



REGULATORY STRATEGIES FOR ENCOURAGING INFILL AND REDEVELOPMENT

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**Regulatory Strategies for Encouraging Infill and
Redevelopment**

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Abstract

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Abstract: This report provides information for local governments on regulatory strategies that could support infill and redevelopment in their communities. It describes the process of assessing and adjusting zone districts to better facilitate infill and redevelopment. Mixed-use zoning codes and overlay districts are described and local and national examples of each are provided. It also addresses assessing and modifying building codes.

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Regulatory Strategies for Encouraging Infill and Redevelopment

Introduction

This paper describes regulatory strategies that can be used by the public sector to encourage infill and redevelopment activity. In 2005 the Denver Regional Council of Governments (DRCOG) adopted the *Metro Vision 2030* regional plan. The plan describes the preferred future growth direction for development of the nine-county region over the next 25 years. One of its key assumptions is that a certain amount of infill and redevelopment activity will occur. Rather than simply assuming that all new development will occur at or beyond the fringe of the existing urbanized area, the plan anticipates that more than 20 percent of new development will take place within the existing urbanized area in the form of infill and redevelopment.

This assumption is based in part on the observation of recent trends. Statistics from the U.S. Census indicate that between 1990 and 2000 almost 38% of the population growth in the DRCOG region occurred within the existing urbanized area. This is a significant phenomenon that suggests there is a growing acceptance of, and even demand for, infill and redevelopment. Sustaining this pattern of development for another 25 years, however, will be more difficult and may require more deliberate effort on the part of local governments.

To assist these jurisdictions as they plan for infill and redevelopment, DRCOG has undertaken several activities. First, a workgroup comprised of staff from those communities most affected by infill (i.e., Denver and the “inner ring” suburbs) was convened to discuss infill issues and activities, and to hear from experts in this area of urban development. Second, DRCOG began researching key topics including the development of a methodology for more accurately identifying the amount of vacant and redevelopable land in the region. Third, DRCOG staff prepared this and other research reports identifying strategies that could be used to encourage and support infill and redevelopment activities.

Definition of Infill and Redevelopment

Infill and redevelopment are terms that do not have standard definitions. In much of the literature on urban development, the definition of the terms “infill” and “redevelopment” often overlap. Another term in use today is “refill” which while descriptive has been used interchangeably to represent both infill and redevelopment. DRCOG has elected to differentiate these terms according to the type of land that is involved. “Infill development” involves developing *vacant* parcels within existing urbanized areas that for various reasons have been passed over in the normal course of development. “Redevelopment,” in contrast, involves recycling *already developed but underutilized* parcels.

Sites potentially suitable for redevelopment include those sites that contain abandoned (or nearly abandoned) buildings such as empty shopping malls. They may also include those sites that have already been cleared and are being used for relatively temporary purposes such as surface parking lots and even mini-storage units. Redevelopment may also include “adaptive reuse,” which is the *conversion* of an existing building to a new and more productive use.

Identifying parcels that are suitable for and likely to redevelop is a difficult task. DRCOG is researching indicators that may help anticipate such areas of redevelopment.

Infill and Redevelopment in Context

Infill and redevelopment can have both positive and negative effects, both on individual communities and on the region as a whole. Metro Vision assumes that the positive effects far outweigh any potential negative effects. It is also assumed that by anticipating and planning for future infill or redevelopment activity, communities can properly mitigate the negative effects.

The most obvious positive effect is the reduced need for converting more land from non-urban to urban uses. If the infill activity that took place between 1990 and 2000 had not occurred, over 55 additional square miles of farmland and potential open space would have been converted to urban uses. Metro Vision assumes that infill and redevelopment activity will continue to occur and thereby reduce the need to develop “greenfields” on the outer perimeter of the urban area.

Infill development can also help communities achieve certain goals. For instance, developing new buildings at key locations can help to create a certain “synergy” of activity and sense of place.¹ A public building in particular, such as a library, can create momentum for re-establishing a decaying neighborhood. Redevelopment of an abandoned manufacturing facility may stimulate the development of a new residential community. Infill and redevelopment is also an important tool in creating successful transit oriented development (TOD) along existing and planned transit corridors.

