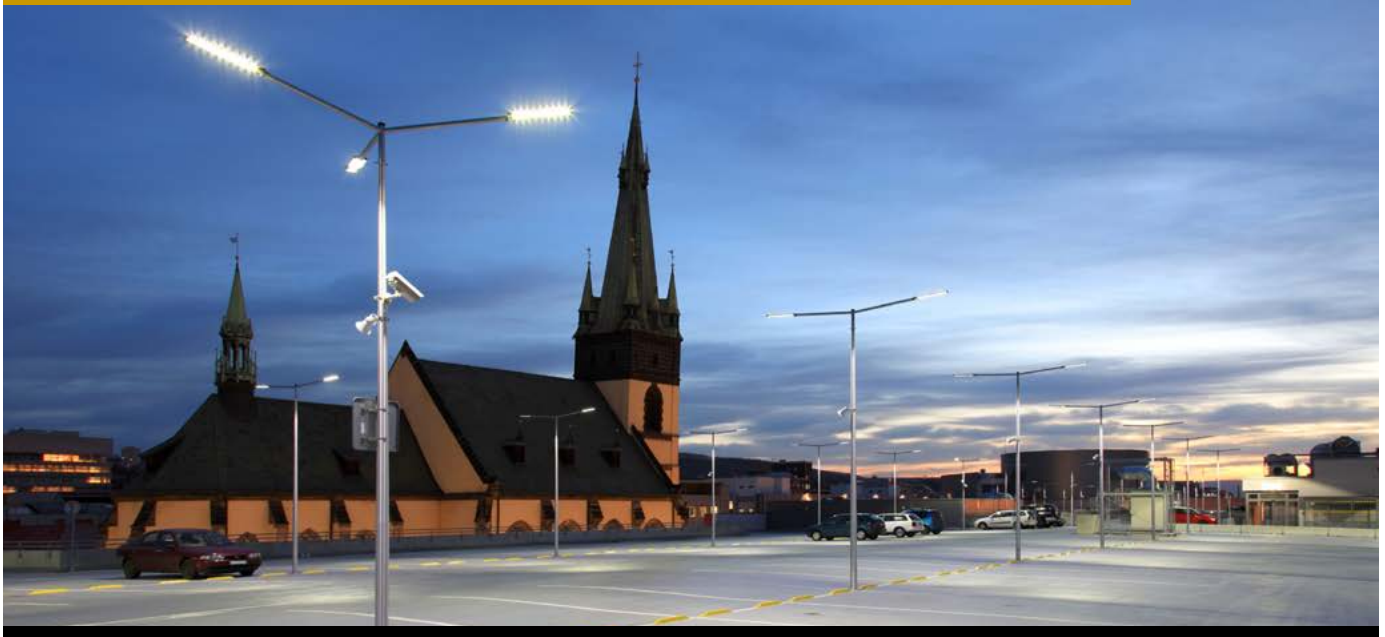


ZONING PRACTICE

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Using Faith-Based Land for Affordable Housing



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Using Faith-Based Land for Affordable Housing

By Donald L. Elliott, FAICP, and Maggie Squyer

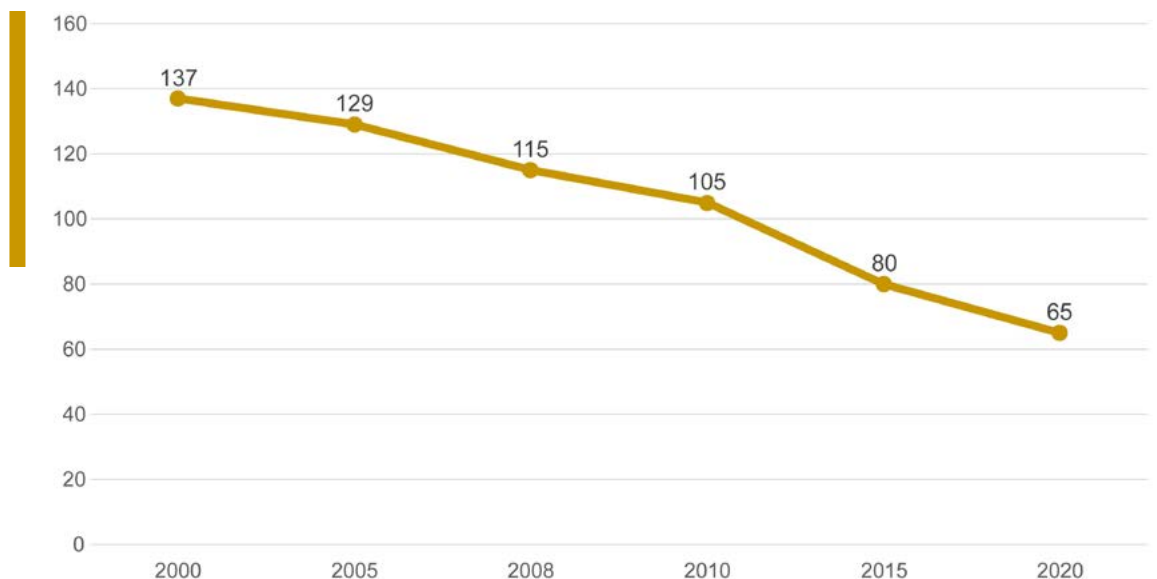
While communities across the country are struggling to provide affordable housing options for their most vulnerable citizens, a new set of sometimes-overlooked development partners is rising to the challenge: religious institutions. Many of these institutions own vacant buildings and underutilized land in established neighborhoods.

