Community Accountability in Land Use Planning: Using Mitigation Strategies

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COMMUNITY ACCOUNTABILITY IN LAND USE PLANNING:
USING MITIGATION STRATEGIES

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MITIGATION IN LAND USE POLICY

• PREVENTION: STOP SOMETHING FROM HAPPENING
  • Preventable events- examples
    • Floods = levees, retention basins, drainage systems
    • Urban Fires = smoke detectors, fire-resistant construction, public education
    • Wildland Interface Fires = camping safety, power line safety
    • Terrorism = law enforcement intel sharing; cameras, sensors
MITIGATION IN LAND USE POLICY

• MITIGATION: WHEN PREVENTION IS NOT POSSIBLE, REDUCE THE IMPACT
• NOT PREVENTABLE EVENTS – EXAMPLE
  Earthquakes = building codes, location, land use regulation, early warning, pub ed
    • Alquist priolo zone, CEQA geotech study, zoning
  Floods = not in a flood plain, on beach
    • What about sea level rise?
  Hurricanes = building codes, location, land use regulation
    • Off the beach, out of storm surge, elevate- what about sea level rise?
  Landslides = location/ land use regulation
    • 4% slope, CEQA geotech study
  Lightening strikes in wildland = residential location, defensible space, pre-positioned fire equipment
MITIGATION IN LAND USE POLICY

• MITIGATION STRATEGIES:
  • Physical
    • levees, building codes, sensors/detectors, fire breaks, surveillance cameras, bomb detectors, radiation detectors, air sensors in public buildings, fences/barriers, concealment of sensitive equipment
  • Economic mitigation
    • trailer parks as flood and tornado “magnets” – low lying, undesirable land uses
  • Financial mitigation – insurance
  • Human mitigation – public education, vulnerable population plans
  • Legal – liability avoidance through notification, e.g. URMs; through building code enforcement; through zoning? Pressure for housing…
    • Is it a warranty for safety when you issue a certificate of zoning conformance, building permit? Is it a “taking” if you deny the permit? Refuse to change the zoning?
    • When is regulation a “taking” – eminent domain/5th Amendment? “total loss of economic use” Lucas v. SCCC
    • When is a proposed use a nuisance to the community? Prevent future harm?
MITIGATION IN LAND USE POLICY

- **Zoning** – Euclidian, multi-use/high density, transit-oriented, let’s add “safety-oriented”
  - Highest and best use is not always residential, may be conservation
  - Not in the wildland, not on the beach, not on the fault—but how close?
- Site planning – topography: slope, cut and fill, filling natural features like wetlands, density
- Role of risk analysis- no unintended consequences
  - USGS, NWS, National Hurricane Center, NFPA
  - Real estate disclosures
Resistance of land owners to mitigation regulations

• IT ALL COMES DOWN TO MONEY

Who benefits and who pays?

Land and building owners
Real estate interests
Tax payers – NFIP– “license to dare”?
First responders
Community members

POLITICAL WILL FOR SAFETY ZONING = COMMUNITY ACCOUNTABILITY