Not all empty parcels are suitable for infill development, however. Many parcels are empty for a reason, perhaps because they have poor access, are oddly shaped, or have environmental constraints. On the other hand, some parcels may be vacant simply because the market may have collapsed in that portion of the region at a particular time and never rediscovered.

Redevelopment also has unique problems. Buildings with historic value may be subject to special codes that limit change or increase the cost of rehabilitation. If the buildings are no longer viable, the project must incur the costs of demolition and clean up as well as the cost of new construction. Even if the buildings are viable, the utilities serving the site may be inadequate to meet modern requirements or be beyond their useful life.

¹ “Reinventing Suburbia” in *Urban Land*, July 2002, page 44.

Regulatory Process Assessment and Suggested Improvements

Community planning and regulatory processes can often obstruct infill and redevelopment projects. According to the *Infill and Redevelopment Code Handbook*,² successful infill and redevelopment projects often require local jurisdictions to initiate planning processes, information efforts and broad-based partnerships to help alleviate negative stakeholder perceptions. These activities may help address obstructions to timely regulatory decision-making when reviewing infill development proposals. Local efforts to enhance or streamline current processes to address the needs of infill and redevelopment projects can help promote future implementation.

Local governments can begin to improve the regulatory process by building an understanding of what infill and redevelopment land uses and resulting activities will look like and why they are beneficial. To get community buy-in on issues concerning infill and promote regulatory adjustments, local governments should establish an infill and redevelopment committee. The committee would include members from the financial, development, commercial and government communities. Their charge would be to provide information on how regulatory processes might be improved and identify the issues that communities can harness to use and drive public information and education programs.

Next, the jurisdiction should audit or review any codes associated with infill and redevelopment projects. It is important to determine where a particular code or regulation inhibits infill and redevelopment processes. The audit may be built on a series of questions that identify gaps between current code and infill and redevelopment project characteristics. More than likely, local jurisdictions would have to make adjustments by broadening zoning code, building code, design standard and planning guideline procedures. Adjustment of procedural thresholds and criteria can bring regulatory tools and infill and redevelopment requirements together in responsive regulatory codes.

Organizational changes in planning and community development departments such as a dedicated staff member or team may be useful to accelerate regulatory approval processes and reduce regulatory friction for the developer. Local planning processes used for infill and redevelopment projects may often be unclear which in turn increases developer cost and time to gain required project approvals.

Local governments may find it advantageous to train their planning staff to address the unique nature of infill and redevelopment projects. Because local planning expertise is often focused on traditional development projects, staff may require additional information to better understand

² Transportation and Growth Management Program, Oregon Department of Transportation, Oregon Department of Land Conservation and Development, *The Infill and Redevelopment Code Handbook*, September, 1999. (www.lcd.state.or.us/tgm/publications.htm)

infill and redevelopment projects and be better able to handle any unique issues that may arise during project review.

Infill and redevelopment projects can often require extensive adjustments to utilities, demolition, hazard mitigation, traffic impacts and structure improvement requirements. This often results in a significant increase in the number of permits required for project review. Permits can cost time and money. Each plan adjustment, every change in building materials and prescribed landscaping increases the cost of the project. Local jurisdictions can work to reduce the time and money spent on the permitting process by being aware of this and moving projects through the system more quickly.

Last, developers, community stakeholders and elected officials are often more comfortable pursuing projects that have some level of “predictability” in regards to regulations, project time and costs. Providing any needed extra local staff review time and increasing the ease of administering regulatory codes can speed the process and provide a greater level of predictability. Long-range plans that are tied to regulations also provide an idea of supported types of development proposals and their expected locations throughout the community.

Regulatory process assessments help tie the vision of a community to its long and short-range plans. Clarifying all the regulations to administrators and developers will work to produce a smooth project approval process. This action may be sufficient to remove impediments that are perceived as reducing predictability for developers and politicians. If not sufficient, the next step is the review of regulatory codes and guidelines to determine any improvements that can be made to improve project proposal predictability.³

Zone Districts and Infill and Redevelopment

Land use zone districts provide the primary context for proposed development and identify permitted land uses. They are detailed accounts of what can be placed on a particular site so that neighboring uses are not degraded. Most zone districts are developed to separate various uses and to guide less desirable uses to planned locations. With the passage of time, land use markets change and the need to redevelop areas in a community may arise. Infill and redevelopment activities often require extra mitigation and validation of unique design and development patterns. Slight changes to traditional zoning codes can meet and support infill and redevelopment project mitigation and design challenges.