In the case of vacant religious worship buildings, the previously worshipping congregation is often relocated, merged, or disbanded, and the continued viability of the congregation on that site is no longer a consideration. Repurposing religious structures may require resolution of property title issues or covenants limiting the permitted uses of the structure, but those site-specific challenges generally cannot be resolved through zoning. Otherwise, the conversion of churches, synagogues, temples, or mosques to housing uses are essentially real estate development projects whose success is primarily determined by the availability of adequate financing and the difficulty of meeting applicable building and fire codes.

In contrast, projects to repurpose unneeded land surrounding a religious worship structure often involves a still-active (though possibly struggling) congregation interested in both addressing the affordability challenge and preserving or improving the future of that worshipping community. Since the “excess” land that may be made available for housing is often currently used as a parking lot, they also frequently involve questions of zoning regulations requiring minimum amounts of parking.

This issue of *Zoning Practice* explores the growing trend of developing transitional and permanent affordable housing on underused faith-based land. It examines the relationship between land supply and the housing crisis, the reasons why religious institutions are increasingly interested in development partnerships, and the zoning standards that can limit development opportunities. And it highlights several successful efforts to bring new affordable housing to faith-based lands.

Declining median worship attendance among U.S. congregations (Credit: [Hartford Institute for Religion Research: Faith Communities Today 2020](#))



The Housing Crisis and Land Supply

Rather than once again quoting the ever-changing and usually worsening data on housing prices and household income, let's just say that what was originally a coastal state challenge to provide affordable housing has now reached all corners of the country. Throughout the United States, rapid increases in sale and rental prices have exacerbated the national housing crisis and have made many forms of housing unaffordable to all but the most fortunate among us. The 2022 [State of the Nation's Housing](#) report published by the Joint Center for Housing Studies of Harvard University noted that the monthly cost of a median priced home rose by 34 percent from April 2021 to April 2022. Apartment rents also rose more than 10 percent year-over-year. The crisis, of course, is not one problem but a set of interrelated challenges, all exacerbated by the exceptional levels of income and wealth disparity in our nation. While some responses have focused on opening up increased opportunities for homeownership and others have focused on stopping or mitigating the impacts of gentrification and displacement, almost all analyses have identified the difficulty of obtaining well-located, serviced land at reasonable prices as a key cause of the crisis. So the identification and engagement of an often overlooked source of land supply is a particularly important contribution to improving affordability.

The Momentum Behind Faith-Based Land for Housing

The increasing involvement of religious communities in the production of transitional and affordable housing should come as no surprise. It reflects the convergence of four key factors:

- The desire of many faith-based organizations to help those less fortunate
- The need of many faith-based organizations to increase revenue in order to stay financially viable in the face of declining membership
- The very large amount of land owned by faith-based organizations, some of which is no longer needed to support the programs of the worshiping congregation
- The location of much of this unused land in residential neighborhoods.

A 2020 study by the University of California-Berkeley's Turner Center for Housing Innovation found that faith-based organizations owned about 38,800 acres of developable land in California alone (Garcia and Sun). A second study estimated that the United Methodist Church alone owns real estate worth \$50 billion across the U.S. (Reinhard 2021). A similar study found that faith-based institutions in Fulton County, Georgia, controlled over 6,000 acres of developable land (ECP 2022).

