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Lessons in Land Use Reform: Best Practices for Successful Upzoning

Introduction

Land use reform has become a prevalent topic in cities and states grappling with housing affordability challenges, particularly in supply-constrained markets. At the forefront of these conversations are housing advocates and academics who cite the need to modify land use regulations to allow for more varied forms of housing to increase supply, reduce costs, and confront a legacy of exclusionary zoning. While some places have been able to pass major reforms—such as the city of Minneapolis and the state of Oregon—achieving such important change is difficult. The process to make such reforms possible can take years, and if not done in a thoughtful manner, may not achieve the desired outcomes.

In California, the conversation has been especially pointed. In recent years, the state has committed billions in funding for affordable housing and has passed new policies to provide tenant protections, streamline development, and loosen regulations on Accessory Dwelling Units (ADU). However, efforts to spur production by significantly reforming land use policy at the state level have stalled. This impasse comes at a time when the state is averaging just 100,000 of the 180,000 new units it needs to construct per year to keep up with existing demand.¹ The dramatic and ongoing under delivery of housing has resulted in record numbers of individuals and families paying a disproportionate amount of their income on rent. Today, roughly three million Californians are considered rent-burdened, another 1.7 million are severely rent-burdened, and homelessness counts across the state continue to climb. Given the scale of this crisis, California cannot overcome its housing access and affordability challenges unless it makes comprehensive land use reform a part of the solution.²

California's land use reform efforts will take center stage in 2020 with multiple bills moving forward in the legislature. Given the progress that has been made on land use reform in jurisdictions across the country, and as debates and discussions gear up with the new legislative session, California has an opportu-

nity to learn from what has worked (and what has proved challenging) elsewhere.

To help inform policy discussions in California, the Turner Center reviewed planning documents, interviewed local stakeholders and officials, and convened a public discussion with stakeholders and practitioners involved in five land use reform efforts throughout the country: four at the city level (Denver, CO, Grand Rapids, MI, Portland, OR, and Los Angeles, CA), and one at the state level (Oregon). (For an overview of key reforms implemented in each place, see Appendix A.) The convening took place on October 30th, 2019 in San Francisco and focused on what California policymakers considering such reforms might learn from their efforts. (To access a full recording of the event, visit: <http://turnercenter.berkeley.edu/taking-action-on-zoning-reform-2019>)

While there was no single approach to the zoning changes adopted, common themes emerged from the discussion that point to best practices in successfully passing and effectively implementing land use reform:

Pairing mandated baseline land use standards with a degree of local discretion can overcome exclusionary practices while accounting for local market conditions and planning goals.

Officials we spoke to agreed that land use reforms should be implemented in a way that ensures all communities take on a fair share of housing. Broadly-applied baseline land use standards can counteract exclusionary local policies. At the same time, we heard that when mandated standards—like the upzoning measures recently adopted by the state of Oregon, for example—include some discretion for jurisdictions to tailor land use plans to match local goals, it can help build support for adopting wide-reaching reforms and allow for implementation that takes into account local market conditions.

Compared to narrowly-targeted efforts, enacting land use reforms across all types of communities can produce greater increases in zoned capacity and helps ensure all neighborhoods are positioned to contribute to new housing goals.

All but one of our case study jurisdictions planned for an increase in homes across all neighborhoods, including single-family neighborhoods. And all four case study cities increased zoning capacity to a greater extent around job centers and commercial corridors. This was often accomplished with a focus on building form and design to help shape what kinds of buildings could be built, and in some cases evolved over the course of multiple zoning updates. When pursued together, the combined effect of these reforms helps overcome exclusionary land use patterns in low-density neighborhoods in addition to facilitating greater densities in priority corridors, such as job centers and areas adjacent to transit.

Coalition building and community engagement are critical to achieving significant land use reforms.

In each of our case studies, land use reform was made possible by cultivating support across various community stakeholders. While not easy to accomplish, developing sufficient agreement among diverse stakeholder groups provided city and state policymakers the political capital to make meaningful land use changes. Moreover, panel participants pointed to the need to extend engagement beyond initial adoption and implementation to ensure continued support as local conditions change.