The evolution of land-use zoning has largely been based on an assumption that the activities found in urban form are static, timeless and separated. So, existing land-use regulatory codes work against market changes that favor infill and redevelopment projects. The traditional concept and application of zoning codes could be enhanced to better meet new market

³ Municipal Research and Services Center of Washington, *Infill Development Strategies for Shaping Livable Neighborhoods*, June 1997.

opportunities and the special considerations of infill and redevelopment projects within developed urban areas.

For example, if a developer wishes to clear a site in an existing urban neighborhood and reconstruct new residential dwelling units, any proposed structures would be measured against the residential zoning standards of the neighborhood. Neighborhoods with older homes or structures may have been built before the advent of zoning codes - leaving sites difficult to build on and proposed structures non-compliant with the existing zoning. Developers may have to undergo a costly re-zoning or get a special exemption to bring the project into compliance. This can be too costly for a developer to pursue and so the site would not be redeveloped.

Many older buildings were constructed before the adoption of modern zoning codes in the 1920's. These buildings are often "grandfathered" in as a non-conforming use as long as they remain unaltered. If significant alterations are proposed, it is possible the altered structure would have to meet modern zoning code standards. Lot sizes in these older areas of a community are often too small to meet zoning code size minimums or building setbacks. This often results in a building footprint that is too small to meet project specifications. Therefore, the site will not meet project expectations and so undesirable to the developer.

If lot size and setback standards could be relaxed, residential units and small commercial structures could be built in a marketable fashion while generally preserving the residential characteristics of the surrounding older neighborhood structures. By building some flexibility into existing zone district standards, local jurisdictions can create effective regulatory tools that meet changing market demand and support infill and redevelopment activities.

Supportive Zone Districts

There are many ways to produce language used for zoning codes. This often depends on the characteristics of the area or site being planned, the stated policies of local comprehensive or master plans, and the desirable activities that could result in a logical and mutually-supportive built environment. Each jurisdiction can develop a strategy for supporting redevelopment and then ensure its inclusion in all regulatory code provisions. The *Infill and Redevelopment Code Handbook* provides some excellent options for local governments as they explore existing codes in relation to supporting infill and redevelopment projects.

Reviewing code provisions is often the initial assessment a jurisdiction undertakes to determine applicability to infill and redevelopment projects. A thorough code assessment can be a very extensive commitment, so a jurisdiction should determine what level of assessment is required. Local jurisdictions should ensure the zoning code outcomes are consistent with any infill and redevelopment plans and the comprehensive plan. This will ensure development goals and regulations are guiding growth in the same direction. Code revisions can range from simply adding overlay zones on existing codes to address infill and redevelopment challenges to rewriting particular codes to better reflect infill and redevelopment project characteristics.

Application of special infill and redevelopment project considerations can be based upon definitions that activate specialized regulatory processes. Infill and redevelopment projects often meet a series of criteria that require regulatory review that would include special considerations, exceptions or exemptions that could be built right into the review. Such special considerations are applied across the entire jurisdiction to meet market and physical development challenges for projects that have infill and redevelopment criteria and are part of the larger city vision for redevelopment activity.

In some cases the application of infill and redevelopment codes may not be entirely clear to all parties involved in community development. The infill and redevelopment activities being planned by a jurisdiction should be clearly identified and mapped. Developers and the public would better understand and support community areas that are planned for, politically supported by, and expected to redevelop over time. A thorough code assessment in many cases requires systematic approach to ensure all code components are reviewed and adjusted accordingly.

Zoning Code Assessment

Every zoning code district has a series of components to convey its intent and land use activity permitted in that district. Selecting the relevant zone districts to review is important to reduce the effort to be spent on the code assessment. Matching zone districts with planned infill and redevelopment areas can identify any zone districts that may impact future development. Any zone districts that cover the planned infill and redevelopment areas should be considered for review. Once identified, each district's intent and permitted land use activities should be systematically reviewed. Any aspect of the zone district that does not relate well to the challenges created by infill and redevelopment activities can then be changed. Code assessments should include a review of the following code components.