Because the price of land often represents up to one-third of the total cost of residential development projects, any

A rendering of a planned affordable housing redevelopment of the parking lot of Calvary Lutheran Church, near George Floyd Square, in Minneapolis (Credit: UrbanWorks Architecture via City of Minneapolis)



opportunity to reduce land costs can have a very strong impact on the potential affordability of the resulting housing. The value of this land can often offset the fact that the faith-based organization has little or no capital to contribute to the housing development. And the same declines in membership that spur the need for additional revenue may also result in declining need for large parking lots or a decision that land acquired for future expansion of the worship structure is no longer needed. The fact that faith-based organizations may not be motivated to obtain the highest possible price for the sale or lease of its land makes them natural potential participants in affordable housing projects, and a variety of ownership and financing structures have been used to make this potential a reality.

Challenges and Barriers to Development

Despite the seemingly natural advantages of affordable housing developments involving faith-based organizations, much of the potential for developing housing on their unneeded land has not been tapped. In some cases, that is because the religious congregation cannot reach internal agreement that some of their land is unneeded or that housing is the preferred reuse of the property. Those internal disagreements cannot be resolved through zoning and are beyond the scope of this article.

Discussions with representatives of religious denominations reveal that the biggest barrier to increased housing development on these lands is often the faith-based institution's limited knowledge of the real estate development process, the variety of approvals that may be needed for project approval, and sources of partnerships and capital needed to make the project viable. In response, faith-based institutions have created staff positions or offices dedicated to working with their local congregations to identify how much of their land is no longer needed to support programs, educate them about zoning and development approval procedures, and help them build relationships with local governments, land-use and real estate lawyers, and possible sources of development financing. For

example, the South District of the California-Pacific Annual Conference of the United Methodist Church has established an Assistant Director position specifically tasked to work with its 74 member congregations to put under-used landholdings to better use. Cities and counties can help fill this gap as well. On the other side of the country, Montgomery County, Maryland, established a Religious Land Use Working Group to help bridge these gaps.

Even if knowledge gaps can be addressed and strong development partnerships can be found, many faith-based leaders emphasize that zoning and other land-use regulations can raise serious barriers to reuse of their vacant lands for housing. These barriers include, but are not limited to, permitted use restrictions, maximum height or density limits, minimum parking requirements, historic preservation regulations, and traffic or other site capacity studies.

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Permitted Use Restrictions

In some zoning ordinances, religious institutions are listed as a permitted use in some or all of a community's residential zoning districts—which would in theory allow the entire property to be redeveloped for housing without requiring a rezoning or conditional use approval. Other zoning ordinances would require conditional use approval (often following a public hearing) to use residentially zoned property for a church, synagogue, or mosque, but may not require conditional approval to change all or part of that conditionally approved site back into a permitted use in the zoning district—such as housing uses in a residential zoning district.



First United Methodist Church in Waynesville, North Carolina (Credit: Getty Images)

On the other hand, some ordinances include separate zoning districts for institutional uses and require that properties be rezoned into those districts in order to operate. Once they have been rezoned for a religious institution, the land may need to be rezoned back into a residential zoning district to construct new housing; and a rezoning requires time, expense, and often the likelihood of community opposition.

While the federal Religious Land Use and Institutionalized Persons Act (RLUIPA) opens the door for a faith-based institution to claim that providing housing is an essential part of its ministry and therefore entitled to additional protection from interference by local land-use regulations, such claims are often not successful when applied to housing. For example, the court's decision in *Westgate Tabernacle v. Palm Beach County*, 14 So. 3d 1027, 1032-33 (Fla. Dist. Ct. App. 2009) denied relief to a church that failed to acquire a permit to operate a homeless shelter because the county's code requirements did not constitute a substantial burden on Westgate Tabernacle's religious beliefs. Because many communities categorize institutional uses separately from residential uses, and impose different regulatory conditions on new housing developments, and because the provision of housing for the general

public (regardless of income) has not traditionally been seen as a key function of religious institutions, many zoning administrators could decide that the protections of RLUIPA do not apply to repurposing institutional property for housing uses that (in many cases) will not be owned by, managed by, or connected to the faith-based activities of the religious institution.