To ensure land use reform and protections for vulnerable communities are complementary tools, they should be designed and implemented in coordination with one another.

Land use reform on its own is not inherently a tenant-focused tool. But with intentional planning, design, and coordination with complementary policies, the increase in new homes created as a result of land use reform can be a vehicle for protecting residents from rising costs and displacement pressures. As we heard from one advocate, protecting tenants and planning for increased production is not an “either/or” choice, it is “both/and.”

For land use reforms to result in desired outcomes, other policy changes are needed to create predictability in the development process.

Successful land use reform includes certainty in the development process. In addition to zoning changes, our case study cities created streamlined processes and upfront development standards to ensure that reforms lead to the intended increases in home building.

These findings offer important lessons for California policymakers as they consider statewide land use reforms. After a background discussion of the role local land use plays in shaping California housing production, this brief examines each of these findings in more detail, unpacking how each of our case study jurisdictions approached (or is approaching) designing, passing, and implementing major reforms. This brief concludes with recommendations for incorporating lessons learned into California’s ongoing efforts to achieve statewide land use reform.



The Need for Land Use Reform in California Is Clear

In January 2019, we released results from our inaugural Turner California Residential Land Use Survey (TCRLUS), which collected information on local housing and land use policies from city and county planning staff across the state.³ One of the most striking findings from the survey was that, on average, California jurisdictions allow multifamily housing on just 25 percent of zoned land, while the share of land set aside for single-family homes is three times that amount (75 percent) on average.⁴ The survey results also offer insights into the ways in which other local zoning decisions—such as large minimum lot size requirements, limits on height or density, and onerous parking requirements—can also constrain the amount and type of housing produced.

Research from a working paper series that the Turner Center published and that draws on the results of the TCRLUS finds that places with prohibitive policies like these not only permit less new housing construction and fewer apartments than demand would predict,⁵ but they also exhibit other exclusionary outcomes.

Findings

The case study jurisdictions we engaged with did not yield a single template for land use reform that should be scaled everywhere. On the contrary, because cities and communities are different, approaches to update sometimes decades-old planning practices will undoubtedly vary. However, several common themes emerged from this collection of jurisdictions that suggest “best practices” for successfully designing and passing land use reforms that lead to positive housing outcomes. These findings provide important lessons that California policymakers should learn from when considering major reforms.

For instance, housing is more expensive in jurisdictions where single-family zoning and minimum lot size requirements restrict the intensity of land use, and, in turn, jurisdictions with anti-multifamily zoning are more racially segregated and more likely to exclude blue-collar workers.⁶

That is not to suggest that these zoning decisions are the only factor limiting development. For example, local design standards such as setbacks, height, and pitch can restrict the building envelope and decrease feasibility,⁷ just as local approvals processes can slow construction timelines and impede construction. And the variable nature of local real estate markets affects the amount and type of development potential across large regions, or even across cities.

But even amid these complexities, it is clear that land use reforms that address clear impediments to inclusive and sustainable production have a foundational role to play in overcoming the state’s housing shortfall and the legacy of exclusionary land use practices.

Pairing mandated baseline land use standards with a degree of local discretion can overcome exclusionary practices while accounting for local market conditions and planning goals.

We heard from officials that creating minimum zoning and land use standards that apply broadly across communities can help ensure each place is planning for its fair share of housing. From a city perspective, this means planning for reforms across all neighborhoods.



At the state level, this same principle could be applied to all localities as a mechanism to address ongoing exclusionary policies in cities that are not working in good faith to facilitate new home building. However, we also heard that allowing flexibility in how communities meet mandated baseline standards is key given variation across cities and neighborhoods. Lessons that California policymakers should learn from when considering major reforms.

This was the approach taken in the development of HB 2001 in Oregon. In addition to legalizing duplexes on all lots zoned for single-family residential in all cities with populations over 10,000, this legislation also requires cities with populations above 25,000 to plan for “missing middle” housing in single-family areas. HB 2001 provides discretion for how cities can meet this “missing middle” requirement, maintaining local control over siting and design. This feature was key in building support among communities and politicians wary of a one-size-fits-all approach. By allowing cities to decide how to meet the goals of HB 2001, state leaders avoided more contentious battles had the state dictated exactly where and how cities had to change their existing land use patterns. Moreover, HB 2001 requires the Oregon Department of Housing and Community Development to develop a “model middle housing ordinance” to provide an option for cities that do not wish to go through the time and expense of developing their own land use updates. If after two years a locality has not developed their own plan to conform with HB 2001, the model ordinance becomes the default in that locality.

