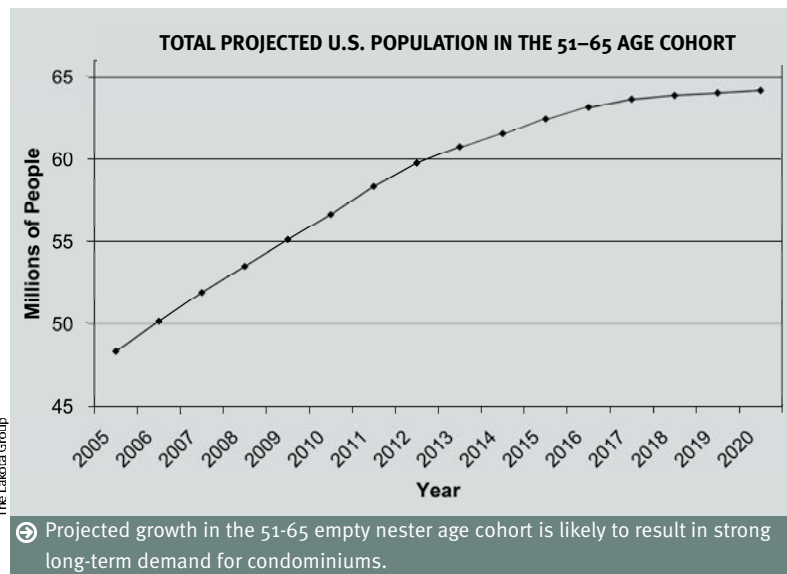
To illustrate how market and economic feasibility analysis techniques can inform zoning efforts, this issue of *Zoning Practice* discusses several major demographic and preference trends currently affecting housing markets, and considers how they play out within the delicate economic parameters of downtown and town center redevelopment.

MARKET DEMAND AND ZONING FOR RESIDENTIAL

A core principle of sound zoning for residential is that it should allow for a housing stock that will accommodate the changing population of a community. This requires a basic understanding of the demographic and buyer preference trends that are the fundamental drivers of residential building activity, and attention to the product types offered by the real estate industry to address these trends.

DEMOGRAPHIC AND BUYER PREFERENCE TRENDS

In recent years, three national demographic trends made significant impacts on housing markets. Collectively, the trends suggest that demand for the conventional single-family detached house that has dominated residential markets for decades may decrease relative to multifamily and single-family attached products. The trends are summarized thusly:



The aging of America. In the 1990s, the cohorts (a group of individuals having a statistical factor in common in a demographic study) between the ages of 45 and 54—largely the baby boomers—were the fastest growing. As “boomers” pass into and beyond these cohorts they join the ranks of the empty nesters—households with adult children living away from home.

Decrease in household size. Average household size declined steadily from about 3.6 persons per household in 1961 to about 2.6 in 2004.

This trend is linked to an increasing diversity of household types and configurations. In 2004, about 23 percent of households contained a two-parent family, with one or more children under the age of 18 living at home. This proportion has declined steadily from about 45 percent in 1961.

Enter the boom echo generation. These are the young adult children of the baby boomers, ranging in age from 18 to 27. The cohort between ages 20 and 24 is predicted to grow faster than any other over the next 10 years, creating demand for rental apartments in particular.

REAL ESTATE PRODUCT RESPONSE

Collectively, the trends suggest that the archetypal suburban community with predominantly single-family detached housing is becoming less reflective of the national population and housing demand patterns. The real estate industry responded by increasing the supply and variety of multifamily and attached housing products, including:

Condominiums. In many regions around the country, demand for condominiums is driven largely by the aging baby boomers, some of whom want housing units that are smaller, amenity-rich, and without the maintenance responsibilities of single-family detached houses. Some cohorts favor condominium living because of busy lifestyles or rising housing prices in metropolitan areas. Consequently, the share of total home sales accounted for by condominiums has doubled since the 1980s. Similarly, median prices for condominiums grew significantly faster than

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About the Author

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single-family detached homes. Mid- and high-rise condominiums are generally found in larger metropolitan areas. Suburban mid-rise units often appeal to empty nesters while high rises tend to attract a younger demographic in some markets.

Town houses. Generally, town houses appeal to some empty nesters and single or married young professionals with no school-age children. The units typically offer more space than condominiums, with limited maintenance responsibilities (an association does the work) and little or no private yard space.