While RLUIPA also prevents local governments from imposing stricter conditions on religious institutions than they do on other institutional gathering places in the same area or zoning district, many zoning ordinances allow few if any other institutions to locate in residential neighborhoods. Allowing faith-based institutions to locate (even with special permission) in locations where other institutions are not allowed, and then imposing conditions on the reuse of those institutional properties, generally does not disadvantage faith-based institutions compared to other institutional uses and may well not be a violation of RLUIPA.

Maximum Height or Density Limits

Even where the conversion of institutional land to housing uses is permitted by the zoning ordinance, the maximum height or development density limits in

residential neighborhoods may be another hurdle to be overcome. While many zoning ordinances allow religious institution buildings to be taller than those permitted in the surrounding residential areas, those exceptions are often limited to spires, steeples, bell towers, or other features typically found on such structures. The height of the worship structure itself may well be limited to the same height as the surrounding area, which in low-density neighborhoods is often 35 to 38 feet—enough to accommodate a three-story housing structure, but not more. Or the property, as a whole, may be limited to a density of development (often a number of dwelling units per acre) or floor area ratio (FAR) that is similar to the surrounding the area, with the area of the existing worship structure subtracted from the development potential of the parcel as a whole. For a variety of reasons, those limits may make redevelopment financially impossible or impractical, particularly for infill projects where the amount of unneeded parking lot land is relatively small, which means that the footprint of any housing structure will need to be correspondingly small. While some zoning ordinances allow a variance to the maximum height or density limits otherwise applicable in the zoning district, others would require rezoning the property to accommodate taller or more intense redevelopment of the site. Both complicate, lengthen, and introduce uncertainty into the development approval process.

Minimum Parking Requirements

As is so often the case with zoning, minimum parking requirements may prove to be a significant barrier to redevelopment. Existing parking on the site may be adequate to meet zoning requirements for the congregation, but removal of some of that parking to construct housing may leave too little surface parking to serve the congregation, or the site may be too small to accommodate parking for both the continued operation of the remaining worship structure and the new housing. Regardless of the cause, inadequate parking often requires a public hearing to approve a variance, which also takes time, introduces uncertainty to the project, and opens the door for public opposition to the project based on inadequate parking.

In addition, some religious institutional uses may predate zoning, and any current failure to meet parking requirements may be a legal nonconformity that is allowed to continue. But many zoning ordinances provide that the legal nonconforming status of a property disappears if the property is redeveloped in the future.

Cities and counties can also revise permitted height and density regulations to create exceptions for affordable housing developments and make those exceptions available for reuse of institutional properties.

Historic Preservation Regulations

Some older congregations may be located in designated local, state, or federal historic districts, or may be individually designated historical landmarks. In many communities, that means any change to the structure or the site must be reviewed (often in a public hearing) by an appointed historic preservation commission. If the property is located in a historic preservation district, any new housing structure will generally be required to meet additional design standards intended to ensure that it does not compromise the integrity of the surrounding historic district. In some communities, this will add an additional step to the development approval process, again adding time, expense, unpredictability, and opportunities for public opposition to the process. At worst, it may raise inconsistencies between conditions imposed by the historic preservation commission and zoning requirements or conditions imposed by other development review officials.

Traffic Studies or Other Site Capacity Studies

Because redevelopment of vacant land for housing uses always involves not only a change in use but a more intense use of the property, many zoning ordinances

would require the applicant to complete a traffic study or site capacity study to confirm the impact of the new development on existing transportation, or on water or sewer or stormwater treatment facilities, or on sensitive environmental features, tree canopy, or on other environmental factors. Each of these adds time and cost. In addition, because many urban infill sites are located in areas that already fail to meet transportation performance measures or that have inadequate infrastructure, each of these studies may result in a significant list of street, sidewalk, infrastructure, or site improvements needed to mitigate the impacts of the new development, and that may result in a recommendation of project denial or may make the housing project financially infeasible.

Addressing the Challenges

The good news is that each of these zoning barriers are the result of human-created standards and requirements that can be revised to acknowledge the unique opportunity to “free up” the large supply of vacant land owned by faith-based communities and to simplify the process of approval for faith-based housing projects.

Local jurisdictions can revise permitted use regulations to make housing a permitted use of land in both residential and institutional zoning districts, and to remove requirements for public hearings for those conversions. The [Denver Zoning Code](#), for example, allows religious and public assembly uses (subject to limitations, but not to a public hearing requirement) in almost all of its residential zoning districts and eliminates the need for a rezoning or conditional use approval for redevelopment of institutional lands.

