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Zoning and Land Use Planning

John R. Nolon and Jessica Bacher*

Reinventing Redevelopment Law

Introduction

Demographic experts project that the American population will increase by more than one hundred million over the next forty years.[1] These additional residents will create a tremendous demand for additional housing and nonresidential development. It is predicted that over seventy million new homes and one hundred billion square feet of nonresidential space will be necessary to accommodate this growth in population.[2] Since many of the new households will comprise young singles and couples, aging empty nesters, and immigrants, a large percentage of these 100 million Americans will be oriented toward urban living.[3]

This contrasts with the demand created by population growth over the past half century, which contained a higher proportion of traditional families and resulted in new home construction that emphasized single-family units on individual plots of land. This previous demand for housing along with low interest mortgages and highway expansion combined to attract urban dwellers to the country and fuel urban sprawl, contributing to the deterioration of city neighborhoods and threatening the financial capacity of urban municipalities.

Until recently, much of the debate about the flight of development from cities into the surrounding countryside focused on how spread-out land use patterns consume open space, cause nonpoint source pollution of surface and ground water resources, eliminate habitat, cause flooding, cost more in municipal services, such as wa-

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ter and sewer systems and roads, and increase traffic congestion. Local officials in distressed cities concerned themselves with reducing inner-city poverty, increasing urban tax bases, and stimulating job development.

Currently, planners and scientists are focused on how urban sprawl contributes to greenhouse gas emissions and accelerates climate change and its worrisome consequences.[4] In 2006 and 2007, the Intergovernmental Panel on Climate Change (IPCC) released three reports expressing the consensus of the scientific community that global warming is unequivocal, that its main driver is human activity, and that the consequences of climate alteration are severe: widening droughts, more frequent and serious storm events, increased inland flooding, sea level rise, and consequent inundation of low lying lands.[5] Climate change provides a sharper focus and deeper emphasis on how development patterns affect society.

City dwellers own fewer cars, take fewer automobile trips, and use less fossil fuel to heat and cool their residences.[6] Less energy is needed to heat, cool, light, and fuel buildings in many cities because they are more densely developed and because residences in cities tend to be smaller than the national average.[7] In addition, the density of the population and the mix of residential and commercial uses make public transit possible and reduce the use of automobiles by urban dwellers.[8]

In many cities, residents are responsible for less than a third of the carbon emissions attributable to their suburban counterparts, many of whom live in large single-family homes on individual parcels of land in exclusively residential neighborhoods.[9] In many affluent suburbs, residents live in homes that routinely exceed the national average of 2,400 square feet.[10] They take up to fifteen automobile trips per household per day to work, shop, and recreate. Simply eliminating the average car trip to work can reduce a commuter's contribution to carbon dioxide emissions by 6,520 pounds per year.[11]

Land use law is implicated in this. It is, after all, zoning that creates the blueprint for land development and dictates the densities and land uses that give some U.S. cities international bragging rights in the

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struggle to reduce carbon emissions and slow climate change. Urban zoning and market demand in many cities produce relatively smaller residential units; create a large proportion of multi-family, high-rise, and mixed-use buildings; and locate retail goods, personal services, and mass transit stations within walking distance for many residents.[12]

How the land is developed to accommodate the next 100 million people in the U.S. is of critical importance. Future land use patterns and human settlements will determine how cost effective, equitable, and environmentally friendly the country will be in the twenty-first century. The big picture here focuses on metropolitan area settlement patterns. How do cities become more livable, attract back the affluent households they have lost, and develop the tax base they need to support their diverse populations and the cultural, civic, educational, and governmental services they provide their regions? How do older suburbs protect and enhance their aging residential and commercial neighborhoods? How do cities and established suburbs deal with the competition for economic development and high-end residential projects coming from communities on the fringe? To do so, they need to develop competent and competitive strategies for redevelopment in identified neighborhoods, waterfronts, and downtowns that can create conditions for continued redevelopment efforts. This article explores how cities are approaching this task.

A Note on Urban Renewal

Urban renewal, and the condemnation of private property for the purpose of redeveloping blighted areas, was sustained by the U.S. Supreme Court in *Berman v. Parker*.[13] The Court noted that the public uses for which property may be taken under the power of eminent domain are coextensive with the police power of the state. Since the public welfare is broad and inclusive, the ends that may be achieved by using the power to condemn title to land include stemming blight and deterioration, redeveloping underdeveloped areas, and increasing the economic productivity of an area. The *Berman* Court observed that the role of the judiciary in determining whether that power of eminent domain is being exercised for a

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public purpose is an extremely limited one.

