



Leveraging Property Owned by Faith-Based Organizations to Create Affordable Homes and Public Benefit

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Foreword by Rev. David Bowers



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FOREWORD



During my seminary studies at Howard University School of Divinity, I took a range of classes. New Testament, Old Testament, Systematic Theology, Greek, Pastoral Care and World Religions. What I did not take was a class in real estate development.

I start with this context because it frames much of what has informed the work of the Enterprise Mid-Atlantic office's Faith Based Development Initiative (FBDI). In 2006, my former colleague Deborah Stevenson and I had a discussion about how to proactively engage houses of worship in the work to address the growing housing affordability challenges in the Washington, D.C., region. We did so mindful that many houses of worship own land that is undeveloped or underdeveloped, from potential air rights above a sanctuary space, to underutilized parking, to vacant buildings on a block, to dozens of acres (in some cases) that had been acquired over time.

There was a need for more housing that affordably serves low- and moderate-income residents. In the aggregate, there is a vast amount of land owned by houses of worship of all faith backgrounds across the country. Many leaders of houses of worship have not been trained in real estate development and don't feel equipped or comfortable leading their congregation through the process of considering whether to build, and if so, how to build and with whom.

This was how the Enterprise FBDI was born. The mission of the FBDI is to help develop new housing and/or community facilities (e.g. health clinics, neighborhood serving retail or office space) that provide opportunities and services for low- and moderate-income residents and communities. The approach is to work with houses of worship that own (or plan to acquire) undeveloped or underdeveloped land and help them make an informed "go or no-go" decision regarding development. A range of technical and financial resources are provided to help the house of worship make the decision, and if a "go" decision is made — resources are in place to help move from vision to grand opening.

Over the years, the FBDI has expanded in the Mid-Atlantic region to include a Faith-Based Certificate training program in collaboration with the University of Baltimore. And, in the last few years, the FBDI has established a national presence with Enterprise offices from Southern California to New York. We're doing work to help houses of worship figure out how to be faithful stewards of the land entrusted to their care and engage with a range of public and private sector partners to successfully leverage their land for community benefit "beyond the walls."

At Enterprise, we have learned some key lessons and have identified the questions/issues for a house of worship to be mindful of as it begins to explore development. All of this has been gleaned from our conversations with hundreds of houses of worship across the country – and from our deep dive work with dozens of faith communities actively working to develop housing and community facilities – including:

1. **Pray.** Two things are true. The development process can be difficult and frustrating and it is also imminently doable. Patience and resolve will be tested. Pray for direction and determination.
2. **Be clear on what need in the community is being served by the development.** Having a market study and feasibility analysis done early in the process is critical. Ask the professional delivering this content to build into the scope of work a discussion with the house of worship where the findings are explained and questions can be answered.
3. **Ask: Does the house of worship want to maintain ownership/control of the land over the long run?** The answer to this question will inform options you explore and discussions with partners including developers and real estate lawyers. Be thoughtful in the consideration.
4. **Get a real estate lawyer.** Make sure the house of worship has a real estate lawyer that represents only the interests of the house of worship. In many cases a house of worship will select a development partner to “do the deal.” They will often have a lawyer/firm they work with that can provide legal counsel for the partnership that will likely be formed. That’s fine. The house of worship should have its own.
5. **Be clear on the financial goals of the house of worship with the development.** There is no right or wrong answer. But a house of worship should be clear on its answer up front because this will inform decisions related to keeping or selling land, and if keeping the land – what type of development options may be considered viable.
6. **Be mindful of what each partner brings to the table.** Many houses of worship we have encountered are land rich, cash poor and relationship strong in a community. The land has value now and will in the future. That should be factored into negotiations. As should the value a developer brings with their balance sheet and experience.
7. **Shop for your partners.** Ask if a partner has worked with a house of worship before and check references.
8. **Be mindful of timelines and decision making.** It is important for a house of worship to have a clearly identified team within the house of worship that is working on a regular basis to advance the project. The clergy leader of the house may be a part of the team, but should not be the only person on the team.

Some of these lessons and other key tips are further explored in this paper. My prayer is that this paper, and other technical and financial resources offered by Enterprise, will continue to assist houses of worship in considering how their land may be developed to help make life better for the people in the communities where the house is planted.

