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Session 1 – The Spread of upzoning and protecting gentrifying/"sensitive" communities from potential unintended consequences

Led by Miriam Zuk – University of California, Berkeley

Notes by Kassie Scott

Present: L’Tanya Durante, Seleeke Flingai, Charlotte-Anne Lucas, Naomi Cytron, Geoff Smith, Mariam Ashour, Ryan Brenner, Yvonne Michael, Milika Miller, Trevor Mattos, Mariko Toyoji

Miriam: The idea of this session came out of upzoning work in California (SB50). It was pitched as a solution to the affordable housing crisis and climate mitigation. The bill died and did not make it to the Senate floor. They vowed to bring it back. The new iteration included concerns around sensitive community set asides (any neighborhood with high poverty, high people of color). It would have a delayed implementation and community planning. This work is happening in different places in the US. Does upzoning result in displacement? That's the major concern. Naomi: One of the concerns is that it is a perverse incentive for demolishing.

Miriam: There is now a no demolition piece to the bill. Parcels with low-income tenants are exempt from the bill. It could just be market pressures.

Seleeke: In the Boston region, something similar happened to have higher density units. It was on the docket last year. Got killed. As a regional agency, we advocated for the bill. We thought it would decrease housing pressures. Core neighborhoods were advocating against it, thinking it would open up development. Our agency has not yet fully grappled with what we could learn from that situation. The bill was resurrected this year. Those same community advocates are creating campaigns for anti-displacement zones. They work with folks familiar with zoning law. The idea is to have each neighborhood identify anti-displacement zones. It's by the books (zoning law) and groups are advocating for it.

Geoff: What's the mechanism to prevent displacement?

Seleeke: That is unclear.

Geoff: In CA, what's the process for sensitive communities?

Miriam: Five-year delayed implementation. There would be time for community planning. It's a black box. This year the bill got converted into a two-year bill. Affluent communities don’t want it. My understanding is that they haven't wanted to talk about the sensitive communities piece of it.

Seleeke: Anti-displacement zones (I just looked it up) they are trying to protect tenants.

Ryan: Supply skepticism -- study out of NYU Furman. One of the tricky things is looking at changes to rent. That's kind of the next step. To look at how neighborhood affordability changes. There have been short time windows.

Charlotte-Anne: In San Antonio, we are seeing the peripheral stuff. Not just knocking down affordable housing, but market rates going up. Making nearby stuff unaffordable. There's a great study from DePaul on the unintended consequences of development.

Miriam: There is a study on how upzoning increased land prices but not right away.

Geoff: I'm curious as to how zoning can be used to increase affordability. Zoning code restricts certain dwellings (i.e. basement units).

Naomi: There's a lot of work in CA happening on tweaking zoning to increase housing supply. There's huge financing barriers too. It opens up a whole can of worms. If you're going to do that, how do you ensure subsidy goes to low-income owners to build ADUs? The subsidy design will have equity impacts in those cases.

Seleeke: A policy that should be supporting that are ones around climate impact. Basement units might not be great if you're in a flood zone. You should also tie it to health and aging in a place. Elderly folks can use ADU to downsize and rent out. Granny flats.

Charlotte-Anne: Henry Cisneros is having trouble getting traction around Granny flats in Chicago, but he supports that.

Milika: Why aren't new properties able to be made for rates that are not possible for displacement? Why do new buildings come in and create disruption?

Charlotte-Anne: Let's talk about what's a new rate of return?

Milika: So it's the expectation that I'm expecting 30% rate of return?

Miriam: My understanding is that banks and investors are demanding that kind of return. I'm not a housing finance person.

Naomi: The conversations I have been in the labor costs, material costs, and land costs have skyrocketed. The developers feel that they can't get their deals penciled. However, there should also be this conversation about inclusionary zoning. There is a question of political will in addition to capitalism.

Milika: But also what are the real costs of displacement?

Miriam: Some folks have been coming up with recommendations for developers . . . ways to rate banks. Silicon Valley community foundation... California Reinvestment Coalition did research on a bank in CA that was egregiously lending to developers where they were demolishing and creating luxury units.

Ryan: We had something similar in NYC. If you evicted someone, you could increase the rent by 20%. They were doing buyouts for those people to increase turnover to increase revenue streams, whereas every year it would otherwise by 7%.

Geoff: Inclusionary zoning seems like there is a way to leverage it. Is it successful? People in Chicago find that it is not enough.

Mariko: Seattle has inclusionary zoning. One of the concerns is that developers will get out of putting housing in those neighborhoods. The more affordable housing will be in areas with less amenities, access to transportation, and healthy food. Since upzoning has happened, rent has gone up. That's what we have seen anecdotally. People could not resign their lease because they were thinking rent would go up.

Ryan: With inclusionary zoning in NYC, one of the issues is the AMI band that is eligible to apply. It can sometimes go up to 130% of AMI. It's not skewed to the top, but there is not much at the bottom. The rents it is producing are still extremely unaffordable. A lot of incentive programs are voluntary-based inclusive zoning.

Seleeke: Boston is playing around with small area fair market rent (zip-code level).

Malika: Accepting that housing is an issue in these areas, something has to be done, but all of this other stuff hasn't been working, taking demolishment off the table, what do you think the solution is for areas like Seattle, Boston, Chicago...?

Naomi: Is anyone seeing community benefit agreements? Are there other mechanisms? How to make sure development benefits long-term residents?

Miriam: It's a case-by-case basis. Ex. in Toronto.

Naomi: An example . . . I live in California where Google is developing new housing and they are still negotiating community benefits agreement. Why doesn't San Jose demand that a high percentage be affordable? Or be tiered? To avoid building to the top of the market. Can that type of mechanism be used? Or are there others that chip away inequities in development? Community benefit agreements are negotiated agreements.

Mariko: Hospitals have large funds like this too. For example, Children's Hospital in Seattle.

Seleeke: In Boston, hospitals are mandated to dedicate some dollars to community benefits. We are working to find ways to coordinate funds between hospitals and community development organizations to build more housing.

Malika: Are nonprofits able to pull that lever, whereas Google's argument is that we are and we can move this to whatever neighborhood?....

Naomi: Developers want to develop in hot markets. Where is the tipping point? How much can be asked of developers before they leave?

Miriam: Inclusionary housing may not be asking for much compared to what the developer is getting...

Naomi: Chicago -- it sounds like there are different zones?

Geoff: That was one feel across the city. The developers would bear a higher cost downtown. Not the same profile. You could have a tiered fee structure. Or TOD (transit development).

Naomi: I wonder if there are other examples from public land movement. There are different policies that apply around land near transit lines. The rational for that was this is public land. I don't know if there are other models or examples about how that work is playing out.

Charlotte-Anne: There are connections between campaign contributions and who is assigned to zoning boards.

Mariko: In the Seattle area, we had our own barriers. One was that there was a law that they had to sell that surplus land at market value. That was actually a good policy solution.

Miriam: I think CA has a state law that affordable housing developers have first pick.

Ryan: In NY a lot of what is going on is as-of-right development. Community boards have a lot of say over the rest. I don't know where the balance lies.

Miriam: We can't just leave it to the market and capitalism to solve.

Seleeke: Houston?

Charlotte-Anne: Houston has no zoning.

Miriam: Let's upzone high-cost places.

Mariko: In Seattle, the upzoning increased height.

Seleeke: A group of funders has worked with communities to find alternatives (community land trust funding, aging in place...) it's a neighborhood with mostly people over 55 and mostly minority...it's experiencing pressures, and we are supplying data to have conversations Upham’s Corner and Dorchester's Bay Economic Development Group.