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Policy Primer: Strategies to Increase Housing Production

Introduction

Communities across the United State face a variety of pressing challenges related to the safety, stability, and affordability of housing. For the past year, ChangeLab Solutions has been working with local governments and housing advocates in eight communities across the country as part of the [Housing Solutions Collaborative](#), a peer-learning cohort focused on building capacity and partnerships to advance housing equity. Although no two communities are the same, the technical assistance provided to our partners revealed common needs and areas of interest. This memo is one of five in a series that provides a high-level overview of strategies and policies that the cohort explored together: using tax incentives to spur affordable housing, developing best practices for establishing and expanding local emergency rental assistance, adopting anti-displacement policies to protect tenants, supporting affordable housing production, and adopting strategies to address housing-specific racial inequities. The memos highlight equitable solutions to housing challenges that local jurisdictions and communities face throughout the United States.

Housing Challenge: Lack of Housing Production & Affordable Housing

As the nation remains mired in a housing affordability crisis with an estimated deficit of 3.8 to 5.5 million housing units,¹ jurisdictions are looking to spur the development of housing units. Despite record-high rents and home prices, housing production continues to lag behind population growth.² US housing production is driven almost entirely by private developers in response to market conditions. When market conditions do not align and there is a mismatch between housing development expenses (such as the costs of labor, materials, land acquisition, and regulatory approval) and the revenue that can be generated from that development, the result is limited development that greatly exacerbates affordability issues when coupled with the rising demand for housing. Because most housing is produced through private market mechanisms, many policy responses seek to incentivize market-based solutions in an effort to minimize this mismatch.

The Policies: Zoning & Land Use Changes

To address the gap between cost and revenue to increase housing production, especially for affordable and middle-income housing, localities have frequently pursued policies that change or affect zoning and other land use regulations. Zoning regulations generally control what can be built, where, and how. Changing or modifying these regulations can narrow the gap by, for example, increasing the number of units that can be built on a given lot, streamlining administrative processes, or waiving or reducing costly requirements such as parking. Additional zoning policies, such as affordable housing overlay districts and inclusionary zoning policies, can promote affordable development by incentivizing or requiring production of affordable housing in certain zones.

Upzoning Existing Single-Family Zoning

Upzoning is the process of modifying the existing zoning code to allow greater building height or density.³ It can help increase housing supply by making it possible for developers to build more units on a piece of land than they were previously allowed.

One particular upzoning strategy that has received increasing interest is upzoning single-family zoning, or zoning that restricts development to single-family detached houses. This permits the development of smaller multifamily development such as duplexes, triplexes, secondary or accessory dwellings, and small apartment buildings, sometimes referred to as “missing middle” housing.⁴ The rationale is that single-family zoning, by restricting the allowable density of a given area to a single unit per buildable lot, artificially constrains housing supply, thus increasing the cost of housing and exacerbating inequities related to housing affordability and residential racial segregation.⁵ Given that single-family zoning accounts for approximately 75 percent of all residentially zoned land in many major American cities and an even greater proportion in many suburbs and newer Sun Belt cities,⁶ upzoning single-family zoned areas increases the development potential of a significant amount of buildable land. Minneapolis, Minnesota, and Portland, Oregon, are two jurisdictions that have recently upzoned areas previously zoned for single family residences.⁷

Due to how recently this set of changes was enacted, research examining the impact on housing production is limited. Historical trends in areas that have been upzoned suggest that an uptick in housing units might take years. The limited research that examines minor zoning changes to allow slight density bumps also indicates that it can take years for these regulatory changes to be reflected in construction patterns, which means they may not be sufficient to meet the immediate housing production needs facing a particular region.⁸ In addition, these strategies can be challenging to pursue for political reasons as homeowners and other stakeholders may oppose density increases for a variety of reasons.

Zoning Incentives

Zoning incentives increase housing production by lessening or waiving some of the restrictions placed on buildings (such as density and bulk-related rules and off-street parking requirements). These restrictions typically add significant costs to housing development projects.