The plaintiffs in *Berman* complained that their property, which contained a department store, could not be taken for a slum clearance project aimed at the elimination of squalid housing conditions. How, the plaintiffs asked, does it serve the public interest in stemming housing blight to condemn a commercial building in good repair? The Court deferred to the urban renewal authority in the District of Columbia, which decided that area-wide blight could only be cured by an area-wide solution. Thus, the urban renewal authority determined that it was necessary to take the plaintiffs' building because its existence and use did not conform to the urban renewal plan for the area.

The advocates of urban renewal won a short-lived victory in *Berman*. The questionable results of slum clearance and redevelopment came under fierce attack only a few years after the decision. The critics argued that urban renewal fostered segregation, was responsible for the demolition of historic buildings, dislocated the urban poor, and wasted government resources. With the passage of the Housing and Community Development Act of 1974, federal urban renewal planning and project grants were folded into the special revenue sharing formula of the Community Development Block Grant program.

Typically, urban renewal begins with the adoption of an urban renewal plan for the redevelopment of a blighted area. The plan includes specific provisions regarding which parcels will be acquired, by what means, what infrastructure is needed, how it will be provided, what uses will be allowed or required on various parcels in the area, how zoning and other codes will be amended to facilitate these new land uses, and whether and how private redevelopment companies will be selected to develop the projects and envisioned improvements.

State enabling law carefully circumscribes how a locality may adopt an urban renewal plan. The public must be involved in the plan's preparation prior to adoption. Public notice and public hearings are required, and, in most cities, experience has proved that all relevant citizens and stakeholder groups must be meaningfully involved in creating and reviewing plan details. At

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some point in the process, one or more private developers are selected to carry out specific projects. Urban renewal began, and modern redevelopment continues, with the understanding that cities and their agencies should prescribe and direct projects but not undertake them directly. Redevelopment projects differ markedly from the types of public works projects that public agencies manage. Because the marketing, financing, designing, and developing of larger scale redevelopment projects are so complex, most urban redevelopment projects have been undertaken by carefully selected redevelopment companies.

The courts have found that urban renewal is a public purpose because it eliminates slums and stimulates the local economy, resulting in such benefits as reduced physical blight, improvement of the aesthetic appearance of the area, job creation, improved infrastructure, and the possible stimulation of new private sector economic development. Factors contributing to blight include irregular plots, inadequate streets, diverse land ownership, incompatible mixture of residential and industrial property, overcrowding, lack of sanitation, excessive drain on municipal services, high incidence of crime, fire hazards, traffic congestion, and pollution. Coincidentally, the elimination of these conditions is precisely what is needed to attract new residents and take advantage of current market and demographic conditions.

This article collapses the contemporary redevelopment process into a ten-step approach that represents what cities are currently doing as they struggle against negative perceptions of city life and the concrete physical, financial, and market realities. These ten steps include:

1. Setting the Stage for an Effective Redevelopment Process;

2. Identifying the Redevelopment Area;

3. Planning for the Provision of Public Infrastructure and Amenities;

4. Developing a Transparent Process for Citizen and Stakeholder Participation;

5. Developing and Adopting a Regulatory Plan;

6. Securing Title to Relevant Parcels;

7. Creating the Public/Private Partnership;

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8. Adopting Needed Zoning and other Land Use Controls;

9. Streamlining the Development Approval Process; and

10. Securing Needed Public and Private Financing

1. Setting the Stage for an Effective Redevelopment Process

Market forces are often insufficient to attract developers to redevelop aging downtowns, industrial waterfronts, multifamily neighborhoods, or underdeveloped sites in urban locations with deteriorating infrastructure and where evidence of blight is significant. In these places, a more intense partnership is needed, one that joins the public sector, which uses resources uniquely available to it, and the private sector with its debt and equity financing and development competence.

Developers can be attracted to work in urban places where the market is less than robust, if municipal administrations are proactive regarding land development, both at the level of the chief elected official and legislature and the administrative level: the staffs of the urban redevelopment agency, department of development, industrial development agency, and the volunteers and staff who serve land use approval agencies, such as the planning board. Developers will invest in urban areas, purchasing land and risking capital, only where they are convinced that the municipality can deliver financial resources and supportive infrastructure needed to make the project work practically and financially.