Providing this kind of discretion on how to best implement land use reforms can allow localities to plan for housing that is compatible with their community’s existing form and local planning goals. But pairing that discretion with clear guidance is key. For example, in Denver, the city’s 2010 zoning update allowed duplexes in some areas of the city resulting in an increase in new two-unit buildings in the following years. However, the city did not adopt specific design guidelines, leading to new construction that many residents felt conflicted with existing neighborhood form. As a result, the city experi-

enced significant pushback from community members to these new projects. Planners have taken this lesson to heart, and as part of their long-range plan update, are incorporating guidelines to address mass, scale, and character of new construction. Such guidance was an important factor in building support for the long-range plan from communities that stand to see new development as a result of these zoning changes, which officials hope will lead to a significant increase in housing capacity.

Compared to narrowly-targeted efforts, enacting land use reforms across all types of communities can produce greater increases in zoned capacity and helps ensure all neighborhoods are positioned to contribute to new housing goals.

Increases in density can meet resistance from residents, though in each of our case studies, significant increases in allowable density were achieved by thoughtfully approaching how and where new homes should be absorbed. While all of our case study cities made a point to allow more housing along commercial corridors and in job centers, all but one (Los Angeles) also increased zoned capacity in areas that only allowed single-family housing, opening up significant amounts of new land for housing without fundamentally changing the scale or feel of these areas.

In Grand Rapids, the 2008 reforms focused growth in commercial areas by allowing mixed-use residential by-right, but also included reforms in predominantly single-family home areas. To balance the desire for more growth with existing neighborhood character, city staff developed a series of “character districts” that utilized form-based elements as the justification for allowable uses. This allowed staff to plan for density in a way that was consistent with what had been historically allowed in several neighborhoods, but was prohibited by existing zoning (e.g., a multifamily building constructed in the 1930s was illegal in 2008, but under the 2008 zoning changes, a similar building form was

allowed once again). Essentially, existing older buildings set the precedent for what would be permissible in “character districts,” paving the way for multifamily housing in lower density areas. In their 2018 reforms, Grand Rapids went a step further, extending by-right approvals to corner lot duplexes and townhomes near commercial areas, as well as loosening requirements for ADUs.

In Denver, there was a concerted effort to increase density city-wide through a tiered approach. Blueprint Denver calls for increasing housing in job centers and along key corridors, as well as allowing more “missing middle” housing types in lower-density neighborhoods. This includes allowing two-to-four unit buildings on corner lots in single-family areas, as well as expanding where ADUs are permissible. As noted above, these new changes will be accompanied by design requirements to ensure compatibility of new homes with the surrounding community.

Portland has also pursued modest density increases in single-family areas. While duplexes have been allowed on most corner lots since 1991, duplexes existed on only about 4 percent of eligible parcels, as of 2016. As part of their Residential Infill Program, Portland is expanding allowable units throughout most of the city by regulating building Floor Area Ratio (FAR) rather than density. This allows for the construction of fourplexes in much of Portland’s single-family areas without new buildings deviating from the existing form of neighboring homes.

As the exception in our group of case studies, Los Angeles’s recent reforms were more narrowly applied and do not extend to single-family neighborhoods. The Transit Oriented Communities (TOC) program—passed by ballot initiative—allows for additional height for projects around key transit corridors to offset affordability requirements. In this example, planners considered existing neighborhood conditions by including transitional height limits in which shorter building heights closer

to the property line would smooth the visual transition between short and tall buildings. This has allowed for important new density along key commercial corridors. However, because single-family areas are excluded from the TOC program, most of the city will not see any changes as a result of this reform. Specifically, only about half of the land within 1/2 mile of major transit stops targeted is subject to the TOC program, or about 10 percent of the city’s total zoned land.⁸

Coalition building and community engagement are critical to achieving significant land use reforms.