- **Code purpose and intent.** Each zone district code has a purpose and intent section that is important from a planning and legal sense. Adjustments to this portion of the code could include statements that support infill and redevelopment characteristics.
- **Code applicability or general provisions.** This section of the code details regulatory processes and standards. Adjustment could include development of infill and redevelopment standards for inclusion in applicable zoning codes or districts.
- **Permitted building types and land uses.** A list of permitted uses, building types and other physical characteristics are listed for each code or district. The permitted types and uses for the code should include infill and redevelopment supportive language and criteria. Further, note that infill and redevelopment projects vary between residential and non-residential environments. This may require different application of land use and construction characteristics based on the building stock that currently exists, and is planned for, in the zone district.

- **Code standards and guidelines.** This portion of the zone district describes the flexibility of lot coverage, building setbacks, building heights, access, frontage, density and size, floor area, site design, building orientation and many others. Often these can constrict potential infill and redevelopment activities due to lot sizes and proximity to neighboring structures. Special concessions and/or unique measures may be included for infill and redevelopment project considerations.
- **Code special use standards.** Some infill and redevelopment projects require special standards because of the physical design and relationship to neighboring uses. Special standards may be produced so elected officials and neighborhood residents have some idea of how the project will look. Further, the sense of developer and general public predictability can reduce apprehension about undertaking infill and redevelopment projects. Special standards acknowledge that projects may have special characteristics and are expected by various community stakeholders.
- **Project application requirements.** All physical development projects face regulatory, procedural and cost hurdles. Due to the nature of many infill and redevelopment projects, extra review steps and land use legal matters can often add considerable time to project application and permitting processes. This may discourage developers from pursuing infill and redevelopment projects. Reduction of redundant review processes, special project management and consolidated permitting requirements can work to improve the ease and efficiency of infill and redevelopment project applications.

Adjusting Zone District Standards

In a report completed by the Municipal Research & Services Center of Washington State,⁴ infill and redevelopment strategies that support development of livable neighborhoods was presented. Because of site and structure challenges, infill and redevelopment building configurations and site characteristics may make development solutions for candidate areas difficult to design. In the end zone district standards for parking, building setbacks, auto oriented design, subdividing large areas and higher overall development costs help make infill and redevelopment in older urban areas more difficult complete.

Expanding zoning standards in older urban areas may include reconsideration of acceptable lot sizes, building orientations, densities and requirements for permitted uses. The MSRC report recommended some ways to adjust zoning codes. If a local government wishes to adjust any aspect of it's code, it should gain support from the general public, policy makers and developers. Without support, the ability to revise regulatory codes may be lost and diminish a local jurisdictions ability to accommodate infill and redevelopment activities. Securing support promotes the development of progressive codes that allow pursuit of the economic development opportunities infill and redevelopment provide. Below is a series of activities communities can

⁴ Municipal Research and Services Center of Washington, *Infill Development Strategies for Shaping Livable Neighborhoods*, June 1997.

use to reduce zoning code restrictions and make infill and redevelopment projects more attractive.

Ease standards on preexisting, non-conforming lots. By doing this, local governments reduce the need for developers to undergo time consuming and costly variances that often require public hearings. For the purposes of infill and redevelopment projects, these lots can be identified as conforming even if they violate existing standards. Any improvements made or reconstruction on such lots can also be considered conforming as long as proposed improvements favorably comparable to the characteristics of surrounding development.

Reduce parking standards for infill and redevelopment projects. This action helps reverse the land consumptive nature of parking in an auto-dominated environment. Often, one quarter of a site's area is used for parking. However, infill and redevelopment sites are designed with less focus on automobile access and provide expanded automobile travel alternatives, so auto oriented standards and large amounts of parking are not necessary. Further, zoning that references shared parking between uses and allowances for stacked parking can provide parking spaces for many activities in the surrounding area.

Decrease the required widths of streets. Auto oriented development has historically focused on moving people via automobiles quickly into and out of development sites. Many current road standards require widths that far exceed the road widths in older areas of the community that were designed under different standards. Reducing required street widths helps maintain the integrity of the traditional lots and activities found in many potential infill and redevelopment sites while accommodating auto travel. Width reductions also help reduce the need to consume valuable portions of the site that would be required for wider roads that meet current standards. Keeping street widths in line with historic design can add some flexibility so the site can be improved and marketable.