Villas. Villas are single-story, single-family attached units that serve as an alternative to multistory condominiums in smaller markets. Villas are frequently attached in pairs, allowing for small side yards that are maintained by associations. The one-story configuration eliminates the need for stairs, which appeals to empty nesters.

Rental apartments. Although apartment vacancy rates remained fairly high over the last several years, the movement of the boom echo cohort into the prime age range for renting is causing competition among real estate investors to purchase apartment complexes in anticipation of future demand. One indicator of this trend is that apartment properties are currently being sold at cap rates (the ratio between a single year's net operating income and the sale price of the property) of around six percent, a fairly aggressive benchmark. This suggests that over the long term the investor market expects much healthier occupancy levels as the boom echo cohort matures.

A critical selling point for many multi and single-family attached projects is proximity and connectivity to:

- neighborhood, convenience, and specialty shopping;



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➦ Changing American lifestyles are one reason for increased sales of town houses (top) and condominiums.

- recreational and entertainment amenities;
- mass transit (particularly rail transit);
- civic and educational institutions;
- employment centers; and
- places for social interaction.

The focus on amenity, convenience, and being close to the action is one driver of the widely documented downtown housing boom of the late 1990s and early millennium in both metropolitan markets and suburban business districts. These themes appeal to almost every multifamily and attached single-family demographic. Empty nesters now have condominium choices in

amenity-rich locations close to home as an attractive alternative to retiring to the expected places such as Florida; young apartment dwellers have stimulation and opportunities for social interaction; and professional couples without children can leave the car in the garage and walk to a restaurant after a long day at the office.

ZONING IMPLICATIONS

Zoning professionals should recognize and respond to these trends, because without a range of attractive options for all segments of the housing market, a community will likely get bypassed by key demographics, weakening its competitive position over time.

Under one scenario, a community with an entirely single-family detached housing stock will lose empty nesters when a lack of appropriate housing in town forces them to look beyond community (or state) borders. Empty nesters are relatively wealthy and without school-age children, making them an important ingredient in a community's fiscal stability. Worsening the scenario is that the community also lacks a built-in group of young households living in apartments and town houses looking to trade up. Consequently, the community has an oversupply of single-family detached units on the resale market, causing home prices to stagnate. In addition, the backfill of young families with children into the newly vacated single-family detached units creates greater fiscal demands on school and park systems.

Irrespective of competition, planners and elected officials agree that life-cycle housing is good for communities because it allows residents to age in place while moving through segments of the housing market. Thus, a mix of housing types within neighborhoods and

districts offers many potential benefits, including:

- greater neighborhood adaptability to changing demographics and housing market preferences;
- age diversity at the neighborhood scale and a greater opportunity for interaction between generations; and
- increased marketability to populations that want this type of interaction, particularly empty nesters and seniors.

ZONING RESPONSE

The following approaches are recommended to encourage a housing mix that meets the needs of an ever-changing market:

- Study local housing markets to understand what products are targeted at various demographic segments of the population. The style, configuration, and availability of these products can vary widely between regions, often with less differentiation in smaller markets.
- Zone for a diverse range of housing types in the local market, and for options that accommodate the full life cycle.
- Encourage a relatively fine-grained housing mix within individual neighborhoods and districts by promoting connectivity between projects, adding flexibility for secondary rear units such as granny flats or coach houses on single-family lots, and limiting the size of single-use, single-density districts.
- Carefully consider the location of multifamily products to encourage connectivity and proximity to amenities and destinations.

AN ADDED WRINKLE: ZONING FOR DOWNTOWN AND TOWN CENTER REDEVELOPMENT

The frequency of market feasibility references in requests for proposals (RFPs) for planning studies suggests a growing acceptance of it within mainstream planning practice. Still, a demonstrated market demand for a use does not guarantee private sector investment. For example, if there is community demand for a specific type of town house at the \$200,000 price point, the market will supply the product if development costs allow for a reasonable level of profit. A typical market analysis will include disclaimers stating that, while it considers the supply and demand characteristics

of a product, it does not consider the logistics or cost of producing it.

Economic feasibility analysis goes one step further than market analysis by examining the balance between development costs and the revenue associated with undertaking a specific type of project in a specific location. The results help determine the market feasibility of a development concept. This type of analysis is particularly important in downtowns and town centers where redevelopment costs are significantly affected by existing uses and buildings.