—Rev. David Bowers

Vice President & Mid-Atlantic Market Leader at Enterprise Community Partners

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INTRODUCTION

Affordable housing supply continues to fall short of demand in nearly every jurisdiction in America. Nationwide, more than 10 million renter households, or 25 percent of all renter households, are severely cost burdened – that is, they spend more than 50 percent of their income on housing.¹

In addition, the National Low Income Housing Coalition’s latest report on the gap in affordable homes shows that no state has an adequate supply of rental housing affordable and available for extremely low-income households – families earning up to 30 percent of their area median income (AMI).² Enterprise recognizes that the rising demand for safe, well-designed affordable homes has created a pressing need for identifying and exploring innovative strategies for expanding the

supply of affordable homes and containing the cost of affordable housing development. One promising approach is making developable land, including underutilized and vacant publicly and privately owned parcels, available for affordable housing development to boost the supply of affordable homes.

The rising acquisition cost of developable land, among other factors like the rise in construction material costs and shortage in skilled construction labor, has been driving the cost of residential

development, impacting developers' ability to create affordable homes. Through our Expanding the Supply of Affordable Homes research initiative, the Enterprise Policy Development and Research team has explored the use of publicly owned parcels – sites owned by a governmental or government-chartered entity, such as units of state or local government, transit agencies and school districts – as an effective and proven strategy to help contain the cost of affordable housing development and expand the supply of affordable homes. This strategy can enable mission-driven developers to access parcels/property suitable for affordable and mixed-income housing development in markets in which they struggle to compete for sites against better funded market-rate developers. Through effective partnerships and informed decision-making processes, faith-based organizations (FBOs) who own underutilized/vacant property are also able to repurpose their property to create affordable homes and public benefit, serving as engaged and thoughtful community members.

This white paper explores considerations and strategies for repurposing underutilized or vacant property owned by FBOs to create affordable homes, building on previous Enterprise research on utilizing publicly owned parcels to create affordable homes.³ FBOs include: 1) congregations; 2) national networks, which include national denominations, their social service arms and networks of related organizations; and 3) freestanding religious organizations, which are incorporated separately from congregations and national networks.⁴

FBOs are well-positioned to repurpose their underutilized or vacant property to help expand the supply of affordable homes and address the nation's persisting affordability challenge. Many FBOs across the country support the provision of or directly provide social services that serve vulnerable communities. While these services typically do not include offering access to safe, affordable permanent homes, many FBOs help provide access to temporary shelter for individuals and households facing housing instability directly or through referrals as part of their social services networks. Effective partnerships and access to resources will continue to enable FBOs to expand this mission-driven support through affordable housing and community development solutions that serve vulnerable, lower-income households.

Many FBOs own significant amounts of underutilized or vacant property in both expensive and distressed real estate markets that can be developed to increase access to affordability and spur revitalization. FBOs' interest in repurposing their property has been influenced by a number of factors, including declining religious service attendance and rising maintenance costs.⁵ These changes have been pushing more congregations and houses of faith to consider repurposing or downsizing their real estate portfolio by either entering joint venture partnerships or offering the lease of their underutilized/vacant land to mission-driven developers who can create affordable housing and community serving facilities on the property. These opportunities offer FBOs a recurring financial benefit from the development/ground lease that can help them cover capital expenses and overhead needs and continue funding their social programming, while expanding their mission to boosting access to safe, affordable homes.

Furthermore, FBOs are often well connected to their communities, which makes them well positioned to understand their communities' true needs and challenges. As local institutions and community-oriented stakeholders, FBOs appreciate the pressing need for identifying solutions to their communities' affordability challenges, including providing affordable homes with supportive services for vulnerable populations, such as seniors and families experiencing homelessness.

This white paper aims to help both FBOs and affordable housing stakeholders interested in leveraging property owned by FBOs for creating affordable homes and community benefit (1) understand what it takes to successfully undertake this solution and (2) become familiarized with different paths that can be pursued to implement this solution.

BEYOND FBOs

While this white paper aims to assist FBOs who are interested in repurposing their land for the development of affordable homes, lessons learned can also be applied to other civic organizations, including veterans' associations, community-based nonprofits and local philanthropies. These organizations are well positioned to leverage their property to support affordable housing development to address the needs of and challenges facing the vulnerable communities they serve. For example, underutilized or vacant property owned by veterans' associations can be developed into affordable homes for veterans experiencing housing instability. Another example is the use of property owned by community-based organizations to create affordable homes and needed services, including health care and daycare centers, to serve local communities facing disinvestment and cost burden. It is important to identify and expand strategies and partnerships that can help expand the supply of affordable homes and add critical services for the local communities.



