

URBANIZING CALIFORNIA: HIGH DENSITY HOUSING IN MIXED USE PROJECTS

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Urbanizing California: High Density Housing in Mixed Use Projects

1. Entitlement Process for Urban Infill
2. Strategies for Securing Development Approvals
3. Public/Private Partnerships for Urban Development

1. Entitlement Process for Urban Infill

- Basic Entitlements Framework
 - General Plan
 - Zoning
 - Subdivision Approvals
 - Site Specific Permits
 - Conditional Use Permits
 - Variances
 - Design Review
 - CEQA

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context
 - Specific Plans
 - Planned Developments
 - Vested Rights
 - Redevelopment
 - Inclusionary Housing
 - CEQA

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context
 - Specific Plan
 - Specifics regarding land use, infrastructure, financing
 - “Consistency”
 - Specific Plan must be consistent with General Plan
 - Zoning and Subdivisions must be consistent with Specific Plan
 - Offer a basis for dedications, development fees and inclusionary housing requirements
 - Area-wide vs. Project-specific

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context
 - Planned Development
 - Zoning allows a single district to combine uses that otherwise might not be permitted and to establish development parameters different than zoning ordinance
 - Flexibility
 - Site Plan: Parameters (e.g., FAR/density; parking; height; open space; design guidelines) with flexibility to vary building location/orientation/massing, street alignments, etc.
 - Land Use Flexibility: “swap” concept
 - Planned Development Permit required for development

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context

Vested Rights

- Common Law:
 - Substantial cost incurred in good faith reliance on a valid building permit
- Statutory:

VESTING TENTATIVE MAP	DEVELOPMENT AGREEMENT
City must process	City's election whether to enter
Conditions/exactions must have nexus	Contract: City may impose any conditions
Term limited by Map Act	Longer term; permits may be extended for life of DA
Vests rules as of application date	Vests rules as of execution date
Future permit processing based on vested rules	May alter rules for future permit processing
Not subject to referendum	Subject to referendum

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context
 - Redevelopment Areas
 - Redevelopment Plan to eliminate blight
 - Tax increment financing
 - Redevelopment Plan must be consistent with General Plan, but not zoning
 - State law requires 15% affordable housing throughout Redevelopment Area, but many agencies apply requirement project by project
 - OPA/DDA establishes performance obligations, schedule

1. Entitlement Process for Urban Infill

- Variations on Entitlements in Urban Mixed Use Context
 - Inclusionary Housing
 - Require specified percentage of affordable housing
 - Increasingly common, even outside redevelopment areas

1. Entitlement Process for Urban Infill

CEQA Review of Mixed Use Projects

- Exemption for residential infill projects
- Negative Declarations and EIRs for Urban Infill Projects
 - Assumptions regarding trip internalization and phasing
 - Analysis of parameters versus specific project
 - Fully analyzed variants versus “swap” procedures

2. Securing Entitlements

- Practical Implications of the Entitlements Process
 - Time
 - Expense
 - Uncertainty

2. Securing Entitlements

- Strategic Management of the Entitlements Process
 - Due Diligence
 - Schedule
 - Staff Resources
 - Community Relations
 - Flexible Entitlements Structure

3. Public/Private Partnerships for Urban Development

- Understand Public/Private Partnerships
 - Common purpose/sharing the vision
 - Mutual trust
 - Mutual gain/differing mission and motivations
 - Cooperation/transparency
 - Role of each party/accountability
 - Community and political support
 - Niche within development community
 - “Patient Money”

3. Public/Private Partnerships for Urban Development

- Anticipate Project Duration & Complexity
 - Initial selection process (RFQ/RFP)
 - Exclusive negotiations
 - Predevelopment costs/risk allocation
 - Phased development – timing/availability of funds for project costs
 - Third party governmental involvement – regulatory, etc.

3. Public/Private Partnerships for Urban Development

- Plan for Change
 - Entitlements
 - Maximize site plan and land use flexibility
 - MMRP/approval condition allocations
 - Market assumptions/evolving market conditions
 - Profit participation/cash flow
 - Developer restructuring/joint ventures
 - Project/financing restructuring