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INCENTIVE ZONING and INCLUSIONARY ZONING

Description:

Incentive Zoning—

Incentive zoning provides inducements to developers for development projects that provide some type of a community benefit, such as a public square, streetscape, park, senior housing, or affordable housing. Often, the incentive will take the form of a density bonus—that is, in exchange for including the specified community benefit, the developer is given permission to place more buildings in a specified area than would normally be permitted by the zoning code. For example, the City of Seattle allows greater densities than those permitted in the city's ordinance if a project provides a daycare center, shopping atrium, widened and improved sidewalk, or an urban plaza. New York City used to provide height density bonuses (greater number of floors in a high-rise building) in exchange for improved public spaces on the streetscape fronting or nearby the building.

Inclusionary Zoning—

Inclusionary zoning is a form of incentive zoning. Most often, the inducement to the developer is in the form of a density bonus in exchange for including a certain percentage of affordable family housing units, senior housing units, and/or multi-unit housing within a particular development project or land area. Thus, inclusionary zoning ordinances can be used to create greater housing options for specified residents within the community or building.

“Exclusionary zoning” (the opposite of inclusionary zoning) is sometimes used by communities to preclude affordable housing units or multi-unit dwellings for families or individuals. Through legal suits, the courts have regularly struck down blatant exclusionary zoning—most recently in the 2006 New York case of the Town of Montgomery v. Landmaster Mont I, LLC et al.,¹ which ruled that municipal zoning should accommodate all residents. This case can be used to convince localities to adequately zone for alternative housing options, including senior housing or housing for individuals with disabilities and other population groups.

Reference:

¹ Jacobowitz & Gubits, LLP, *Affordable Housing: "D. Recent Decisions (#5)":*
<http://www.jacobowitz.com/General-Resources/Affordable-Housing.shtml>.

Benefits:

- Incentive zoning is an effective method for a municipality to achieve the advantages of a desired community benefit, such as providing more public amenities, increased housing options through greater density, needed affordable housing, and a pedestrian-friendly environment, all of which provide a community living environment that responds to the needs and quality of life

issues of various resident groups, including older adults, individuals with disabilities, young-adult workers, and others.

- Since incentive zoning is market-based and voluntary, no public subsidies are required for the resulting public amenities.
- Inclusionary zoning provides smaller, more affordable housing for various resident groups, including single adults, older adults, childless couples, individuals with disabilities, and others.
- Inclusionary zoning creates age- and income-integrated neighborhoods and buildings without relying on taxpayer-funded housing projects.

Impediments or barriers to development or implementation:

- In traditionally zoned, low-density areas, incentive zoning can engender an unproven, but expressed public fear of greater density (lower property values, stressed infrastructure, changed resident profile), requiring education and repeated discussion to counter such fears.
- The added density expected in incentive zoning must be apportioned and designed carefully to accommodate aesthetics, neighborhood character, and resident concerns.
- Inclusionary zoning can engender unproven but publicly expressed fears of overcrowding, increased crime, decreased property values, and a change in community character, requiring education, repeated discussion, and examples to counter such fears.

Resource—examples and ordinances:

- "Inclusionary Housing/Bonus Density/Incentives" *Affordable Housing Ordinances/Flexible Provisions*. Seattle, WA: Municipal Research and Service Center of Washington. Links to numerous examples of inclusionary zoning: <http://www.mrsc.org/subjects/Housing/ords.aspx>.
- "Housing Affordable to Elderly Households," *Board of Supervisors Policy—Policy No. I-79*, County of San Diego, CA: <http://www.sdcounty.ca.gov/cob/docs/policy/I-79.pdf>.
- City of Burlington, VT < Community and Economic Development Office: 24 V.S.A Chapter 117, *Burlington Comprehensive Development Ordinance*, Article 9—Inclusionary and Replacement Housing, Part I—Inclusionary Zoning: http://www.ci.burlington.vt.us/planning/zoning/cdo/docs/article_09_housing.pdf.
- Allan Mallach (1984), *Inclusionary Housing Programs: Policies and Practice*. New Brunswick, NJ: Rutgers University Center for Urban Policy Research.
- Anita R. Brown-Graham (editor) (2004), *Locally Initiated Inclusionary Zoning Programs: a Guide for Local Governments in North Carolina and Beyond*. Chapel

Hill, NC: University of North Carolina, School of Government. Includes: Overview of Inclusionary Zoning, Types of Inclusionary Zoning Programs, 15 Recommendations for Local Governments in Implementing an Inclusionary Zoning Program, Local Governments' Statutory Authority to Engage in Inclusionary Zoning Programs, and Constitutional Limitations on Inclusionary Zoning.

http://openlibrary.org/books/OL3456007M/Locally_initiated_inclusionary_zoning_programs.

Resource—written and web:

- Patricia E. Salkin (2000), "Senior Housing and Zoning," *New York Zoning Law and Practice*, Fourth Edition, Chapter 23. St. Paul, MN: West Group.
- Patricia E. Salkin (Fall, 2003), "Zoning and land Use Planning: Where Will All the Baby Boomers Go? Planning and Zoning for An Aging Population," *Real Estate Law Journal*.
- PolicyLink, New York City and Oakland, CA, a national research and action institute advancing economic and social equity by Lifting Up What Works[®], based on a belief that equity—just, fair, and green inclusion—must drive all policy decisions:
<http://www.policylink.org/site/c.lkIXLbMNJrE/b.5136441/k.BD4A/Home.htm>.
 - "Inclusionary Zoning Tool Kit" (2003):
http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137027/k.FF49/Inclusionary_Zoning.htm.
- *Go To 2040*, Chicago Metropolitan Agency for Planning, Chicago, IL:
 - "Inclusionary Zoning—Appendix: Case Studies":
<http://www.cmap.illinois.gov/strategy-papers/inclusionary-zoning/references>.