WHAT IT TAKES TO MAKE INFORMED REAL ESTATE DECISIONS

Since creating affordable homes and community facilities is commonly not part of FBOs’ core mission, they often lack the expertise and financial capacity needed to make informed real estate decisions and successfully complete real estate development.

While this challenge could discourage some FBOs from repurposing their surplus or underutilized property to create affordability and public benefit, effective partnerships can provide FBOs with access to the financial, legal and real estate expertise necessary for an informed decision-making process.

The due diligence period, in which site- and market-related information is gathered and analyzed by experts, is necessary to confirm that the desired development vision and goals held by the FBO are possible and viable. This process explores a number of factors that can significantly impact the success of their development/disposition plans. These factors include, but are not limited to:

UNDERSTANDING THE LEADERSHIP STRUCTURE AND DECISION-MAKING AUTHORITIES

The hierarchy, which comprises the leadership structure and who has the authority to make decisions related to property development and disposition, varies from one FBO to another. It is important to understand an FBO's polity to identify who is responsible for making real estate-related decisions.

Many FBOs that are part of connectional systems have national or regional governing bodies with the decision-making authority necessary for entering development partnerships or ground lease agreements. FBOs with a congregational polity may have decision-making power vested in the local FBO. Even in this context, it is important to understand whether a single leader or a board, such as a board of trustees or directors, has the decision-making authority.

It is important to identify the individuals/leadership group with the decision-making authority early on to make sure that they are involved in navigating available development options and any real estate negotiations from the beginning of the process – this will help avoid delays or administrative blockage while moving forward with real estate negotiations and transactions. Some FBOs with real estate divisions have the needed capacity and resources to navigate real estate transactions and development and are better equipped to make informed decisions regarding the development of their property. However, many FBOs find navigating real estate alone a challenging and costly undertaking, which leads them to explore establishing partnerships with real estate, financial and legal experts who have the necessary expertise and knowledge to pursue the decision-making process – from conducting due diligence tasks to the signing of real estate agreements.

In addition to identifying the internal polity and decision-making authority, it is important to understand if the state or local government has any laws or requirements that govern the lease or disposition of property owned by FBOs. For example, New York state's FBOs that are deemed religious corporations are subject to the New York Religious Corporations Law.⁶ This means that actions like selling, mortgaging and leasing property owned by "religious corporations" for a term exceeding five years would require obtaining an approval from the Supreme Court of the State of New York and/or the New York Attorney General's Office.

IDENTIFYING PARTNERSHIPS AND RESOURCES NECESSARY FOR NAVIGATING REAL ESTATE DEVELOPMENT

For the majority of the FBOs, establishing partnerships is essential to accomplishing their desired development outcomes. Identifying a viable development proposal and successfully navigating real estate development without partnering with real estate, legal, financial and policy experts are often daunting and costly undertakings.

The Enterprise Faith-Based Development Initiative (FBDI) seeks to engage and assist the faith-based community in helping to ensure that people of all incomes have access to fit and affordable housing and community resources.⁷ This assistance includes providing FBOs with access to capital, pro bono legal services and capacity- and development-related technical assistance. In its first 13 years, the FBDI has helped FBOs create more than 1,300 well-designed, affordable homes across the Baltimore-Washington region.

The FBDI has a national presence now through the work of several Enterprise market offices across the country. These efforts include engaging with FBOs and local public and private sector partners to assist FBOs in leveraging their property to create affordable homes and community facilities that serve low- and moderate-income communities. This national work includes emerging efforts in Atlanta, Denver, Detroit, Los Angeles, Miami, New York, Oakland and San Francisco.

ADDITIONAL RESOURCE ON UTILIZING FBO-OWNED PROPERTY TO CREATE AFFORDABILITY

Over the years, the Enterprise FBDI has collaborated with a range of partners on highlighting and sharing resources and tools on utilizing FBO-owned property to create affordability and public benefit. The Arlington Partnership for Affordable Housing (APAH), an FBDI partner, has developed and presented a useful resource at the 2018 Enterprise FBDI summit. To access this resource, please visit: <https://apah.org/build/houses-of-worship>

CRAFTING A VISION AND DESIRED DEVELOPMENT GOALS

When FBOs consider the development of their surplus or underutilized property, it is important for the FBO to craft a clear, unified and feasible vision that can help guide and keep the decision-making process on track. A vision document/plan can include, but is not limited to: the FBO's broader vision, mission and goals; the FBO's long-term site ownership and use goals and financial needs/goals; and the desired real estate development goals and objectives.