Provide community variances and waivers. By making some level of variances or waivers available before development proposals are submitted, a jurisdiction can indicate that certain zoned areas are recognized as having special requirements or situations that work to support infill and redevelopment. By removing any ambiguity or associated costs with upfront variances and waivers, projects may be easier to undertake and complete. Variance and waiver areas could be identified using infill and redevelopment criteria, development characteristics and site history.

Develop infill and redevelopment performance standards that emphasize the resulting project. In many jurisdictions, zone districts contain restrictive performance standards for proposed development. Building setback, height, mass, densities and other requirements protect neighboring properties from potential health, safety and welfare impacts. However, these rarely consider the different physical situations and characteristics that exist between various sites. Areas with infill and redevelopment zoning codes should include opportunities to forego certain performance standards while not reducing health and safety considerations. Establishing performance standards oriented towards infill and redevelopment areas can be based on assessment of conditions neighboring the site.

Example Zone District Standard Adjustment

In Verona Wisconsin⁵, an urban residential district was created as part of the standard zoning district ordinance. The zone district was developed to support higher density and intensity standards designed to preserve and protect the existing urban residential character of certain areas in the community. Expanded residential development options were expanded over typical community densities to 12 dwelling units per gross acre. This zoning encouraged infill and redevelopment activities because zoning related well to existing neighborhood character and development unique opportunities.

Mixed Use Zoning Codes

Specialized “mixed-use” zoning or regulatory codes are often used to meet the unique nature of infill or redevelopment activities. The *Commercial and Mixed Use Development Code Handbook* (ODOT 2001) was prepared as a resource for jurisdictions that encourages a mix of uses and provides techniques for the combining mixed-uses with infill and redevelopment goals. Mixed-use codes work to support ways to create or reinvigorate traditional downtowns, promote pedestrian friendly environments, convert brownfields, turn undesirable uses, support transit, make public spaces and create civic centers. All of these characteristics are frequent purposes for infill and redevelopment projects.

Many communities in the region have historical urban cores and older suburban areas that provide infill and redevelopment opportunities. These areas can be encumbered as they are often in blighted portions or on contaminated brownfields. Revitalization efforts often require creative application of various resources if they are to be successful. Jurisdictions may even resort to development of whole new zoning codes to meet the project and policy needs. Mixed-use development codes can help bridge the gap between the regulatory requirements of modern zoning, historical characteristics of the older urban areas and the need for economic stimulus that is cost effective and beneficial to build.

Because older portions of the community provide excellent opportunities for infill and redevelopment, it is important to identify the desirable characteristics of the surrounding area. This often includes characteristics that are uncommon in the remainder of the community like high and low density residential being scattered throughout industrial, office and commercial uses. Many jurisdictions may need to create mixed-use zone districts that consider such a mix of characteristics because most are designed for the more contemporary areas of the community.

A local government would be unable to process a project that proposes to remove a block face of older housing and replace it with new compatible high-density, multi-use housing because current zoning that reflects traditional single-family home characteristics in an older area mixed-use area of the. The contemporary qualities that traditional single-family dwelling codes embody

⁵ City of Verona Wisconsin general code description: <http://www.ci.verona.wi.us/>

do not always compare favorably with older housing characteristics. If a jurisdiction developed a mixed-use zone district that provided the flexibility to construct various types of structures for various types of activities in older mixed-use areas, the project could be started.

Mixed-use codes are designed to consider the unique characteristics of the neighborhood and maximize economic development opportunities. Mixed-use codes result in the ability to develop high intensity, mixed-use structures that match up well with neighborhood design characteristics. Through various adjustments, mixed-use zoning can provide consideration of building setbacks, allowable uses, parking and access regulations.

Mixed-Use Code Benefits

Mixed-use codes and regulations identify and allow the special considerations necessary to meet the needs of infill and redevelopment activities. Through specialized mixed-use regulatory codes, a jurisdiction accepts traditional development while creating beneficial environments for various uses in and around the site⁶. The Oregon *Commercial and Mixed Use Development Code Handbook* identifies the following benefits of using mixed-use codes:

1. Efficient use of existing land resources in a revived compact environment.
2. Better utilization of existing urban services to reduce the need to create more.
3. Creates desirable urban environments by bringing related activities closer together.
4. Creates economic opportunities where viable transportation options reduce the need roadway expansion and preserve the desirable characteristics of older neighborhoods.
5. Encourages development of human scaled environments that match older neighborhood design elements.
6. Builds the local tax base through re-vitalization.
7. Reduces public costs when compared to lower density development.