The resurgence of downtown housing is part of a broader movement to strengthen and enhance traditional downtowns as retail, leisure, and civic focal points through strate-



The Lakota Group

➡ Market analysis is particularly important in downtowns where redevelopment costs are affected by existing buildings.



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gic redevelopment initiatives. In addition to the direct benefits created by these investments, anecdotal evidence from realtors in the Chicago metropolitan market suggests that communities with thriving downtowns are more attractive to a broad range of residential buyers, even those looking in single-family detached neighborhoods. Downtown improvement could, therefore, be viewed as an important part of a community's overall strategy to improve competitiveness and quality of life.

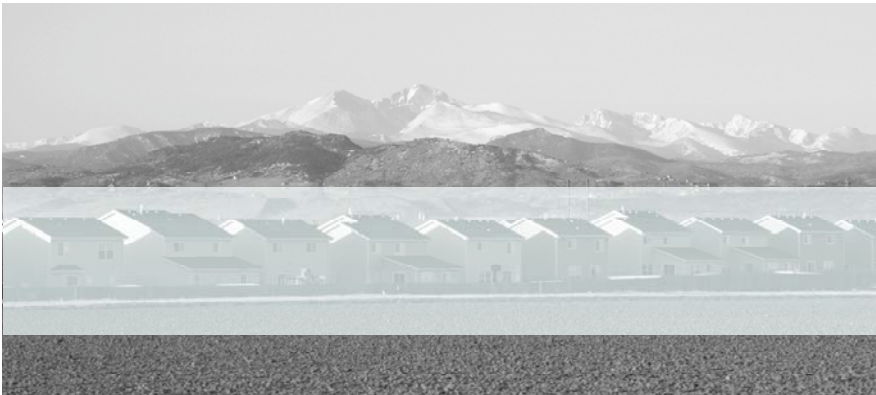
While many downtown revitalization efforts are primarily driven by a desire to improve the retail climate, downtown housing can be a critical part of strategies to create an environment with activity throughout much of the day. Less widely discussed is the role of multifamily and attached residential in making the economics of downtown revitalization work. While street-level retail is a critical element of a successful downtown, it rarely creates enough value to facilitate redevelopment on its own. Within mixed use redevelopment projects it is the upper-story residential that almost always drives economic feasibility. Understanding this relationship is an important ingredient in successful downtown zoning efforts, and it requires an understanding of the economic differences between greenfield development and redevelopment.

THE ECONOMICS OF GREENFIELD DEVELOPMENT

Downtown and town center redevelopment projects face a different set of economic parameters than greenfield projects. For example, when agricultural land gives way to the construction of a residential subdivision the developer must cover the costs of site preparation and home construction in order to have a product to sell. The residential units must generate sufficient sales revenue to cover the costs, earn enough profit to justify the developer's effort and risk, plus some amount of land value. To determine the land purchase price they can pay the owner, developers often use a sophisticated financial model called a residual land value analysis.

In the greenfield example, it is, theoretically, worthwhile for the farmer to sell to the developer if the residual land value from the proposed residential project exceeds the agricultural value of the site. Therefore, the basic economic requirements for development to occur are met if 1) market potential exists for enough units at a high enough price point and 2) the zoning allows enough units to create a residual land value that exceeds the agricultural value.

Redevelopment in town centers and downtowns differs in a number of ways. Most critically, redevelopment sites frequently contain existing buildings or other improvements that generate significant value in their current use. This value is analogous to the agricultural value of the greenfield site described above—it represents a basic hurdle that the residual value of a proposed redevelopment project must overcome to achieve economic feasibility.



Shawn Talbot

➡ The basic requirements for developing on former agricultural property are met if market potential exists for enough units at a high enough price point, and the zoning allows enough units to create a residual land value that exceeds the agricultural value. The unfortunate result on many greenfield sites: sprawl. This example is in Utah.