After seeking to discern the mission/ministry goals of the FBO, it can then work with real estate experts to identify the development goals and objectives they aim to attain – such as the desired development type (residential vs. mixed-use or commercial), type of housing, required affordability level, if on-site affordable housing will be required and community benefit – and then explore the viability of the desired development outcome. Generally, this process requires looking at what it takes to accomplish this vision, including but not limited to the needed financing resources and the most suitable development strategy.

The process often will require internal dialogue and buy-in within the FBO structure to craft the vision. For development of the project's goals, it can be helpful, and in some jurisdictions required, to do some form of public engagement with external stakeholders (neighborhood residents and policymakers), gaining their input, feedback or support in order to avoid hurdles that can delay the development process. The level of required/necessary public engagement varies based on a number of factors, including the FBO's capacity, local jurisdiction's requirements, available resources and neighborhood context. While this white paper does not recommend one path for conducting public engagement activities, it is important to emphasize that the vision/mission/

project goals crafting process should not be undertaken in a vacuum, as it is often necessary to engage with policymakers, development partners and essential affordable housing stakeholders.

FBOs should avoid overburdening their development vision plans with competing goals and objectives that can inhibit the desired development outcome viability. One important rule to remember is that a single property cannot be everything for everyone. For example, some local neighbors might advocate for developing retail or community space in the development project to address unmet local needs. While the FBO would acknowledge that addressing local needs is important, the FBO could discover that incorporating this request in the development vision plan would hinder the viability of their desired affordability level for the housing component. The FBO then will find itself facing trade-offs between addressing the needs of some neighbors and accomplishing their desired affordable housing outcome.

CONDUCTING DUE DILIGENCE TO IDENTIFY SITE CONSTRAINTS AND ANY UNEXPECTED HURDLES

Completing due diligence tasks before pursuing the development of property is an important step that allows the property owner to identify any factors that can have legal, financial or technical implications on the desired disposition and development goals and objectives. Pre-development work typically includes conducting a real estate market study to determine the existing and projected levels of demand for the type of development that the FBO desires to create on its property. Understanding if there is strong, moderate or weak demand for the type of housing or non-residential spaces that the FBO envisions developing is critical for facilitating an informed decision-making process.

In addition, the due diligence list of tasks typically includes conducting a site analysis study to identify if there are any zoning restrictions that would create challenges to accomplishing the desired development outcome. A zoning variance could be needed for addressing density restrictions, such as existing height restrictions and floor-to-area ratios that can limit the density of multifamily development, or for use restrictions when the zoning laws prohibit the development of residential projects or multifamily housing. In addition, conducting an environmental site assessment is an important step to find if there are any existing site contamination issues that require environmental remediation.

In addition to these tasks, this list of due diligence tasks could include examining: the availability of utilities, the site's topography and soil, title reports (documents that clarify the site ownership), boundary surveys and property taxes.⁸

ENSURING FINANCIAL VIABILITY OF THE PROPOSED DEVELOPMENT

A trusted and experienced property appraiser is needed for determining the property's fair market value.⁹ This term represents the price of an asset under the following usual set of conditions: prospective buyers and sellers are reasonably knowledgeable about the asset, behaving in their own best interests, free of undue pressure to trade and given a reasonable time period for completing the transaction. Once the fair market value of the property is determined, the FBO can start exploring strategies to develop their property.

When there is interest in leveraging the property to create affordable homes, it is important to seek necessary real estate expertise to explore the financial feasibility of creating affordable housing on the property, including the financial resources and subsidies needed to make affordable

housing development feasible. Conducting a pro forma study enables real estate finance experts to calculate the estimated financial return of the proposed residential or mixed-use project to ensure its financial feasibility. This step enables the developer to secure necessary financing tools, including access to equity investment from investors and construction and permanent loans from lenders.

The developers of any affordable housing or mixed-income housing development proposal must demonstrate that the proposed development project is financially feasible, in order to secure the necessary financing for the pre-development and construction phases.¹⁰ Generally, a developer must demonstrate that, upon completing the development of the project and covering the ongoing monthly property operating costs and any recurring expenses, they will be able to pay: (1) a return on equity investment to the equity investors who fill the gap between the total development cost and how much can be financed by debt, and (2) any permanent debt payments that would begin after the construction period ends and the construction loan transforms into a permanent mortgage.