Regarding particular redevelopment areas and large sites, developers will ask whether the municipality has committed itself to a clear master plan with defined objectives and design standards. They are attracted when the municipality has drawn the boundaries of redevelopment districts, given them clear identities, specified how they should be redeveloped, and identified the resources they and other public agencies can bring to the bargaining table.

Municipal leaders, for their part, are interested in finding developers who have proven track records of successfully building and managing the particular type of projects the public sector is seeking. They want to know whether the developer can conduct professional predevelopment feasibility stud-

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ies, understand macroeconomic trends, conduct reliable market analyses, provide financial resources from private-sector investors and lenders, and employ staff and professionals who have all the skills necessary to plan, build, market, and manage the needed project.

Constitutional and state legislative standards prevent state and local governmental agencies from giving land, infrastructure, and other public assets to private entities or providing special tax benefits or exemptions to them. When the purpose is the provision of affordable housing, job creation, blight eliminations, brownfield redevelopment or the mitigation of climate change, such benefits may be provided to private redevelopers but only where the requirements of state urban redevelopment statutes are met. The purpose of these incentives is to induce the private sector to create benefits for the public that are not financially feasible without the assistance.

2. Identifying the Redevelopment Area

Successful redevelopment areas are identified given local conditions and, as a result, come in all shapes and sizes. They can range in size from hundreds of acres to a few and in complexity from a mixed use, multiple-building development to a single use of an individual parcel of land. Local circumstances dictate the political, physical, and economic feasibility of redeveloping discrete urban areas.

A key feature of urban renewal area planning is its specificity. The precise boundaries of the area are identified, and all of the parcels targeted for redevelopment are studied and considered in drawing the area's perimeter. Current parcel use and ownership is identified, discussed, and considered in determining the feasibility of reshaping land uses under the urban renewal plan. Urban renewal plans specify the precise type of development that should occur on each parcel, or reshape parcels, within the area. This was more feasible when large federal grants for urban renewal planning, land acquisition, demolition, and public infrastructure construction was available. The lack of such funding today requires greater flexibility in prescribing the development of parcels within modern redevelopment areas and identifying areas

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themselves. Cities with blighted areas struggle to finance the intensive studies and infrastructure investment needed to clearly plan area-wide redevelopment.

Political considerations are critical in area identification. Brownfield sites raise environmental justice concerns, and redevelopment areas that contain many small privately owned parcels raise eminent domain concerns. Potential redevelopment areas may concern many or relatively few stakeholder groups with varying degrees in development outcomes.

The availability of financing and financial incentives from pubic sources is also a key consideration in area identification. There must be concrete evidence that sufficient funding is available to provide the public amenities and infrastructure needed and supplement the equity and debt financing that redevelopers command.

Where these considerations lead to the selection of relatively small redevelopment areas, some plan for staging of redevelopment in adjacent or nearby areas may be needed to demonstrate long-term stability in the city's overall redevelopment plan. This raises central questions about how to select the most strategic area where outside funding can be leveraged, such as that of a transit agency or brownfields grant, and what type of redevelopment will spark the revitalization of the larger community.

3. Planning for the Provision of Public Infrastructure and Amenities

Infrastructure as used here refers collectively to the facilities and services needed to support area-wide redevelopment. The term includes roads, rail lines, bridges, water transport systems, sewage treatment, lighting, and sidewalks. It also refers to services such as police, municipal court, garbage collection, and a highway department. Local infrastructure typically is financed by local government and paid for by levying general property and special district taxes. Public services are financed through annual tax revenues, fees, and other short-term revenue sources.

The urban redevelopment dilemma is evident when considering how necessary public infrastructure and services should be provided. Without them, development projects

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will not occur because no one will come. Most of the nation's large cities have suffered decades of deferred maintenance, which has led to the obsolescence of some infrastructure and lowered property tax assessments and revenues. Water, sewer, and transportation systems have limited capacity, and allocating that capacity to larger-scale redevelopment projects is politically controversial. State and federal infrastructure grant funding is shrinking; to qualify, cities have to be extremely competitive. The best response to this dilemma, of course, is to create a clearly feasible redevelopment plan that will leverage public funding and future private market activity.