Given the potential for significant change following land use updates, each of our case study jurisdictions noted the need for strong community engagement that brings disparate interests together around a shared purpose: creating a better community for all residents. Building this support can be a difficult process; however, intentional engagement provides necessary community feedback and buy-in, and gives city and state policymakers the political capital to make meaningful land use changes.

Grand Rapids effectively eliminated single-family-only zoning in their 2008 zoning update, and did so with strong community support. During the update, no organized opposition materialized, and at the authorizing city vote, there was little to no pushback from any members of the public. That outcome did not come easily: it was the result of the Grand Rapids planning staff working directly with the community to understand what they valued most about their neighborhoods and how the city could achieve growth without dramatically changing the existing built environment.

While Grand Rapids’ 2008 update garnered broad support, the 2018 update was met with resistance. Officials noted that residents did not necessarily object to the policy changes proposed in the 2018 update, but instead



pushed back on the lack of community engagement. In contrast to the 2008 reforms, these changes were driven by a mayoral task force that provided recommendations to the planning commission and city council. Residents felt that this approach was too “top-down” and involved less outreach than occurred in advance of the 2008 update. Given that zoning reforms sometimes roll out in stages, the Grand Rapids experience suggests relying on past success with community engagement and buy-in is not sufficient to ensure success in future rounds of policy change. Rather, engagement needs to be an intentional and ongoing piece of land use planning and implementation.

In Denver, officials built support for their long-range plan update known as Blueprint Denver through intensive outreach across the city, which included innovative approaches to gathering input from residents who typically may not engage in the planning process. Officials there explained that the city’s comprehensive approach to community engagement built off of lessons learned from previous land use updates where an inadequate engagement strategy led to pushback. For the latest update to Blueprint Denver, the city notes that their efforts resulted in over 25,000 unique interactions. From this outreach, staff heard overwhelmingly that changes in Blueprint Denver should be driven by improving access to opportunity, reducing vulnerability and displacement, and housing and job diversity. These principles formed the foundation of the planning work that followed and played a significant role in building broad community buy-in, all of which culminated in strong support for the plan’s adoption by the Denver City Council in April of 2019.

To ensure land use reform and protections for vulnerable communities are complementary tools, they should be designed and implemented in coordination with one another.

Land use reform can be a vehicle for protecting residents from rising costs and combatting a legacy of exclusionary land use practices by increasing opportunities for housing in all areas. While at times there is tension between tenant protections and increased housing capacity, the experiences of participants in our October convening suggest that effective land use reforms can work across these two goals. As we heard from Mary Kyle McCurdy, Deputy Director of 1000 Friends of Oregon, “Displacement is happening now. Doing nothing is not an option.”

In Oregon, the passage of an earlier law establishing a statewide just-cause eviction standard and cap on high rent increases (HB 608) was critical to the passage of HB 2001. Stakeholders there noted that putting in place broad tenant protections laid the groundwork for the creation of a stronger coalition to push through statewide land use changes. Specifically, equity advocates were more ready to coalesce around HB 2001 having secured major protections for tenants, joining other land use reform advocates to counteract objections from HB 2001 opponents.

The changes in HB 2001 were also viewed by advocates as necessary for increasing positive housing outcomes for vulnerable residents. According to Allan Lazo, Executive Director of the Fair Housing Council of Oregon, many tenants groups felt that increasing housing opportunities and achieving greater affordability outweighed the potential displacement risks that may be associated with land use reform. However, Lazo also noted that, to be most effective, reform efforts should explicitly consider potential harms to vulnerable communities and incorporate strategies to mitigate these concerns at the same time localities are designing and implementing land use changes.



As Portland has developed its Residential Infill Program, analysis conducted on the city's plans for increasing housing types found that the plan is likely to reduce displacement of low-income renters in single-family homes across Portland, and would likely significantly reduce the cost of housing for the additional housing types allowed in single-dwelling zones.⁹ However, the analysis also identified 21 "Displacement Risk Areas" where some displacement may occur as a result of the program, and presents an array of potential strategies to mitigate displacement. This upfront research conducted by the city, and the recognition of potential negative impacts, allowed Portland to identify where attention and resources should be focused. For example, as a tool for creating more affordable homes as communities change, the city is considering FAR and density bonus incentives for six-plexes where half of the units are deed-restricted affordable. However, advocates noted that strategies for addressing displacement in Portland are being devised in a parallel process that is not necessarily on the same timeline as the zoning updates, and as such, were reserving judgment on how effective that process will ultimately be.