THE ECONOMICS OF REDEVELOPMENT

As a counterexample to the greenfield project, consider a hypothetical downtown redevelopment site with one-story storefront space currently occupied by service commercial. As is common in many older downtowns, this storefront space has 40 percent lot coverage—more than would typically be found in a modern shopping center given to day’s preferred retail store depths and parking requirements. Because of the physical condition, obsolete fixtures, and inefficient layout of the space, the fetching price is \$12 per square foot in net rent. Factoring in the owner’s costs of maintaining, insuring, and managing the building, the net operating income is \$10 per square foot. When this annual net operating income is converted to a building value using a cap rate of 10 percent, this translates into \$100 per square foot of building value ($\$10 \div .10$)—equivalent to \$40 per square foot of land (\$100 per building square foot multiplied by 40 percent lot coverage). Using these parameters, a redevelopment project must generate at least \$40 per square foot in residual land value to justify acquisition of the underlying site.

In another scenario a developer considers a condominium project on the same redevelopment site. Her building design also covers 40 percent of the site (leaving space for off-street parking), and the market analysis indicates that the project will achieve sales prices of \$225 per net saleable square foot or \$175 per square foot of gross building area. Although residual land value is really a function of the relationship between sales prices and development costs, for this simplified example assume the proposed project gener-

ates residual land value equal to 10 percent of the total sale value of the residential units, an observed rule of thumb in some markets. With these economic parameters, every gross square foot of building the developer constructs creates \$17.50 in residual land value. With 40 percent lot coverage this translates into \$7 per square foot of site for every floor of residential space built. Therefore, the developer must build a six-story building to generate a net residual land value to pay the property owner enough for the site to justify ceasing its current use as a one-story storefront (six stories multiplied by \$7 per site square foot per residential floor equals \$42 per square foot in residual land value, exceeding the \$40 currently generated by the site).

A further economic hurdle faced by many redevelopment projects is that the proposed sites have issues such as real or perceived environmental contamination or polluted soil, or need extensive demolition. These costs are often not fully reflected as reductions in the acquisition price of the underlying land and must also be overcome by developing a project that generates enough revenue to offset them.

ZONING IMPLICATIONS

As illustrated by the examples, redevelopment projects can face significant economic challenges independent of existing land-use regulations. However, the regulatory framework governing the project—particularly zoning—is another critical factor affecting project feasibility. Zoning and related regulations can significantly hinder development efforts in

downtowns, frequently by failing to recognize the unique characteristics of downtown environments, including:

- setback requirements that fail to recognize zero lot line development as a common, often desirable, style in downtowns;
- FAR or units-per-acre-based bulk and density regulations that do not allow enough upper-floor residential development to achieve economic feasibility and do not provide flexibility for mitigating factors such as quality architecture, upper-floor setbacks to hide bulk, building facade articulation, etc.;
- minimum parking ratios that do not recognize the reduced off-street parking need in downtowns because of on-street parking availability, potential for shared parking between complementary uses, and (if applicable) public transit availability; and
- on-site stormwater detention requirements for redevelopment—even though redevelopment generally does not increase the amount of impervious surface on the site.

As a result, many downtown redevelopment projects enter planned unit development or other discretionary review processes that allow communities a great deal of leverage to impose changes. The high-profile nature of downtown projects motivates communities to regulate design more carefully and can politicize the review process. Under the scenario provided earlier, the site needs a roughly six-fold increase in building height to achieve an economically feasible redevelopment concept. In many communities such an increase in density is highly controversial. The lack of certainty afforded to the developer in a discretionary review process could create a significant disincentive to undertake the project in the first place even if community plans for the area encourage redevelopment in this location.

Appropriate zoning for redevelopment should seek to balance the goals of 1) regulating design to achieve a high quality environment, and 2) allowing enough development opportunity to encourage private investment.

Balancing these goals is tricky. As illustrated by our example, a substantial increase in height and density is sometimes

required to achieve the economic tipping point where redevelopment makes economic sense. One way of addressing these economic challenges is through public financial assistance, which is frequently provided to downtown redevelopment projects in the form of tax increment financing (TIF), tax abatements, public land write-downs, and other tools. By providing these subsidies, municipalities can effectively increase the residual land value of a project, thus improving its feasibility without allowing additional density. However, the amount of potential residual land value allowed by the underlying zoning plays a major role—one worthy of recognition—in determining the need and amount of financial assistance.

AN ILLUSTRATED EXAMPLE

The table below illustrates an economic feasibility analysis of three alternative plans for the same site. In this hypothetical example, height

to generate less than half this amount, in part due to the potential revenue of the town houses foregone to provide land for a public amenity. Concept 2 comes closer to economic feasibility but still falls \$1.7 million short of the needed land value. Only Concept 3, which uses condos to achieve a residential density of about four times that of Concept 2, provides an economically feasible result.