4. Developing a Transparent Process for Citizen and Stakeholder Participation

Because redevelopment plans involve significant change in the community and require the commitment of significant public infrastructure and services, they require widespread citizen support. The failure to involve interested stakeholder groups in the planning process and make that involvement meaningful is likely to alienate the public and prevent the kind of public buy-in needed for projects to succeed.

In most states, the law requires municipalities to notify and hear the public before adopting redevelopment plans and approving redevelopment projects. These legal requirements satisfy the public's due process rights to be notified and heard, but they do not by themselves create an effective system of transparency and public participation.

Early in the redevelopment planning process a strategy for notifying and involving the public is a practical, if not legal, prerequisite for success. Before decisions are made, the recognized leaders of key stakeholder groups must be identified and invited to participate in the decision-making process. Every group that will be affected, positively or negatively, by redevelopment or that has resources or power necessary to its success must be included. The public process into which they are invited must give them some control over both the process and its outcome and have sufficient integrity to persuade them that decision makers value their informed advice and recommendations. Such a process re-

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quires the commitment and training of a team of leaders, effective publicity and outreach to secure involvement, and follow-through by the team and development staff to carry out the vision and plan developed with public input.

5. Developing and Adopting a Regulatory Plan

A regulatory plan is a comprehensive plan for a specific area or large site that contains detailed standards for the design and development of the area or site. Because of this specificity, zoning incentives and land use permit approvals can be tied to the developer's compliance with the standards in the plan, making it regulatory in this indirect sense. Compliance with the standards of the regulatory plan can result in a streamlined review process. A regulatory plan is analogous to an urban renewal plan which is used to govern site redevelopment and create standards employed to select developers to work in an urban renewal area.

The purpose of developing a regulatory plan for a specific area or site is to provide the community with increased control over development. Through the plan, the community determines uses, density, open space requirements, public amenities, design, street and sidewalk layouts, and landscaping standards. Once a plan is in place for an area, the city may then require strict or general compliance with it by making certain permit approvals dependent upon adherence to its fixed standards or performance objectives. A community can incorporate the regulatory plan directly into its comprehensive plan or adopt a stand-alone plan for the designated area.

When the public and professionals who advise the community participate in the planning process, it is important to achieve some consensus as to how the redevelopment area should look and function. Providing for higher density development involves taller buildings and an increased number of workers and residents and, in the absence of public transit, their cars. These residents need to be accommodated on the street by sufficient retail, dining, and recreational services to mitigate the effects of the greater density. Groceries, consumer products, personal services, and daily necessities should be within walking dis-

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tance of their front doors or offices. Along the way to public transit, or on an errand or stroll, they need pedestrian amenities such as sufficiently wide streets, protection from traffic, attractive resting areas, street trees, relatively short blocks, architectural compatibility and excitement, and an inviting sense of place.

Once those involved agree upon these design features, some method of ensuring their implementation is needed. The design standards can be clearly described in the plan for the area and serve as guidelines for developers and land use approval agencies. They can be adopted as policy guidelines apart from the area plan and made applicable to redevelopment projects throughout the community. Alternatively, they can be codified as mandatory or waivable requirements that must be met, or reasons given for their waiver, when development approvals are secured.

Compliance with certain standards such as small park provisions, open space, landscaping, enhancements to the public realm, and day care, health care, or community service facility provisions can qualify developers for density bonuses or other incentives under local land use regulations. Zoning incentives can be used to convince developers to create mixed use buildings, accommodate needed small retail and dining services at the street level, or to build spaces for needed services.

6. Securing Title to Relevant Parcels

The typical redevelopment area involves some parcels of land owned by the city or other governmental agencies, together with a wide variety of privately or institutionally-owned lots and buildings of various shapes, conditions, and sizes. The title to some of these lots may be defective, and owners of others may be hard to locate, institutionalized, or uncooperative. In such areas, assembling title to enough key parcels to spark revitalization may be problematic.

Under urban renewal, local renewal agencies are required to negotiate with private owners to purchase land at market value; however, where owners couldn't be found, suffered from legal disabilities, couldn't convey title, or were unwilling to sell, most urban renewal agencies simply condemned the land using the power of eminent domain delegated to

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them by state statute. Following the adverse public reaction to the U.S. Supreme Court's decision in *Kelo v. City of New London*[14] where the condemnation of private homes for area-wide redevelopment was upheld as constitutional, several state legislatures prohibited the use of condemnation for so-called economic development purposes. Most of these reform statutes left intact the power to condemn private property in blighted areas for the purpose of redevelopment. The adverse political and public reaction to *Kelo*, however, has limited the use of condemnation and heightened interest in less severe methods of assembling land for urban redevelopment.