Examples of Mixed-Use Zoning Codes

The Land Use Code for the City of Tucson, Arizona includes two mixed-use zones. These are both termed OCR zones (Office/Commercial/Residential). These zone districts were created to provide for “high rise” development that serves the community and region in major activity or

⁶ The Oregon Transportation and Growth Management Program, *Commercial and Mixed Use Development Code Handbook*, June 2001.

transit centers⁷. To meet transit center needs, city officials created a zone district that allowed a mixture of development types, including office, commercial, and high density residential as use by right. Further the zone district definitions helped the requirements for lot coverage, building density and height, and setbacks to be more permissive to higher density, more traditional, infill or redevelopment sites and projects.

The City and County of Denver recently completed the “Blueprint Denver” land use and transportation plan that identified areas of change and areas of stability for the future. The areas of change identified in the plan requires more flexible and relaxed zone districts because redevelopment and infill activities in the area would not be possible under current codes. Denver worked with the public, developers and elected officials to apply a series of mixed-use codes to the planned areas of change. The zone districts applied to these areas are designed to allow a mix of uses on smaller parcels at higher densities⁸. The codes also help projects evolve over the long-term to meet future market conditions, maintain flexibility of structure uses, promote desirable design elements and identify areas in Denver as prime for infill and redevelopment activities.

The mixed-use codes include a series of districts for commercial and residential oriented development proposals. The districts include C-MU-10, C-MU-20 and C-MU-30 for commercial oriented areas and R-MU-10, R-MU-20 and R-MU-30 for those areas that are oriented towards residential uses. Denver has also recently approved a T-MU-30 district for transit oriented, mixed-use development, around planned transit stations. The number of the zone district refers to the expansion and intensity of permitted uses, 10 being less intensive and permissive while 30 is more intensive and permissive.

Overlay Districts

Community leaders and local government staff may come to the conclusion that amending existing zone districts would be problematic and time consuming. Further, such adjustments may fall short of providing the necessary flexibility that many infill and redevelopment projects require. In such cases, a jurisdiction has the ability to establish “overlay districts” by ordinance and apply the district to centers of activity throughout the community⁹. Depending on the purpose, some districts may add extra restrictions to an area’s zoning, while other districts may be designed to be less restrictive.

Areas with overlay districts usually have historic urban uses, and as noted earlier, are often difficult to develop due to some existing regulatory schemes. Overlay districts can provide local officials the extra level of design consideration necessary to promote increased use of the property, support economic growth, and maintain desirable physical characteristics while preserving existing zoning codes.

⁷ City of Tucson Arizona mixed use ordinances: <http://www.cityoftucson.org>

⁸ City of Denver Mixed-Use Zoning: <http://www.denvergov.com/zoningcode>

⁹ *Overlay Districts*, A Report by Victor Dover: <http://www.spikowski.com>

Often, a jurisdiction covers large areas with an overlay district to add special reviews or limits to what can be done with the site. But, overlay districts with performance standards that reflect the existing neighborhood character provide developers extra options when planning large mixed-use projects. Overlay options can support projects by vacating roads, allow a mix of vertical and horizontal uses, give special parking considerations, expand building mass and increase land use intensities. This type of transformation would be extremely difficult to achieve under traditional and mixed-use zone district regulations.

Some overlay districts are created to encourage infill and redevelopment activities in areas of a community that have restrictive zoning. Projects can be approved in these areas without a time consuming re-zoning process. Developers can build on property that is in an overlay district by meeting standards that are in line with planned, existing or historical urban development character. Standards can be applied over a large area, allowing the developer to assemble land and make plans for large, economically viable areas.

Overlay District Ordinance Components

Many jurisdictions have developed overlay district codes and processes to ensure that existing urban areas remain attractive for development. In general, overlay district codes have a framework that includes the steps necessary to bring it into use. The following are a series of general overlay code components that were developed using multiple jurisdictional codes as sources. Overlay district codes or ordinances can be designed to promote special development characteristics, regulatory reviews, or special considerations. The list is not intended to be exhaustive, as each jurisdiction may have specialized needs that require special consideration. In general, the components of the overlay ordinance should include the following measures:

1. Identify compact and contiguous boundaries.
2. Include provisions governing the use of land including those that are prohibited, conditional and accessory.
3. Have density or intensity of land uses that may consider minimum lot size, maximum floor area, floor area ratios, dwelling units per acre, minimum lot area per dwelling and other such standards.
4. Include area and bulk restrictions like building setbacks, maximum lot coverage, height controls, required open spaces, sun access and other such standards that match well with historic standards.
5. Consider differences in required parking spaces for various uses, space sizes, location and design of parking areas, shared parking or parking systems, reduced space considerations, lighting and other related standards.