The zoning implications of this example depend on such factors as community goals for the site and the availability of public funds. If mid-rise condominiums are acceptable at this location, the community can change the zoning to allow this type and scale of development. If concerns over height and mass render them undesirable, the community can assist the project by offsetting some of the costs of redevelopment or accept the fact that privately driven redevelopment is unlikely to occur within the current land-use regulations unless the underlying

town redevelopment projects by allowing multistory, multifamily residential (assuming that analysis of the local market indicates demand for this type of product).

- Focus regulatory efforts on the form (rather than the bulk and density) of downtown buildings. Units-per-acre regulations can arbitrarily favor larger units that may not fit the local buyer profile. FAR-based regulations are highly unpredictable for the form and design of the buildings they produce.
- Consider a form-based code for the downtown that explicitly lays out the desired height, density, mix of uses, and urban design character for each block. This process creates more predictability for the development industry and can achieve high-quality built results while reducing the need for lengthy discretionary design review processes.

If a form-based code is not desirable or feasible, create one or more special downtown zoning districts that recognize the unique character of downtown development through:

- relaxation/elimination of setback requirements;
- flexible parking requirements that recognize reduced off-street parking needs in a mixed use downtown environment; and
- relaxation/elimination of on-site stormwater requirements.

Strive to create a predictable, streamlined development review process that gives developers a reasonable expectation that they will emerge with a buildable project.

Description	CONCEPT 1/MIN	CONCEPT 2/MID	CONCEPT 3/MAX
	Town houses and a one-acre neighborhood park	Town houses	Mid-rise condos
Development Concept			
Town house units	23	29	0
Condo units	0	0	120
Total units	23	29	120
Height	30 feet	30 feet	50 feet
Density (du/gross area)	5.3	6.7	27.9
Site assembly	\$5,619,240	\$5,619,240	\$5,619,240
Residual land value	\$2,747,036	\$3,913,964	\$6,237,257
Surplus (shortfall) for land	\$(2,872,204)	\$(1,705,276)	\$618,017
Economically feasible?	No	No	Yes

ⓘ An analysis of three development alternatives for the same site. Only Concept 3 produces enough residual land value.

S. B. Frickman & Company, Site Images courtesy The Lakota Group

and density restrictions limit residential development to town houses. Concept 1 includes 23 town houses and a dedicated open space amenity. Concept 2 replaces the open space with six additional town houses for a total of 29 units. Concept 3 opts for a group of four-story, mid-rise condominium buildings containing 120 units. The estimated site acquisition price is \$30 per square foot of land for a 4.3-acre site, yielding an acquisition cost of about \$5.6 million. Without financial assistance for the developer to facilitate redevelopment, the project will need to generate at least \$5.6 million in residual land value to make acquisition worthwhile. Concept 1 is estimated

ing real estate economics of the project change (i.e., sales prices for town houses increase more rapidly than construction costs, the land acquisition costs decreases, etc.).

ZONING RESPONSE

The following approaches are recommended for zoning in downtowns:

- Consider the impacts on the economic feasibility of redevelopment, either explicitly or generally, in downtown zoning regulations.
- Supplement and reduce the need for public financial assistance for desirable down-

CONCLUSION

Market analysis has much to offer to zoning professionals, particularly as communities become increasingly proactive at encouraging desirable development and redevelopment. Market analysis helps communities identify trends affecting the nature and amount of demand for various land uses and real estate product types. By studying these trends, cities can accommodate residents for the full life cycle and protect the competitive positions of their communities. Economic feasibility analysis is important for setting the regulatory framework for special districts such as downtowns and town centers to balance the tensions between high-quality design and likelihood of implementation.



NEWS BRIEFS

COMPREHENSIVE PLAN OVERRIDES ZONING

By Lora A. Lucero, AICP

The comprehensive plan rules in Minnesota! This is the conclusion of the Minnesota Supreme Court in a decision issued January 10—*Mendota Golf, LLC v. City of Mendota Heights*. Minnesota law requires local governments to reconcile conflicts between comprehensive plans and zoning ordinances. (Minn. Stat. § 473.858.) Every planner can appreciate the importance of ensuring that land-use tools, such as the zoning ordinance, are consistent with the comprehensive plan. But what happens when there is a conflict? Does the regulation govern or the plan govern?