Today, the land assemblage process starts with a detailed inventory of land ownership in a potential redevelopment area. By looking at real estate taxation categories, local officials can quickly figure out which parcels are owned by the city or other levels of government or by institutions that might be interested in selling all or part of their holdings. It is also easy today to find out which parcels are on Superfund and other contaminated property lists—parcels whose owners are concerned about liability for contamination or face barriers to marketability and may be actively interested in redevelopment and remediation. Very small parcels, marginal sites, or abandoned or dilapidated buildings can be found through property inspections, tax foreclosure records, and housing code citations. Their owners may be interested in selling at reasonable prices or even donating their properties to the city because of the lack of profitability of their land. All of these types of parcels may be easier to purchase than larger or more economically viable private properties whose owners may be reluctant to sell.

Cities can enter into negotiations with the owners of these more viable properties by inviting them to participate in the redevelopment process either as a parcel owner or as equity participants in an ownership syndicate. Under their zoning authority, cities can adopt strategies that give bonus densities and other incentives to the owners of properties who agree to sell or assemble their parcels in conformance with the development pattern prescribed by the redevelopment plan.

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7. Creating the Public/Private Partnership

Once land is assembled, or landowners have agreed to cooperate with a general redevelopment plan, some method of developing the land in accordance with the regulatory plan must be adopted. With few exceptions, municipalities prefer to work with private sector companies rather than redeveloping directly or through a public agency. The public sector seldom has the experience necessary to finance, build, market, and operate mixed-use, large scale developments. This is the role of the private sector, particularly redevelopers who are in the business of implementing urban projects.

Where the land is municipally owned, the city sets up some form of competition to attract and select one or more private developers to undertake the redevelopment in conformance with the regulatory plan. Under some urban renewal statutes, redevelopers were required to set up separate companies under state laws that limited the profit to be earned and prescribed the uses to which the land could be put. At a minimum, renewal statutes specified that eligible redevelopers were required to be selected competively, certify that they would develop the land in accordance with the urban renewal plan, and show how they would achieve the public benefits listed in the state statute, such as blight elimination, job development, and the elimination of crime and delinquency.

The prescribed urban renewal process fostered confidence in the private redevelopers selected to carry out redevelopment. Under modern redevelopment programs, some transparent and deliberate method of selecting one or more private developers must be crafted and explained to the public. Usually this involves a request for proposals or qualifications from developers, asking them to respond by a certain deadline. A request for qualifications (RFQ) asks developers to review the plan and submit their company's qualifications to develop, finance, and manage the development envisioned by the plan. A request for proposals (RFP) asks for qualifications but also requires developers to outline in some detail how they will actually develop the parcels included in the project. This allows developers to propose different strategies for accomplishing the

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objectives of the plan such as where public amenities should go, how they should be integrated into the development, financial strategies, the precise mix of land uses, the phasing of the development, etc.

Cities then establish some method of reviewing developer responses and selecting one company to proceed. This can be delegated to the redevelopment agency, retained by the city council, or accomplished in conjunction with an advisory group involving critical stakeholders. Once a single redeveloper is selected, a development agreement is negotiated and executed that describes in some detail the responsibilities of the city, the redevelopment agency, other public agencies, and the redeveloper. It is here that the public financial and capital contributions to the project, if any, are described, along with when and how land will be conveyed, how the development will be reviewed and approved by local land use agencies, what precisely the developer and public agencies must do, and deadlines for completion of all specified tasks.

8. Adopting Needed Zoning and other Land Use Controls

In most cases, the zoning of redevelopment areas needs to be changed. Existing land use regulations typically were adopted at an earlier time when the circumstances and conditions in cites were quite different than they are in the post-industrial period. Quite often rezoning is opportunistic and unpredictable. Some sort of plan for a redevelopment area is created, complete with policies and performance objectives, and then developers apply for rezoning. In these cases, site specific negotiations ensue between city staff and the developer with project density used as a principal bargaining chip. The more the city demands of the developer to meet redevelopment policies and provide public amenities, the greater the density needed to pay the costs.