In Los Angeles, a coalition of equity groups, in collaboration with labor and housing advocates, crafted and passed Measure JJJ in 2016, which ultimately resulted in the successful implementation of the TOC program. From its inception Measure JJJ included tenant protection provisions, incentives for deeply affordable housing, and benefits for workers. Balancing streamlined development with economic and social equity concerns through this coalition-based support likely contributed to Measure JJJ's political success. Moreover, officials noted that Measure JJJ's language authorizing the TOC program was crafted in a thoughtful, intentional manner that gave the city clear direction on how to achieve the measure's goals. The upfront attention to important details was a key reason why the city was able to implement the TOC program quickly and effectively. In the early years of the TOC program, 20 percent of all units proposed are deed-restricted affordable and, of those, nearly half are affordable at the Extremely-Low-Income level.¹⁰

For land use reforms to result in desired outcomes, other policy changes are needed to create predictability in the development process.

In order for land use changes to result in positive outcomes, providing certainty in the development process is critical. Stakeholders pointed to the importance of creating predictable processes, such as reasonable approval and permitting timelines, following land use changes to ensure that their planning work resulted in the desired new development. In each case, city planners emphasized the importance of clarity for developers to understand what was expected of new development.

In Grand Rapids, the 2010 zoning update kept in place opportunities for community members to provide input on a project by project basis. However, if projects conform to zoning and design guidelines, the project is approved within approximately six weeks. Moreover, it is nearly unheard of for the city to deny a project application, largely because complying with the city's land use regulations has proven to be straightforward for developers. City officials noted that the predictability of their approval process has resulted in more interest in development in their community.

In Los Angeles, the TOC program includes project streamlining—including bypassing the California Environmental Quality Act—alongside density incentives. The TOC program is structured such that projects requesting only the base incentives receive ministerial (or "by-right") approval of higher-density construction and reduced parking requirements. Projects with more than 50 units (before baseline incentives), or those seeking additional incentives (such as a height bonus or a reduction in open space requirements), entail review by the City Planning Department. City officials credit this component of the program with the tremendous uptake in planning applications and building permits in TOC areas. As of September 2019, 17,687 housing units have been proposed through TOC, 3,668 of which will be deed-restricted affordable units.¹¹

Recommendations

While comprehensive land use reform is difficult to achieve, the experiences of our case study jurisdictions suggest there are a handful of principles that should be followed to increase the odds of both adoption and successful implementation. Based on these lessons, California's future efforts around zoning reform should:

Set baseline land use and zoning requirements at the state level.

The creation of new homes should be shared across and within cities and regions. To ensure that all cities plan and build their fair share of housing, state-level baseline requirements for zoning and land use are warranted. Moreover, mandated standards—when tiered appropriately—can also be designed to align with other important goals such as reducing vehicle miles traveled (VMT) and improving access to high-opportunity areas, particularly for renters and lower-income individuals and families. The experiences of our case study jurisdictions exemplify the ability of tiered standards to provide at least modest increases in zoned capacity everywhere (including low-density, single-family neighborhoods) and greater increases in priority areas (such as neighborhoods close to transit and jobs). In California, some precedent has been set by the passage of AB 2923, which requires cities to conform to the Bay Area Rapid Transit (BART) agency's Transit Oriented Development standards within two years. Recent legislation loosening local control over the development of ADUs has also provided precedent for overall statewide land use standards.

Provide some discretion to localities in meeting statewide standards.

Localities should be given a degree of discretion on how to comply with statewide land use standards provided that strong accountability measures are in place to ensure that localities are meeting the goals of broad land use reform. Local discretion is important to account for variation across cities and neighborhoods in terms of market conditions and existing planning efforts and goals. Moreover, providing discretion to localities to meet these standards makes the passage of such major reforms more likely.