Cities and counties can also revise permitted height and density regulations to create exceptions for affordable housing developments and make those exceptions available for reuse of institutional properties. Bloomington, Indiana, for example, provides for one or two stories of additional building height in some zoning districts in return for different levels of affordability in the resulting housing, without the need for public hearings or discretionary approvals ([§20.04.110\(c\)](#)).

Local jurisdictions can delete (or substantially reduce) minimum onsite parking requirements, either citywide or in targeted areas or for all affordable housing projects. For example, Buffalo, New York, eliminated all minimum parking requirements in 2017 ([§8.3.1.A](#)).

Historic Preservation regulations can be revised for affordable housing projects in designated historic districts to require a lower level of review, or to clarify that current preservation standards will be applied to the design of proposed housing structures without regard to any additional height or intensity allowed for affordable projects by other provisions of the zoning ordinance.

Outside of historic districts, building design standards that tend to increase the costs of construction can also be drafted to exempt affordable housing projects from the more expensive design requirements. This is what Aurora, Colorado, did in its recently approved unified development ordinance ([§146-4.8.6](#)).

Requirements for traffic studies or other site-capacity studies can be revised to exempt affordable housing projects, or to remove the applicability of those review factors likely to thwart the development of all infill housing projects on currently underused sites.

In much of the U.S., authority to make these types of zoning changes lies with local government, and corresponding or supporting action by state government is not needed. And some cities have taken the initiative to do so.

In some cases, the changes discussed above may need to be limited to apply only in those zone districts and those neighborhoods where increases in the supply of affordable housing will reduce the levels of income segregation, rather than those

In many U.S. communities, the nonprofit group Yes in God's Backyard (YIGBY) advocates for the creation of multi-dwelling housing on underused faith-based institutional properties.

neighborhoods where they may lead to an overconcentration of affordable housing. As an alternative, they could be tailored to remove the requirement that the resulting housing be affordable in those neighborhoods where additions of market rate housing would reduce income segregation and would be consistent with adopted city plans and neighborhood desires.

In many U.S. communities, the nonprofit group Yes in God's Backyard (YIGBY) advocates for the creation of multi-dwelling housing on underused faith-based institutional properties. In 2019, San Diego responded by adopting an ordinance allowing qualifying churches to use their parking lots to build affordable housing without regard to minimum parking requirements. The ordinance specifically applies to religious institutions located in Transit Priority Areas and grants faith organizations the ability to reduce parking below the minimum number of spaces required if parking lots are replaced by new residential development ([§141.0602\(a\)\(2\)](#)).

The following year, San Jose, California, unveiled its [Citywide Residential Anti-Displacement Strategy](#), which explicitly called for the addition of a YIGBY land use in the public/quasi-public zone district to allow development of a residential use secondary to an assembly use. While the city has yet to amend its zoning ordinance to reflect the desired change, it is still pursuing the development of affordable housing projects on religious property, including the construction of 237 apartment units in the parking lot of Cathedral of Faith megachurch. Construction on the project is anticipated to begin this year.

As in so many other areas, however, city initiatives can lead to supporting state legislation. In 2020 the California State Assembly considered but ultimately did not adopt a "YIBGY Bill" that would have adopted similar provisions statewide. As this edition goes to press, however, the California Senate is considering a revised version of the 2020 bill that would allow faith-based institutions to build 100 percent affordable housing projects on their land "by right" ([SB-4 2023–2024](#)).

Other cities have adopted mandatory bonus provisions, reduced parking requirements, or alternative

design requirements intended to reduce development costs and promote additional affordable housing construction. One example is Seattle, which in 2021 adopted detailed legislation specifically for new housing projects located in parking lots of faith-based institutions ([Ordinance 126384](#)).

In 2022, Pasadena, California, adopted an ordinance to allow affordable housing units on religious facility sites in certain zone districts ([Ordinance 7402](#)). In that case, all new affordable housing projects on religious property will be subject to use-specific development standards.

Later the same year, Bellevue, Washington, identified 29 single-family zoned properties that are eligible to be upzoned if the property owner agrees to develop the site with 100 percent permanent affordable housing. To qualify, the site must be owned by a religious institution and be located on an arterial street within half a mile of a frequent transit stop and within 500 feet of a zone district where multifamily housing or commercial uses are permitted.