In case the pro forma study shows that the FBO's desired affordable housing or mixed-use development outcome is not financially viable, under the available financing resources and public/private subsidies, the FBOs can consider alternative paths for addressing this challenge. The FBO's development partners/the developer(s) could explore securing additional public and/or private subsidies or low-interest loans that can improve the financial viability of the proposed development project. Furthermore, the FBO can weigh its vision and priorities for the development project to consider making trade-offs between desired development outcomes and costs. This could mean adjusting the desired development program, such as shifting the desired affordability level — changing the housing program from deeply

subsidized housing that will be affordable to households earning up to 30 percent of the Area Median Income (AMI) to housing affordable to households earning up to 60 percent of the AMI that could charge higher rents. Another option would be removing supportive services or community spaces from the program to reduce the total development cost.

One way that FBOs can materially assist the feasibility of affordable housing is by providing land for development in cases when they want to be part of the development partnership. If the FBO conveys the land to the project partnership, such as under a joint venture partnership (see page 11), at market value, but finances the partnership's land acquisition via a seller note, the result is a net land acquisition cost that is below market, enhancing feasibility and deeper affordability.

This seller note would be evidenced with a promissory note and a subordinate mortgage/deed of trust. The seller note could be structured with payments subject to available cash flow which, depending on payment priority, could enable the FBO to receive some cash flow from the development's operations.



NAVIGATING STRATEGIES FOR UTILIZING PROPERTY OWNED BY FBOs

If the conducted analysis and collected information through the due diligence process show that the property owned by the FBO is suitable for affordable/mixed-income housing development or mixed-use development with an affordable housing component, the owner could pursue one of many available and proven development strategies.

It is important to note that there is no one-size-fits-all strategy that is suitable for every single property, as each property has its own characteristics and circumstances, and a strategy that is suitable for one parcel might not work for another. As mentioned on page 7, conducting due diligence activities

and collecting needed information can enable FBOs to make an informed decision regarding the development strategy they want to pursue. This section highlights a set of strategies that can enable FBOs to accomplish their desired development goals.



ESTABLISHING DEVELOPMENT
PARTNERSHIPS WITH POTENTIAL
OWNERSHIP OPPORTUNITIES

Some FBOs are community development corporations (CDCs), commonly defined as registered nonprofit, community-based organizations that serve their communities through revitalization and supportive efforts aimed at serving and supporting lower-income, disinvested communities.¹¹ There are CDCs that have successfully developed or partnered with mission-driven developers to create affordable housing for lower-income households or mixed-use development with an affordable housing component. Generally, CDCs' leadership

structures are comprised of local community members, and this often helps ensure that the community's needs will be incorporated in the planning process and development outcome.

FBOs with limited capacity and resources to navigate real estate development can seek effective partnerships that would enable them to develop their property into affordable housing or development with an affordable housing component and/or a community facility.

One common path is identifying competent, mission-aligned development partner(s) to enter into a joint venture (JV) agreement. This type of partnership enables partners to pool and share resources for specific real estate transactions.¹² JV agreements enable FBOs to benefit from real estate expertise and resources brought to the table by JV partners, including developers and investors, while offering access to developable land and possibly bringing better understanding of local communities' needs and challenges to the table.

The JV agreement clarifies how the ownership of the property/site that is owned by the FBO will be transferred (either through a sale or lease agreement), the ownership interest and decision-making role of each JV partner. When FBOs decide to pursue a long-term JV agreement, they can use some or all of the entire revenue received from the land disposition transaction to invest in the development's equity and own part of the developed residential or mixed-use development upon the completion of the construction phase. Long-term JVs authorize all parties to retain an ownership interest and some type of economic return until the compliance period of the JV agreement expires. When the compliance period expires, one party may have the right of first refusal to purchase the property. An alternative scenario is pursuing a turn-key JV, offering the developer a decision-making role that expires upon the completion of the construction process or at later phase without any permanent ownership stakes.

When the real estate development is a mixed-use development with a commercial ground floor (non-residential use), the FBO can pursue leasing back the space (the developer would possibly offer the space for a nominal price as the FBO has contributed to the project's equity). Another option is purchasing the ground floor space through a condominium agreement, which legally separates different uses within a single development for the purposes of separating risk and obligations.¹³ This space can be either used to offer community-oriented services, like daycare or health care centers, or as an office space for the FBO.