6. Include any design considerations necessary to accommodate alternative mode transportation uses such as sidewalk characteristics, pedestrian crossing facilities, bike routes and responsive roadway design standards.
7. Add landscaping standards within the district may be critical in preserving area character and so may be included in the ordinance.
8. Recognize that district characteristics may require different sign regulations or standards.
9. Identify structures or characteristics for historic preservation standards.
10. Include any necessary visual preservation or scenic roadway standards.

Overlay District Designation Criteria

Most jurisdictions utilize a simple process to designate overlay district areas. However, this simple process masks a rather involved public process of establishing the conditions and purposes of area overlay district designation. Potential criteria are listed below.

1. Consideration must be given to the redevelopment of infill areas because of the traditional physical, social or economic relationships that exist.
2. Often some unifying feature is present or special identifying characteristics that require variance of regulation or standards to further enhance the development area.
3. The area slated for district status has deteriorated or is in jeopardy of losing its character due to new incompatible uses.
4. The development area is related to other enhancement like rail transit, special activity districts, located in hot market areas or otherwise exhibiting redevelopment potential.
5. Property owners or residents may wish to preserve or enhance the characteristics of a particular area.
6. City comprehensive or area plans identify the redevelopment or infill area as having characteristics that make it a key part of a larger city planned development effort.
7. The area would be well suited to overlay district designation because it would foster development activity and ensure characteristic preservation.

Examples of Overlay Districts

In Gwinnett County, Georgia, the zoning ordinance was amended to create a mixed-use redevelopment overlay district¹⁰. The overlay district is intended to provide revitalization opportunities for declining or “at-risk” properties by promoting mixed-use, pedestrian level activity, and enhanced development viability of the site and surrounding areas. Within the district, horizontal and vertical mixing of land uses is encouraged. Any development does require an approved project “Concept Plan.”

The use of this overlay zone is restricted to existing sites where infrastructure is available to support the proposed project, existing “underlying” zoning requirements not affected by the district are still in effect, and conflicting standards result in deference to the most restrictive language. The requirements for density, building height, and minimum projects size are set forth in the code. The minimum size for a mixed-use redevelopment overlay project is ten acres of contiguous land. A single land use may not account for more than 70% of the total acreage. Residential density may be developed up to thirty-two units per acre. Also included are landscaping, parking, signage, design, and open space requirements.

The City and County of Denver used a series of overlay districts to delineate “areas of stability” and “areas of change” in the Blueprint Denver Plan.¹¹ The idea was to identify areas that do not require change and areas would be slated for re-zoning for mixed-use over time. Project proposals in these areas would be given special consideration a stable or change area. In effect, Denver will guide growth to the places that can best accommodate it in a way that meets a more comprehensive set of development policies. The areas of change are designed to support higher intensity development, provide the opportunity to mix-uses and balance employment with housing to match existing or desired characteristics. Denver will also apply tools that help match building functions, create more attractive streets and form partnerships for project financing and improvement maintenance endeavors.

Building Codes

Efforts to encourage redevelopment and infill activities should not stop at land use codes and performance standards. In fact, these code and standard considerations tell only part of the story. Often, developers actually consider how difficult a building code is before deciding to undertake a project within a particular community. There may be extra costs associated with building codes concerning building re-use or repair projects. Jurisdictions interested in encouraging redevelopment and infill activities might consider how well the existing building code matches land use codes and desired design standards. If codes and standards contradict, redevelopment and infill project costs may become inflated, possibly making the project impractical to pursue.

¹⁰ Gwinnett County, Georgia, amendment creating mixed-use development overlay district
<http://www.co.gwinnett.ga.us>

¹¹ City and County of Denver, Blueprint Denver Plan: <http://www.denvergov.org/blueprint-denver>.