In some places, incentives and waivers are provided on a project-by-project basis. In other places, incentives can be applied to any development that meets certain defined criteria, such as through the inclusion of affordable units. For example, the city of Austin, Texas, implemented its Affordability Unlocked program in 2019. It offers a variety of zoning waivers in exchange for setting aside half of a development’s total units as affordable housing. It is a voluntary program, and bonuses come in the form of height and density increases, parking and compatibility waivers, and reductions in minimum lot sizes.⁹

Research shows that the Austin Neighborhood Housing and Community Development Department has certified 2,721 units in projects under the program, including 2,337 affordable units. The program’s limitations have been noted along with its successes, and while it has served to increase the feasibility of housing projects that are 100 percent affordable, it had been less successful in encouraging middle-income or market-rate housing production.¹⁰

Inclusionary Zoning

Inclusionary zoning (IZ) can create affordable housing units by encouraging or requiring developers to set aside a percentage of housing units at below-market prices.¹¹ These policies are considered inclusionary because they are intended to allow lower- and moderate-income households to buy or rent property in high-opportunity areas. IZ policies can be classified as one of two types: mandatory or voluntary.

Mandatory inclusionary zoning policies require that proposed projects designate a predetermined share of units as affordable units or satisfy the requirement in other ways, such as by paying a fee to a locality to be used for subsidizing affordable housing in another development. They may also compensate new developments subject to the policy by offsetting the anticipated revenue lost by including affordable units. This is most commonly done with density bonuses that allow construction of a greater number of units than would otherwise be permitted onsite. Other offsets include reduced parking requirements, greater height allowances, reduced development and permitting fees, and relief from certain regulatory requirements. Voluntary inclusionary zoning policies give developers the option of using offsets in exchange for a predetermined share of affordable units. Developers can either elect to provide the required affordable housing units and receive the offset or develop without the required units and without the bonus offsets.

The first IZ policy was established in Fairfax County, Virginia, in 1971.¹² As of 2017, over 850 jurisdictions in the United States had some form of IZ policy, the vast majority of them adopted after 2000.¹³ These policies have been passed in big cities (e.g., New York City,¹⁴ San Francisco),¹⁵ suburban communities (e.g., Montgomery County, Maryland),¹⁶ and rural areas (e.g., North Elba, New York).

Recent studies have claimed total counts of 150,000 to 173,000 units since 1971, indicating that IZ policies have generally been successful in creating some affordable housing.¹⁷ However, some jurisdictions that have IZ policies have produced very few or even no units.¹⁸ The lack of effectiveness in some areas has been attributed to weak housing markets, a lack of local capacity to enforce the policies, or a lack of development incentives for builders.¹⁹ Policy design also appears to affect the production of affordable housing, with some studies indicating that mandatory programs produced more housing than voluntary programs did.²⁰ Research also indicates that the length of time a policy has been in place is a significant predictor of the amount of housing produced.²¹

Expedited Permitting

Another tool to incentive housing development is streamlining or shortening regulatory approval processes. These processes can be time-consuming, resulting in delayed time lines, or onerous, requiring costly technical studies. They can also be based on discretionary criteria, which introduce uncertainty and risk to the approval process. Austin, Texas, is an example of a city with an implemented streamlined permitting process. There, expedited building plan review is offered for all residential construction, though with some exceptions.²²

Adopting Overlay Zoning Districts

Adopting an overlay district does not change the underlying zoning of an area. Instead, it creates a second set of zoning provisions or incentives for the area in addition to those in the underlying zone(s). Overlay districts can share common boundaries with the base zone or cut across underlying zoning boundaries. For example, a locality might consider adopting a mixed-use or affordable housing overlay district that cuts across a high-density corridor where parts of the underlying area are zoned solely for

commercial use and other parts are zoned exclusively for residential use. In doing so, developers could still pursue projects that comply with the underlying zoning in the area but could also pursue projects that meet the criteria of the overlay district, unlocking additional land that otherwise would not be available for housing. This contrasts with upzoning, which increases the allowable density of a zone that already allows housing. Localities can focus on using overlay districts in areas that may not be efficiently used but are especially well suited for additional growth, such as along existing public transit corridors.

Cambridge, Massachusetts, for example, has used overlay districts to increase the amount of land available to developers of affordable housing. What makes its Affordable Housing Overlay program, enacted in October 2020, particularly noteworthy is that this overlay district was not limited to a particular neighborhood or corridor. It spans the entire city, allowing “construction of 100 percent affordable four-story apartment buildings *anywhere* in the city by-right,” unlocking significant areas of land for housing development that were previously inaccessible.²³

Utilizing Form-Based Codes

Whereas conventional zoning emphasizes the separation of land uses, form-based codes are more focused on the built form and aesthetic of structures and other features of the built environment.²⁴ Due to the nature of form-based zoning, these codes tend to be applied on a neighborhood scale.²⁵

Form-based codes aim to facilitate by-right development, which is typified by an administrative approval process that is much shorter in duration, is less costly, and provides more certainty than longer discretionary approval processes that can be triggered by conventional zoning. At the same time, the elimination of discretionary approvals can reduce the extent to which the public is able to negotiate and weigh in on developments as they seek approval, which can be seen as a drawback. For example, in places where rent control and inclusionary zoning are preempted by state law, negotiations during the discretionary review process can be critical to getting developers to include affordable units in projects. The adoption of form-based zoning can also be met with community resistance due to concerns about the increased flexibility of the codes, resulting in development that is out of context.