If there is interest in retaining long-term ownership of a portion of the developed affordable housing units, the FBO can pursue a long-term JV agreement that would enable it to own and operate a given percentage of the developed housing units to offer lower- and moderate-income households access to affordable housing. It is important to allow for some flexibility in establishing an affordable housing program for the units that will be owned by the FBO. As a JV partner, the FBO could desire developing and operating housing that is affordable to specific vulnerable populations or communities, such as households experiencing homelessness or vulnerable house of faith attendees. However, the more targeted affordable housing program might not be financially viable or legally possible.

When the JV partners use financing resources or subsidies from public (federal/state/city) or philanthropic sources, these programs typically impose requirements to serve vulnerable populations and/or requirements on the tenants' income, such as requiring offering affordable housing for seniors or households at a certain income level (i.e. earning up to 30, 60 or 80 percent of the AMI). One example is the use of the Low-Income Housing Tax Credit (Housing Credit) to finance the development of residential units. The use of this federal program imposes tenants' eligibility and income requirements. Under the Housing Credit program, income averaging allows developed units to serve households earning up to 80 percent of the AMI, as long as the average income/rent limit in the property is no more than 60 percent of the AMI. Leasing of affordable housing is also subject to the federal Fair Housing Act and possibly to state and local regulations.

While each JV partnership is different, Enterprise has identified a set of common considerations that apply to most JV partnerships¹⁴:

- Conducting due diligence on the potential partner(s) by speaking to references and looking deeper into the potential partner's financials
- Understanding the financial and reputational consequences associated with development
- Paying close attention to budgeting to execute a financially successful deal
- Working with a partner, which requires frequent collaboration, discussion and reaching consensus
- Clearly delineating roles and responsibilities for each phase of the project is a crucial step
- Using a Request for Proposal (RFP) to find a co-developer can help ensure that the party controlling the property can evaluate its options and make decisions that best fit its mission and objectives (see page 15)
- Understanding how the internal decision-making process may align or conflict with potential partners' decision-making process



EXPLORING SUBDIVISION AND CO-LOCATION TO FACILITATE
THE CREATION OF AFFORDABLE HOUSING AND MIXED-USE
DEVELOPMENT WITH AN AFFORDABILITY COMPONENT

An FBO who owns a large site could consider subdividing it into multiple smaller parcels. One example is subdividing a site with an underutilized parking lot to develop the parking space into affordable housing. This strategy can help mission-driven developers access land to create affordable housing, as they often struggle to afford the land acquisition costs of larger sites, especially in expensive markets. Subdividing larger sites with the goal of facilitating equitable development can boost affordable housing development in expensive markets and possibly in prime locations, such as sites near transit, services and jobs.

In addition, this path would offer FBOs some flexibility as they would not be pressured to make upfront decisions about the development/ disposition of the whole property at once. For example, an FBO could subdivide its large vacant/ underutilized site to develop a portion of it into affordable housing/mixed-use development with an affordable housing component, while holding the development of the rest of the site until they identify their long-term development and financial vision and goals for the remaining portion of the site.

An FBO could consider transferring their development rights to a nearby property — if the local jurisdiction’s laws authorize this transaction. This option allows houses of faith with structures below the maximum allowable height to sell their unused air rights to a developer of a property next to or across from their structure — some jurisdictions could require that the two sites be directly adjacent to each other and share a boundary line. This transaction allows the developer of the new project to add the new purchased height (from the air rights purchase) to what the existing zoning codes would normally allow, resulting in a taller development with increased density. This option is especially effective for structures protected by historic preservation codes that prohibit new vertical expansion. The FBO could consider investing the generated revenue from selling their development rights into social programs or the creation of affordable homes offsite.

FBOs can also explore the concept of co-location to facilitate mixed-use development with affordable housing. Many FBOs own and run office space or community and non-residential spaces, which provide needed services, such as daycare, senior and health centers, and those spaces typically have air rights that can be utilized through vertical expansion. FBOs can explore entering into a JV agreement to develop their property’s air rights into new, vertical affordable or mixed-income housing. This development strategy provides an opportunity to offer lower-income households access to affordable housing co-located with necessary services and to increase density and housing supply. This option is especially vital in urban and prime locations with a limited supply of vacant land.



ENTERING INTO A LONG-TERM GROUND LEASE
AGREEMENT REQUIRING THE DEVELOPMENT OF
AN AFFORDABLE HOUSING COMPONENT

FBOs who do not wish to enter into a JV agreement to develop their property, but at the same time would prefer to retain the long-term ownership of their property, could consider a long-term lease agreement. This path would allow the FBO to select a developer who would create affordable housing on the property, without yielding the site's long-term ownership and financial benefit. Entering into a long-term ground lease agreement also offers the FBO more flexibility in controlling and shaping the future use and redevelopment of the site.