Local jurisdiction building codes are rooted in the National Building Code and enhanced in response to local officials and inspectors concerns. The code adopted by the local jurisdiction may include structural, plumbing, electrical, energy, boiler, fire, mechanical and elevator standards. A large volume of standards is often perceived as unwieldy and non-responsive to the needs of developers and owners. Yet, building codes were developed over many years in order to protect the safety of the public. They encompass years of research and experimentation on various ways to best accomplish public safety.

Building Code Assessment

In 1998, the City of Pittsburgh completed a study to develop strategies for improving local building codes thereby encouraging redevelopment of existing structures in older downtown areas¹². The study was in response to developer and property owner concerns over the troublesome use of current building codes for older buildings in key areas of the city. Further, the study explored ways to improve how inspectors interpret codes, show that application of revised codes results in viable projects and that revised codes lead to predictable and timely review processes.

Although different jurisdictions would have varying issues that need to be addressed, Pittsburgh developers and code enforcement officials identified requirements for blocks of older buildings that were built adjacent to each other. This unique design characteristic meant that upper floor egress points, street access and fire fighting practice codes necessary for buildings over six stories high made these structures practically unusable. The steps listed below were followed by the city for assessing the utility of the building codes and ways to further their successful use.

1. Establish a review board consisting of developers, property owners and government representatives. This group will develop recommendations for city officials.
2. Develop a list of building code issues related to redevelopment opportunities. Use case studies on a variety of buildings to help illustrate the issues.
3. Assess methodology for building change approvals, definitions and techniques with a focus on amending the relevant codes considering the character of existing structures.
4. Fashion recommended code variations in instances where older existing buildings are being considered.
5. Present and gain city approval of building redevelopment or reuse code enhancements.

¹² Pfaffman and Associates, *City of Pittsburgh Adaptive Reuse Building Code Study*, August 1998.

Activities that Support Building Code Success

1. Provide technical assistance to developers and property owners to help them with the process and code interpretation.
2. Fund code assistance activities for reuse projects that will bring city officials and developers along together through the process. Such grants would eliminate, or reduce, anticipated anguish over redevelopment project code difficulties.
3. Establish code education programs that will inform and involve the development community in the processing of code amendments and their implementation.
4. Attempt to convey in as simple a process possible, building code review and approvals.
5. Work with the State and Federal government to create redevelopment oriented building code amendments.
6. Use various projects to create a redevelopment cost profile that identifies the various costs of redevelopment and reuse activity.

In the case of required second story building egress points, the Pittsburgh study identified other safety considerations that in fact would achieve similar “safety scores” for a building where a second egress point was not a practical option. Significant improvements included such things as fire suppression systems, fire rated construction materials, smoke proofing portions of the building and extensive fire alarm systems. The use of these techniques was a far cheaper plan than the less practical and far more expensive second egress point.

Often times the discussion of building codes and how they relate is undertaken by or handed over to the state. In Maryland, the state has initiatives that work to guide growth in various ways to ensure achievement of the planned future¹³. Reuse and redevelopment are very important to the application of various growth strategies as they help to improve the intensity of uses in existing urban or historical areas and produce cost benefits. The state acknowledged issues being brought forward concerning the expenses and difficulty of redevelopment. Maryland officials undertook an effort to create a building code that focuses on rehabilitation and encourages expanded redevelopment activities.

The new code clarified existing processes, definitions, and purposes to better represent the code and support its use among developers interested in reuse. The code covers repair activities, building renovations, building modifications, reconstruction, change of occupancy and new additions. State officials found it necessary to address many components of the building code as they all have impacts on the reuse or revitalization of existing buildings. Definitions and processes were worked out for mechanical, elevator, energy, boiler, plumbing, electrical and fire

¹³ Maryland Department of Housing and Community Development, *State of Maryland Smart Codes: Building Rehabilitation Code*, October 2001.

prevention portions of the existing State Building Code. The result is a document that responds to the specialized needs of redevelopment activities and adds predictability to the permitting and construction processes.

Conclusion

As redevelopment and infill activities demonstrate market potential, it is important to ensure that developers can build the projects. Often times local comprehensive plans recount the importance of such development, but local regulatory codes do not support it. By enhancing zoning codes, creating overlay districts, and amending building codes, local jurisdictions can ensure beneficial infill and redevelopment activities are viable.