The growing momentum behind use of excess faith-based land for affordable housing is not just reflected in local amendments to zoning regulations but also in construction projects.

Finally, numerous faith-based housing initiatives have been formed to help establish partnerships, catalyze funding, and promote zoning reforms that can accelerate progress in this area. Enterprise Community Partners' Faith-Based Development Initiatives is now 15 years old and has spurred the creation of over 1,500 affordable dwelling units. More recently, the Interfaith Affordable Housing Collaborative (IAHC) was formed to promote the development of affordable housing on faith-owned property throughout New York State. Over the last five years, IAHC has made it their mission to provide

predevelopment funds and technical assistance to places of worship interested in developing affordable housing, while simultaneously advocating for public policies that support this objective.

Project Examples

The growing momentum behind use of excess faith-based land for affordable housing is not just reflected in local amendments to zoning regulations but also in construction projects. The following are three examples of how this important trend is resulting in much needed housing on previously overlooked lands.

St. Paul the Apostle Senior Residence, Edison, New Jersey

Increasing and preserving the nation's affordable housing stock is a strategic priority for Catholic Charities USA (CCUSA). The faith-based nonprofit organization has supported a number of affordable housing initiatives and has established over 35,000 units of affordable housing across the country. One recent project, St. Paul the Apostle Senior Residence, created 42 units of age-restricted housing in Edison, New Jersey.

Completed in 2021, the project was a joint development effort between two dioceses (the Archdiocese of Newark and the Diocese of Metuchen) and two catholic charity agencies (the Domus Corporation and the Metuchen Community services Corporation). The group was able to acquire a surface parking lot and vacant building from Our Lady of Peace parish and establish a redevelopment plan for the site.

The redevelopment plan review processes included several public hearings held by the Municipal Council of the Township of Edison, where community members voiced concern over increased traffic, on-street parking, and changes in property values as a result of the project. Despite neighborhood opposition, the Township approved the redevelopment plan, allowing the group to demolish the existing building and construct a 42,788-square-foot, three-story facility on the site.

In addition to residences, the completed facility includes an activity room, community room, and management offices. Funding for the nearly \$11 million project came from a variety of sources, including local, county, and state funds, Federal Home Loan Bank, TD Bank, Enterprise Housing Credit Investors, LLC, and Community Preservation Corporation.



■ St. Paul the Apostle Senior Residence (Credit: The Catholic Spirit)

Wesley Village
(Credit: Juan Tallo)



Wesley Village, Orange County, California

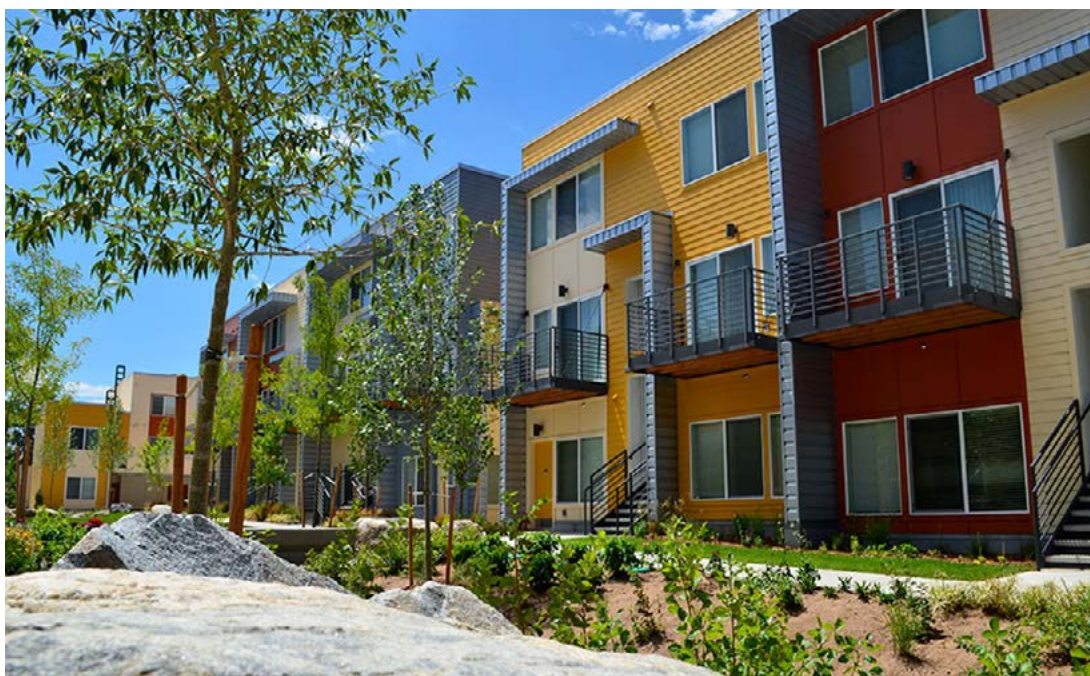
In Orange County, California, the Garden Grove United Methodist Church partnered with affordable housing developer Jamboree to create a family and senior housing campus called Wesley Village. The developers entered into a 60-year ground lease with the church to transform 2.2 acres of excess parking space and vacant land into housing and community service uses that can provide ongoing financial support for the church's charitable activities. The onsite community services are provided in partnership with Alzheimer's Orange County, the Lestonnac Free Clinic, and the Boys & Girls Clubs of Garden Grove.