Offering the lease of the site usually starts with releasing a request for proposals (RFPs)¹⁵ for the development of the property, seeking submissions from prospective developers that show their capability to lease the property and accomplish the FBO's desired development goals and objectives on the property. The RFP also enables the property owners to provide information on their property and desired development outcome, including property description, desired development goals (number of housing units and level of affordability), guidelines, requirements, evaluation criteria and solicitation and development timeline. Once the submissions

are received, the FBO can evaluate the received information and listed qualifications to select the applicant who is most qualified to accomplish their desired development outcome.

It is important to highlight that pursuing an RFP to solicit development proposals is not the only approach for selecting a developer. Property owners can pursue Request for Qualifications (RFQs), seeking one round of submissions that describes the prospective developers' qualifications and capabilities to accomplish the desired development outcome. This step would be followed by selecting the most qualified applicants from the first round asking them to submit responses to an RFP seeking proposals for the disposition and development of the parcel. Also, if the property owner does not have a specific vision for their property development in mind, they can release a Request for Ideas (RFI) seeking proposed ideas and suggestions on how their property can be utilized and developed.

Once the developer is selected, the two parties start negotiations to enter into a long-term ground lease agreement. The ground lease agreement clarifies: the length of the agreement; any upfront fees paid to the land owner; the monthly lease fee that will be paid by the developer to the land owner; the ownership of site improvements (constructed portions of the project); if the developer is required to pay any penalties to the site owner if the developer fails to complete the development or terminates the development project; the ownership of site improvement upon the end of the lease; and flexibility in extending the agreement upon the expiration of the ground lease term.

The term of the ground lease agreement is typically 30 years beyond the term of the longest cash flow-contingent loan — this term determination method ensures that the ground lease term would not expire before the developer pays the last mortgage loan payment. If the property has a Land Use Restrictive Agreement (LURA)¹⁶ or other regulatory agreement, which would impose restrictions on the maximum rent that can be charged and/or the income of the tenants for a portion or all of the developed housing units, then the ground lease term must be longer than the term of the LURA or extended use agreement.

Generally, the ownership of land improvements, including the developed housing units, are transferred to the land owner upon the expiration of the lease term (unless the agreement includes provisions that govern the ownership of improvement upon lease term end). In addition, when the lease term expires, the owner and developer can negotiate extending the lease, or in some cases the ground lease agreement would regulate the extension of the agreement upon expiration (for example, it would allow the developer to extend the ground lease for another 15–30 years if they have successfully fulfilled the agreement terms).



IMPLEMENTING INTERIM USES ON VACANT SITES WITHOUT A CLEAR DISPOSITION OR DEVELOPMENT TIMELINE

FBO-owned vacant parcels that are not in line for development in the near term can be utilized to create temporary homes/shelter for individuals and households at the risk of/experiencing homelessness and housing instability. According to a report from HUD, on a single night in 2018, roughly 553,000 people were experiencing homelessness in the United States.¹⁷ It is widely recognized that the nation's homelessness challenge cannot be easily fixed and requires collaborative solutions implemented at different scales. The homelessness challenge is more persistent in expensive markets with limited supply of housing affordable and available for extremely low-income renters as well

as high demand for permanent supportive housing and shelter. Over the past decade, innovative solutions to provide temporary shelter or relocatable homes have gained more traction as transient options that can provide shelter until individuals and households experiencing homelessness are able to access permanent affordable housing.

Vacant/underutilized sites and underused parking spaces can be utilized to create shelter and relocatable homes that would serve individuals and households experiencing homelessness. Houses of faith often provide social services to lower-income households struggling to pay their rent

and access other critical needs, such as healthy food, job training and health care services. This makes houses of faith well equipped to expand upon their already offered services and provide and also operate temporary shelter/affordable homes. These strategies include tiny home villages/communities, which offer individuals and households experiencing homelessness access to low-cost, small units and shared communal areas. Designers and engineers have developed prototypes for manufactured, smaller housing units that can be easily disassembled and relocated from one site to another. It is important to take a couple of factors into consideration before pursuing this strategy. The house of faith must ensure that state and local laws authorize the creation of these communities on privately owned land. In addition, this solution requires ongoing financial resources and adequate capacity to operate and maintain the space and provide needed services.