As an example, Chapel Hill, North Carolina, implemented form-based zoning in its Blue Hill District, an area that has been the subject of focused planning efforts for years due to its large concentration of vacant parcels and strategic proximity to commercial hubs and transit corridors.²⁶ As of November 2020, a reported 1,465 residential units were developed or in the construction pipeline. However, while adopting a form-based code has helped spur overall housing development, the impact on increasing affordable housing production has been less significant. This is due in part to the fact that adopting a form-based code made more types of development permissible and removed some of the city’s ability to negotiate affordable housing concessions from developers seeking relief from zoning limitations. Since state law in North Carolina preempts the application of mandatory inclusionary zoning, losing the ability to engage in such negotiations was a major blow to affordable housing production there. Nevertheless, some affordable housing production has been achieved in the Blue Hill District since the adoption of form-based codes through the application of public funding and direct land transfers from the town to affordable housing developers.

Modification of Parking Rules

The cost of providing off-street parking is a major factor that drives up housing production costs.²⁷ Minimum parking requirements can also pose challenges for incorporating additional housing units on a given lot as more space is needed to accommodate the spaces. Nationally, there are many examples of parking-related zoning strategies that seek to address associated impacts on housing production, such

as eliminating minimum parking requirements for certain types of developments (like affordable housing) or for developments with good public transit access. Unbundling parking is another parking strategy that has been gaining traction and allows parking spaces to be rented or sold separately rather than automatically included with the rent or purchase price of a residential or commercial unit.²⁸

Several factors should be considered in contemplating offering waivers or reductions of required parking, including the building typology and unit breakdown, proximity to transit and walkability, and whether affordable development is contemplated. Auto-ownership rates, rates of use of existing parking, and known commuting patterns to job centers are other useful factors to consider in seeking to understand the parking needs in a particular place.

Alexandria, Virginia, has a complex set of off-street requirements that are specific to the location of a given development or building and building typology.²⁹ Single-family detached homes and duplexes, rowhouses, and townhouses are generally required to provide two parking spaces per dwelling unit, and multifamily buildings located within walking distance of a Metro station must provide 0.8 spaces per bedroom. For multifamily buildings, an additional 5 percent reduction of the requirement is available if certain criteria are met in a project (e.g., concentration of studio apartments, overall walkability, and presence of affordable units).³⁰

Legal Considerations

Even if a locality has the authority to enact zoning-based policies, its proposed legislation must also be consistent with state law to not be preempted. Preemption is a legal doctrine in which a higher level of government limits or even eliminates the power of a lower level of government to regulate a specific issue. In the state preemption context, it typically occurs whenever a local law conflicts or is inconsistent with a state law. State laws can also preempt local laws if the state's laws are so extensive within an area so as to imply that the state intends to regulate all aspects of that area.³¹ For more information on this topic, see [additional preemption resources](#) provided by ChangeLab Solutions.³²

In the context of zoning-based policies, a state law that forbids localities from regulating rental prices, such as those found in Wisconsin and Texas, may interfere with a locality's ability to implement zoning strategies that have an impact on rental prices, such as inclusionary zoning policies.³³ In those states, offering voluntary or optional density waivers may still be viable. In addition, many state laws dictate the process by which a locality can pursue zoning changes. Local attorneys familiar with state law should be consulted before proceeding.

Equity Considerations

Two equity considerations are important when implementing zoning-based policies.

First, these policies do not replace the need for affordable housing subsidies. In the absence of subsidies, zoning changes that seek to incentivize development are highly unlikely to induce the private market to produce housing for the lowest-income households, as building maintenance, taxes, insurance, and other costs of business frequently collectively exceed the maximum affordable rents for these households.³⁴ Therefore, although zoning and land use modifications play an important role in making financing affordable housing more feasible, government subsidies are often needed to close financing gaps and make these projects viable.

Second, zoning strategies that seek to unlock the development potential of land (like those focused on increasing density, for example) can lead to gentrification and displacement, particularly when the

locality does not have policies such as rent control, tenant protections, or other anti-displacement measures in place. For this reason, it is advisable to ensure that this housing stock and its specific vulnerabilities are identified and protections set in place before implementing efforts to boost production.

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