Multiple entitlements were required to make this project a reality. In 2014, Jamboree Housing Corporation received planning commission approval to change the base zone district and land-use designation of the project site. A conditional use permit was also required to allow the church, church-operated preschool, and Head Start program to continue operating in the new zone district. A variance to reduce parking requirements was also granted to address constraints presented by the variety of uses provided on site.

Construction of the project was completed in 2017 and included the creation of a three-story apartment complex, which serves families and seniors earning up to 60 percent of the area median income (AMI). Of the 47 units provided on site, there are 20 one-bedroom, 11 two-bedroom, and 15 three-bedroom apartments. The project also included construction of a campus learning center that offers onsite educational opportunities for all age groups. Wesley Village is LEED for Homes Gold certified and is conveniently located near transit lines, public schools, a library, and parks. The total cost of the project was \$19.2 million and was funded by HOME/CHDO loans, Boston Financial Investment Management, California Community Reinvestment Corporation, U.S. Bank, and Federal Home Loan Bank.

Aria Denver

In Denver, a 17.5-acre mixed-use development, was spurred by the sale of Marycrest, a 25-acre campus of the Sisters of St. Francis containing a convent and associated support buildings. After years of declining participation, the Sisters began to explore opportunities for redeveloping the property in a way that aligned with the group's mission and values. After



Aria Denver (Credit: OZ Architecture)

multiple meetings, community engagement events, and design iterations, the Sisters of St. Francis signed and purchase and sale agreement with Urban Ventures, a Denver-based development company.

At the time of the acquisition, the subject property was not zoned to allow the variety of uses proposed by the development team. In 2008, Urban Ventures was granted a zone change from the institutional campus district to the residential mixed-use district. Negotiations were held with existing neighbors to establish height restrictions that were taller than what was typically allowed by the base zoning. The project's site development plan has been amended nine times since its original approval in 2011 in response to market pressures and changing neighborhood needs.

Incorporating the Sisters' mission and values into the site ultimately led to a proposal to create a mixed-income, multigenerational neighborhood designed to support healthy, community-centric lifestyles. The plan includes over 500 residential units with a mix of housing types, including townhomes, condos, affordable and market-rate apartments, cohousing units, and transitional housing. Approximately 35 percent of the units provided in the development are affordable. Additional neighborhood amenities include a one-acre farm and greenhouse, public open space,

and 7,000 square feet of commercial development. The Aria development is a collaboration between multiple development groups, including Urban Ventures, LLC, and Perry-Rose, LLC; nonprofit organizations, such as Habitat for Humanity; and a collection of community partners, including Regis University.

Conclusion

All across the country, communities are looking for innovative ways to increase their housing supply. In almost every community, it will be important to engage religious institutions and faith-based nonprofits as key players in the housing discussion. Their involvement not only opens up major new sources of well-located land to accommodate affordable housing, but also engages major new development partners who are often motivated at least in part by a strong desire to help our most vulnerable populations. They often also bring to the table existing partnerships with faith-based and secular support providers that can help support the social well-being of new residents on the property. Local governments can play a key role in opening up these new opportunities by updating their zoning codes to remove existing barriers to affordable housing development on faith-based properties.

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