When houses of faith explore this use, it is vital to proactively plan for future relocation of temporary shelter/homes that were created as an interim use. When the house of faith decides to dispose or develop the site with a permanent use, relocating the residents of the temporary shelter/homes will become a challenging step that will require a considerable amount of communication, planning and resources. While this step might face opposition from existing residents and the broader community due to concerns about risks of displacement and housing instability, the interim use can inspire and shape the permanent development project. For example, the house of faith can ensure that the residents of temporary shelter/homes attain access to shelter/housing while permanent supportive housing is being constructed on the site. Additionally, once the development process is completed, those residents can be relocated to the site to move into permanent affordable housing units with necessary supportive services. Furthermore, showing the pressing need for permanent supportive housing might secure public and private approval, assistance and financing for the development of the site into permanent supportive housing.



SELLING A PARCEL WITH THE STIPULATION
THAT THE DEVELOPER WILL CREATE AFFORDABLE
HOUSING AS PART OF THE DEVELOPMENT PROJECT

Under pressing financial challenges, some FBOs could lean toward selling their property to use the generated revenue from the land disposition to cover major capital upgrades or overhead needs. However, it is important to note that this path can cause long-term vulnerability as the FBO would yield their control of the property's future financial benefit and use. While this strategy would provide the FBO with one-time revenue, entering into a JV or

long-term ground lease generates recurring revenue that can be used to cover capital, overhead and social programming costs. Furthermore, these paths would enable FBOs to attain/preserve a long-term legacy of being mission-driven, thoughtful and engaged community members.

It is important to point out that affordable housing has temporary affordability terms that typically varies from 15–99 years. These terms require the developer/new site owner to keep the developed housing units affordable to households at a certain income level (commonly calculated as household income as a percentage of the project’s area median income) for a certain period of time. Once those affordability terms expire, the new site owner could redevelop it into market-rate or commercial development, leading to the loss of affordable housing.

Therefore, if an FBO decides to enter into a land/property sale agreement, they should consider placing deed restrictions or covenants, which would impose both maximum rents and tenant income/eligibility requirements for a certain period of time on the developed affordable rental housing units.¹⁸ FBOs should then examine the possibility of requiring longer affordability terms, such as 50–99 years. Furthermore, for for-sale units, a shared equity model can be pursued to require the homebuyer to pay a portion of the realized equity gains when they decide to sell their home. Another option is to place deed restrictions or covenants that would require homeowners to resell their property at an affordable price.



KEY TAKEAWAYS

The use of underutilized or vacant property owned by FBOs has been gaining more traction as an effective strategy that can help expand the supply of affordable homes.

This white paper aims to assist FBOs and community stakeholders interested in advancing this strategy with understanding what it takes to successfully and effectively implement this strategy and the different implementation approaches that can be pursued. However, this white paper does not capture every single implementation approach, as the real estate market is a dynamic, evolving field in which experts continue to identify and explore new innovative approaches for creating and supporting affordability.

Every parcel/property has its own characteristics and circumstances. Therefore, this white paper avoids providing a specific path for property development that could be deemed as a one-size-fits-all strategy by stakeholders. This resource rather aims to highlight considerations and some of the proven and available paths for developing or repurposing property owned by FBOs into affordable housing.

Reflecting this reality, we offer the following high-level takeaways:

- Crafting a clear, inclusive and comprehensive vision with desired goals and objectives for the development of the property can increase the effectiveness of the process, avoiding overburdening it with competing goals that can inhibit the proposal's feasibility
- Conducting upfront due diligence activities and collecting needed information, including any legal, technical and financial factors that can have implications on the desired development outcome, is essential to making real estate decisions
- Navigating and establishing effective partnerships is a vital step for accomplishing the desired development outcomes when the existing technical and financial capacity is limited
- Ensuring the availability of necessary financing resources and public/private subsidies is integral to determining whether any proposed development project is financially feasible
- Leveraging underutilized and vacant property to create affordable homes through entering into a long-term ground lease agreement or a joint venture partnership can create affordability while offering the FBO long-term control over the site's future use and financial benefit
- Using underutilized or vacant property on an interim basis while the disposition/development negotiation process is in the works provides vulnerable populations with critical access to temporary shelter

For additional resources and more information on the Enterprise Faith-Based Development Initiative (FBDI), please visit bit.ly/EnterpriseFBDI.

For reports and policy briefs from the Enterprise Policy Development & Research team, please visit bit.ly/PDR_Reports.

For continuous coverage of and updates on these efforts, sign up to receive our newsletters at bit.ly/EnterpriseNewslettersSignUp.

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