Within this discretion, localities should also be required to explicitly address issues of displacement in vulnerable communities. This could be achieved by requiring localities to consider and adopt a suite of policy options that go beyond land use considerations. When planning for vulnerable communities and meeting statewide land use standards are done together, it can mitigate the need to exempt or delay the implementation of reforms.

Include mechanisms for streamlined approvals and permitting.

Mechanisms to provide certainty in the development process should be considered alongside land use reform. This is critical to facilitate the construction of new housing. In California, this could include requiring cities to adopt ministerial approval processes, or tying land use reforms to existing development streamlining mechanisms at the state level.



Conclusion

In supply-constrained markets, increasing housing supply across all income levels is essential to achieving affordability. This is especially true in California, where major land use reform has stagnated. While zoning changes are not a panacea and should be combined with other tools to ensure positive outcomes, they are a critical piece in California's efforts to address long term affordability challenges by increasing the production of housing overall. Overcoming the production shortfall requires an overhaul of business-as-usual land use practices. Achieving such significant change is difficult, but California policymakers can learn from the experiences of localities and governments who have successfully planned, passed, and implemented such reforms.

California policymakers should also understand that land use reform does not happen in a vacuum, and care should be given to align new policy with other housing changes. The state's updated Regional Housing Needs Assessment (RHNA) will soon require localities to plan for more housing than in previous RHNA cycles. If done thoughtfully, statewide land use reform could prove to be an important tool for localities to meet these new RHNA requirements. Lastly, there is a significant opportunity to build on the momentum created over the previous year with the passage of bills such as AB 1482 by creating an elegant solution for cities to plan for more housing in a manner that supports community priorities.



Appendix

Table 1. Breakdown of Land Use Reform Case Studies

	Oregon HB 2001 (2019)	Portland (2019-2020)*	Grand Rapids (2008)	Grand Rapids (2018)	Denver (2019)**	Los Angeles (2017)
Single-Family	Cities with populations over 10,000 must allow duplexes on each lot zoned for detached single-family dwellings; cities over 25,000 must also allow up to fourplexes in residential areas	Recommends upzoning most residential neighborhoods to allow up to fourplexes or two ADUs; does not apply to lots on steep hills or those with natural resources	Adopts a form based code that splits city into character districts with no exclusively single-family zones	Allows duplexes by right on corner lots; allows up to 4 townhouses by right on vacant lots within 500' of mixed-use commercial districts; streamlines ADU approvals (eliminates minimum lot area requirement, implements ministerial approval, allows up to 40% of primary structure)	Calls for 2 to 4 units in corner lots, near transit and/or adjacent to corridors/centers; citywide ADU allowance; expanded household definition	N/A: Applies only to properties where at least 5 units can be developed under base zoning
Multifamily	N/A	Moves toward regulating new development by Floor Area Ratio (FAR) instead of density in multi-dwelling zones; scale ranges from max 35' height and 1.0 FAR to 75' height and 4.0 FAR with bonus FAR and height granted for Below Market Rate housing	Allows multifamily by right in mixed-use commercial districts	Density bonus for affordable housing; minimum lot widths and area requirements reduced for small scale multifamily	Goal is to capture 80% of housing growth in centers and corridors, including 25% downtown; height/density bonus in exchange for affordability	Density bonus of 35% to 80% for projects within a ½ mile radius of major transit stops; more incentives are granted for deeper affordability and greater proximity to transit, or to higher-quality transit (using a “tier” framework)
Commercial	N/A	Permits ground floor retail and some live/work in larger multifamily buildings	N/A	N/A	Goal is to capture 90% of job growth in centers and corridors, including 30% downtown	Residential construction is allowed in commercial zones city-wide
Other	Prohibits off-street parking and requirements and owner occupancy requirements for ADUs	Reduces parking requirements, especially on small sites. Zoning updates are combined with an anti-displacement action plan	Codifies what was largely in place already	Density bonus and parking reductions offered for micro-units	Calls for revising zoning codes to better address the mass, scale and character of residential infill (addresses concerns stemming from 2010 zoning update)	All projects eligible for reduced parking; highest tier or 100% affordable projects have no required parking. Projects requesting only base incentives (density, parking) reviewed ministerially

*Pending Council approval; **General Plan adopted, zoning changes pending

ENDNOTES

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