

What's on my Mind

How to Work with Cities on New Developments

Making a partner of your municipality can smooth over many challenges.

By Chad Suitonu

The hardest thing about senior living development is finding the right land. Many of the good spots are already taken and competition is fierce for the remaining.

But when you have found the sweet spot — that site that has the right demographic demand, limited competition, barriers to entry and a feasible price — you'll likely still have some obstacles to overcome with the city to get your project built.

Not only must you ensure that senior living is allowed per the zoning, you have to check, and sometimes petition to change, several other city-imposed restrictions to make sure you get the most out of the site.

Get ahead of the game

Scheduling a pre-development meeting with the city is the most important initial activity you can do to discover what you can and can't build on the land. You will also find out key benefits and negatives about the site that could have a large impact on the project cost — for example, how close existing utility lines are to your site.

Most cities hold these pre-development meetings periodically or by appointment to answer specific questions a developer may have about a site, and to learn the city's procedures for allowing the specifics of your development. In these meetings the city should have representatives from various departments: planning, building, public works, storm water, engineering, fire marshal, etc.

The information you gain from this meeting could kill a development, or help you realize it's a grand slam. Its importance cannot be overstated.

If you do have to re-zone, or make any other potentially controversial modifications to the entitlement, you should pre-sell your vision of the future senior living development to the city council members. They are the final decision authority on approving the changes you want.

These early meetings with individual city council members will let you know whose support you do and don't have, and if you will have the votes you need for your proposed change.

Reach out to each city council member individually. Ask for meeting. Pitch your idea and see what they think. Ask for advice on how to ensure your proposed zoning change will be successful. Don't depend on the merits of your development or your biased opinion. Meet with the council members beforehand to make sure the vote goes your way.

Many city council hearings are preceded by a planning and zoning (P&Z) commission hearing. The P&Z members make a recommendation to city council, and many times city council simply goes with the P&Z recommendation. Getting the P&Z members on your side is usually the most effective step you can take to ensure your zoning change is approved at city council.

If you anticipate your zoning change is going to be controversial, consider hosting a town hall meeting to inform the citizens on your proposed development. Address their concerns early, before the city council hearing, because they will show up and voice their opinions.

Get help

It may be beneficial to hire a local zoning attorney to help you get your land re-zoned or entitlement rights modified. This local attorney will know and have relationships with city staff, P&Z and city council members. He or she can help you develop a plan to approach the re-zoning effort and tell you his or her opinion on the possibility of success.

A local attorney will also know local non-governmental organizations (homeowners' associations, Kiwanis Club, Rotary Club, Chamber of Commerce), or even individuals, that could be a threat or benefit.

Zoning attorneys are not cheap. Their fees can easily run into the tens of thousands of dollars. However, that is a cheap investment if having the appropriate entitlement on the land is worth millions of dollars.



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Seek out savings

Outside of the primary issue of getting the base zoning and entitlement on the land just right, there are several other smaller but important issues to work out with the city that will add up to significant costs or savings to the developer.

Impact fees are fees a city charges your new development for the additional burden (or impact) the development places on a public service system. For example, when your new development uses city-provided water, you get a monthly water bill. But that bill only pays for the water that comes out of the tap. To get that water to

your new development, additional infrastructure has to be put into place, or existing infrastructure will be incrementally burdened.

Following our city water example, additional capacity for pipes, pumps, filtration plants, water towers, labor and more have to be put into place for your specific development. Since your additional development burdens that infrastructure system, you have to pay an impact fee to help support and expand that infrastructure.

Instead of all water users simply paying a higher monthly water bill for the water supply infrastructure expansion to accommodate your specific new development, you as the developer pay it more directly through an impact fee. Impact fees typically apply to city-provided services of water, sewer, roadways and sometimes public parks.

When it comes to development, most city codes and ordinances do not specifically address senior living. Many times the sector is grouped in with apartment complexes. As most people familiar with senior living know, our residents and their uses of city-provided services are very different than that of a typical apartment dweller.

When it comes to water and sewer use, our senior residents typically use only a fraction of what a typical apartment resident would use. When a city attempts to charge your senior living development a water and/or sewer impact fee as if you were a typical apartment complex, make the argument that your actual water and sewer use is much lower, therefore your impact fees should be much lower.

There are also fees to expand and maintain the public roads. Every new development adds to the vehicular traffic on the public roads, so that development should pay the marginal impact they put on those public roads.

However, when it comes to senior living development, some independent living residents don't drive, maybe only half of your assisted living residents drive, and none of your memory care residents drive. This low driver count decreases the burden your senior development is placing one the city's public roads. Therefore, you should not be charged the same roadway impact fees as a typical apartment complex.

If a city tries to consider a seniors housing development the same as multifamily, the city will want you to consume valuable and scarce land with parking stall counts for a typical apartment complex. You will have to educate the city council that your parking demand is much lower. This frees up more land for revenue-generating units as opposed to parking stalls that won't be used.

Finally, some cities charge park fees, for the construction and maintenance of public parks, that the additional citizens from a new development will use. It is extremely unlikely that the residents of your community will use a public park. It makes no sense for you to pay for a portion of a public park that your residents will never use.

Get the most out of the land you have. Hopefully the above tips can make your new development feasible, or at least save on some project costs.


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