Where a detailed regulatory plan has been developed, rezoning can be simplified. One method is to adopt a zoning category or ''district'' that applies only to redevelopment areas and which declares that any development plan in confor-

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mance with the details of the regulatory plan is in compliance with the zoning. One community created the PDR category for this purpose. PDR stands for Planned Development and Redevelopment. The PDR zoning ''district'' simply declares that any development in conformance with the regulatory plan for the area is permitted, as of right. This eliminates the uncertainty that attends most rezoning applications and gives the redeveloper a strong incentive to respond to any RFP or RFQ sent by a city that has adopted something akin to PDR zoning.

Another approach that cities take is providing various incentives through redevelopment area rezoning that reward developers who provide one or more desired amenities or benefits. So called incentive zoning usually allows developers to develop at a greater density if they provide affordable housing, public art, needed infrastructure, day care, etc.

Alternatively, cities can adopt a floating zoning district that applies only in the designated redevelopment area. A floating zoning district defines a use that the community wants to encourage, such as specific redevelopment projects. The floating zone can be affixed to one or more qualifying parcels of land either upon the application of the parcels' owners or upon the initiative of the local legislature. Upon approval, the parcel is rezoned to reflect the new use and becomes a small zoning district; its development is governed by the use, dimensional, and other provisions of the floating zone.

The floating zone technique is a good tool to use where much of the land in the redevelopment area is privately owned and the city needs the owners of parcels to aggregate their land and make a composite application to the city for rezoning. Floating zones usually specify that a certain amount of acreage must be involved in an application and that the owners must propose development in conformance with the performance objectives of the redevelopment plan. The applicants then must show that they created a method of combining the titles to their land and working with a redevelopment company of their choosing to develop the land as specified in the plan, subject to city approval.

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9. Streamlining the Development Approval Process

The development approval process for the redeveloper begins with zoning compliance and continues through subdivision of parcels for development and then site plan or special permit submission, review, and approval. Depending on state and local law some form of impact review is often required or imposed as this process continues. Since this process is somewhat discretionary, redevelopers sense a high degree of risk as they consider commitments to working in redevelopment areas. What are local policies and standards? What stakeholders are there, how much clout do they have, and what will they do when the process begins and the project is announced? How long will the process take? How certain is the approval? What amount of density and what land uses will be approved?

These questions often impede redevelopment. The market and economic risks to urban development projects are significant barriers by themselves. If there are too many unknowns in the development review process, responsible developers may choose not to attempt needed projects. In response, cities have generated a number of methods for streamlining the development review process.

Consider, for example, the PDR zoning district mentioned above and the development agreement entered into with carefully selected redevelopers. In the PDR example, the city has worked out the details of the desired redevelopment in a regulatory plan which has been adopted after meaningful citizen participation and in response to stakeholder concerns and suggestions. Because the plan is specific as to what type of project is needed, the developer knows what the city wants. In states or localities where environmental review of development proposals is required, an impact review of the detailed regulatory plan should either excuse or lessen the degree and cost of review required at the project approval stage. As long as the project is in conformance with that detailed plan, the redeveloper can count on the right to build under the PDR zoning concept.

In response to a professionally developed request for qualifications or proposals process, the redeveloper is selected and negotiates a contract, called a development agree-

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ment, with the city or redevelopment agency. This agreement will cover a host of matters including how the project will be reviewed and whether the developer can count on agency approvals of an application of a project that conforms to the plan and the provisions of the development agreement. Because the agreement either contains deadlines or excuses developer performance or provides for damages to be paid to the redeveloper if the city does not comply with the agreement, the redeveloper has much greater certainty regarding land use approvals.

10. Securing Needed Public and Private Financing

The public/private partnership worked out in the redevelopment process and memorialized in the development agreement includes joint responsibility for project financing, the infrastructure, and the amenities needed for it to succeed. What are the total costs of the project: brick, mortar, labor, equipment, taxes, professional fees, etc.? Beyond project costs, what infrastructure needs to be built, and is remediation of hazardous conditions on site required? Still further, what amenities or public benefits are contemplated, from public art projects to day care facilities or affordable housing? What sources of financing are there for each of these expenditures?