The conflict became apparent in the City of Mendota Heights, a community of less than 12,000 people near Minneapolis-St. Paul. A small golf course on a 17.5-acre site is designated as “Golf Course—GC” in the city’s comprehensive plan, while the zoning designation for the property is “R-1 One-Family Residential.” The property has been a golf course since the 1960s, with a GC land-use designation since 1979. Although the R-1 zoning district allows golf courses as a conditional use, the GC does not allow residential uses. Therein lays the conundrum.

When Mendota Golf purchased the property in 1995 it thought it could rely on the R-1 zoning designation if the golf course failed to be a “profitable venture.” In 2003, it sought approval to dismantle the golf course and build houses on the property, but the city refused. Mendota Golf wanted the city to amend its comprehensive plan to allow residential uses, but the city declined. The comprehensive plan clearly states that open space and recreational uses are important assets to the community. When the community was updating the plan in 2002, it reviewed the property and reconfirmed that the GC land-use designation should stay.

So Mendota Golf asked the trial court to order the city to amend its plan, citing the state law requiring the city to reconcile the conflict. The developer wanted “more flexibility than the designation of ‘Golf Course’ allows” and also wanted “to restore the rights” it felt it had when it bought the property.

The trial court granted mandamus relief to Mendota Golf and directed the city to amend its comprehensive plan from “GC” to “LR—Low-Density Residential” because the LR

land-use designation corresponds to the R-1 zoning district. The court of appeals agreed.

The supreme court’s decision, overturning both courts, represents a big win for the supremacy of the community’s comprehensive plan. “This opinion reinforces the authority of city councils to establish local land-use policies, and limits the judicial remedies available to applicants who are disappointed with those policies,” said Clifford Greene of Greene Espel, representing the city in this case.

Contrary to the city’s assertion that there was no conflict, the supreme court decided there was, because the plan prohibits a use which the zoning specifically authorizes for the property. The court noted:

“... [T]he comprehensive plan designation creates a situation where Mendota Golf does not enjoy the same rights to use its property as other property owners within the city’s R-1 zoning district. This disparity appears to offend the spirit of the uniformity requirement by denying Mendota Golf a use of its property that is expressly permitted as to other property owners in the zoning district.”

However, since there are alternative ways the city might reconcile the conflict, the mandamus action was not appropriate. The city should have been allowed to exercise its legislative discretion, the court said.

“... [T]he nature of the [mandamus] order itself—directing the city to bring its comprehensive plan into conformity with its zoning ordinance—appears to violate the [Metropolitan Land Planning Act] because this approach undermines the supremacy of the comprehensive plan vis-a-vis the zoning ordinance.”

The community clearly values its open spaces and recreational activities. The court noted a number of policies which have been in the comprehensive plan since 1979, and reaffirmed again in the update of the plan in 2002:

“Providing the optimum amount of active and passive open space for the enjoyment of all of the city’s residents.” “Encouraging the preservation of open space in the community by private property owners in a manner consistent with the comprehensive plan.” “Encouraging planned usage of existing private recreational facilities in order to avoid duplication and promote maximum enjoyment of all citizens in the city.” “Preserving and enhancing the natural beauty, uniqueness, and attractive appearance of the community.”

Can the community force the property owner to maintain the golf course, presumably a less profitable venture than a residential subdivision? The court was not answering that question and perhaps a takings claim is in the city’s future. But the city had a rational basis to deny Mendota Golf’s proposed plan amendment. The court noted:

“A municipality has legitimate interests in protecting open and recreational space, as well as reaffirming historical land-use designations.”

The court’s decision has already had an impact. A neighboring community (Eagan) has torn up a settlement agreement with a developer who also wanted to build houses on a large golf course. In Minnesota, planners, property owners, and the community can rest assured that the comprehensive plan has teeth and is the vehicle that will guide a community’s future character and growth. *Lora A. Lucero, AICP, is editor of Planning & Environmental Law.*

Cover photo: Mixed use Seattle waterfront. Concept design by Lisa Barton; Seattle-scape image by Dennis Ng.

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HOW CAN MARKET ANALYSIS INFORM ZONING EFFORTS?

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