The good and bad news is that there are many sources of financing, beginning with the redeveloper and its equity partners and the private sources of construction and permanent financing. Although these sources may cover total costs in a strong market area project, they are not enough in most redevelopment projects where blighting conditions need to be corrected and public amenities, benefits, and infrastructure supplied. There may be grant and loan programs available from several state and federal agencies; tax exemptions and credits available for eligible projects under local, state, and federal programs; land to be contributed by local institutions or other levels of government; and low cost sources of project financing available through industrial development, housing development, or urban renewal agencies.

The good news is that there are many sources for financing that help cover total redevelopment costs. The bad news is

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that such funding is limited and it is difficult to coordinate all the sources of financing and meet all of their criteria for funding on any given project. Only carefully planned and strongly supported projects will survive this competition and secure the cooperation needed from all potential sources of financing. By following the ten steps outlined in this article and developing an exciting and strategically sound project, cities and redevelopers can initiate and fund projects capable of jump starting revitalization in America's urban neighborhoods.

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[1]Arthur C. Nelson & Robert Lang, American Planning Association, The Next 100 Million 1 (2007), http://www.mi.vt.edu/uploads/The%20Next%20100%20Million.pdf.

[2]Arthur C. Nelson & Robert Lang, American Planning Association, The Next 100 Million 1 (2007), http://www.mi.vt.edu/uploads/The%20Next%20100%20Million.pdf.; *see also* Reid Ewing et al., Urban Land Institute, Growing Cooler: The Evidence on Urban Development and Climate Change 18 (2007), http://sgusa.convio.net/site/DocServer/GrowingCooler9-18-07small.pdf?docID=4061 (''There seems to be little question that a great deal of new building will take place as the U.S. population grows toward 400 million. According to the best available analysis, by Chris Nelson of Virginia Tech, 89 million new or replaced homes—and 190 billion square feet of new offices, institutions, stores, and other nonresidential buildings—will be constructed through 2050.'').

[3]*See* Nelson & Lang, *supra* note 1, at 2–4; Reid Ewing et al., *supra* note 2 at 19; Johnathon Karp, *Suburbs a Mile Too Far for Some*, The Wall Street Journal, June 17, 2008, at A18, *available at* http://online.wsj.com/article/SB121366811790479767.html; Policy Development and Research, U.S. Department of Housing and Urban DevelopmentIssue Papers on Demographic Trends Important to Housing 82–83 (2003), www.huduser.org/publications/pdf/demographic_trends.pdf.

[4]*See* Reid Ewing et al., *supra* note 2; American Planning Association, Policy Guide on Planning & Climate Change, Distribution Draft (2008), http://www.planning.org/policyguides/pdf/draftclimatechange.pdf.

[5]IPCC, Intergovernmental Panel on Climate Change Fourth Assessment Report Climate Change 2007: Synthesis Report (2007).

[6]*See* Reid Ewing et al., *supra* note 2 at 55, 110.

[7]*See* Reid Ewing et al., *supra* note 2 at 108–10.

[8]*See* Marilyn A. Brown et al., Metropolitan Policy Program, The Brookings Institution, Shrinking the Carbon Footprint of Metropolitan America 12 (2008). http://www.brookings.edu/[]/media/Files/rc/reports/2008/05_carbon_footprint_sarzynski/carbonfootprint_report.pdf.

[9]*See* PlanNYC, Planning Information Portal, http://www.plannyc.org/ (last visited July 17, 2008).

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[10]*See* PlanNYC, Planning Information Portal, http://www.plannyc.org/ (last visited July 17, 2008).

[11]*See* PlanNYC, Planning Information Portal, http://www.plannyc.org/ (last visited July 17, 2008).

[12]*See, e.g.*, Karp, *supra* note 3; ROBERT CERVERO, TRANSPORTATION RESEARCH BOARD, TRANSIT-ORIENTED DEVELOPMENT IN THE UNITED STATES: EXPERIENCES, CHALLENGES, AND PROSPECTS (2004).

[13]Berman v. Parker, 348 U.S. 26, 75 S. Ct. 98, 99 L. Ed. 27 (1954).

[14]Kelo v. City of New London, Conn., 545 U.S. 469, 125 S. Ct. 2655, 162 L. Ed. 2d 439, 60 Env't. Rep. Cas. (BNA) 1769, 35 Envtl. L. Rep. 20134, 10 A.L.R. Fed. 2d 733 (2005).

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