

Private-led Development Processes: U.S. lessons for The Netherlands?

This paper explores the opportunities for a private-led urban development system in The Netherlands. Its initial focus is on the transition that is occurring in The Netherlands. Then it shifts towards the American approach, which is very much private-led. The goal is to understand what, if anything, The Netherlands can learn from the American practice. The key finding is that it is the mindset of the Dutch stakeholders that has to change. Most of the stakeholders (mainly municipalities and developers) stick too much to their former role in the process instead of adapting to new roles. When looking at the American practice there are multiple advantages and disadvantages. The main advantage is the low financial risk for governments. The biggest disadvantage is the lack of governmental control on the process. We provide multiple arguments for a private-led system to be suitable for the Netherlands, but also takes into account the downsides that are linked to such a process

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INTRODUCTION

Land use in the Netherlands – its planning and the process of urban development – has fascinated planners and developers globally for decades (and actually for centuries) (see, for example, Lefcoe, 1978; Faludi, 1994; van der Cammen et al., 2012; Needham, 2014). Often the perspective is that the Netherlands is unique, as a function of culture, history, geography and its land use traditions (Faludi, 1994; Needham, 2016). So the question has largely been what others can learn from the Netherlands.

This paper shifts perspective. It asks what the Netherlands can learn from the U.S. This may seem strange given the great differences between the two nations in overall population, population density, physical size, and geography. Yet the planning institutions in the Netherlands are changing (Bontje, 2013; Buitelaar, 2010). As they do the U.S. with its experiences of more market friendly policy and developer led planning and (re)development processes seems as if it might have lessons the Netherlands can draw upon.

Traditionally, the U.S. is described as a private-led, competitive system, and the Netherlands as a public-led cooperative system. What are

emphasized are the differences in these systems. Our investigation challenges these long-standing characterizations. We conclude that the labeling of a system as 'private' or 'public' likely obscures rather than enlightens understanding. We argue that both systems are private and public in nature. Likewise we find more similarities in the systems than are generally acknowledged.

So the question is not what lessons from a private-led system (the U.S.) can be drawn into a public-led system (the Netherlands), but rather what is it specifically about the U.S. systems that it allows it to function as it does, and might (some of) this work as the Dutch system undergoes fundamental transition.

Historically, the urban development process in the Netherlands has been carried out through a public-led process in which governments on different scales acted as the leading actors. However, due to several events, municipalities do not want to be the leading actor anymore. And the focus in developmental projects for municipalities has shifted from expanding the city to redevelopment of the inner cities (Sturm et al., 2014). A shift towards a more market-driven economy is also visible in which private parties are

the leading actors and government is in a more facilitating role (Heurkens, 2009). This means that government pushes the initiative to the market in order to create a more 'spontaneous' city (Louw et al., 2003; PBL & Urhahn Urban Design, 2012; Hartmann and Spit, 2015).

Consequently, in the Netherlands public and private actors now have to interact with each other differently. The shift of initiative to the market means a mode of incremental development allowing for projects of a smaller scale and without necessarily a clear view of an end product (PBL & Urhahn Urban Design, 2012). This shift towards market initiative is defined by Peek (2012) as the 'New Reality'. This new reality has an influence on the approach, financing, public and private roles and cooperation within urban development projects (Sturm et al., 2014).

The United States is a country that has always operated in a way where private initiative and the market were leading urban development (Stone & Sanders, 1987). Peiser & Hamilton (2012, p.1) describe the American urban development process as follows:

“Urban development is a multifaceted business that encompasses activities ranging from the acquisition, renovation and re-lease of existing buildings to the purchase of raw land and the sale of improved parcels to others. Developers initiate and coordinate those activities, convert ideas on paper into real property and transform real property into urban fabric. They create, imagine, finance and orchestrate the process of development from beginning to end. Developers often take the greatest risks in the creation or renovation of real estate – and they can receive the greatest rewards.”

This observation regarding the lead actor differs greatly from the classic Dutch approach (Faludi, 1994; Needham, 2014). As the Netherlands shifts more towards such an approach what, if anything, can be learned from the American experiences?

For this research, semi-structured interviews were conducted with practitioners in both the Netherlands and the United States (the full research method is detailed in Vos, 2017). The Dutch interviews focused on the bigger cities in the Randstad area, because there are multiple developments taking place with multiple different developers and municipalities. Problems that were occurring in the Dutch system were framed as questions to American stakeholders in order to see how they are handled within the United States. In the U.S., research was mainly with developers, municipalities, and consultants, but also included academics, housing associations, economic development organizations, and non-profits. The U.S. research focused in and around Madison, Wisconsin. Stakeholders in bigger cities within several hours of Madison Wisconsin - Chicago, Illinois, Milwaukee, and Minneapolis, Minnesota - were also interviewed. Given the mid-western focus of the U.S. research, it cannot be stated that these conclusions represent the whole situation in the U.S. However, by focusing on a mix of cities in three U.S. states we have a degree of confidence in the larger picture that is presented.

CHANGES IN THE DUTCH URBAN DEVELOPMENT PROCESS

For over a decade the Dutch urban development market has been in transition. Before, it was a very common occurrence that municipalities had an active role in land development process (van der Krabben & Jacobs, 2013). Nowadays their role in the process is less prominent (Ravestein, 2012; De Boer, 2013; Buitelaar & Bregman, 2016). Since the end of the 20th century market parties were granted more access to the land market and municipalities were becoming a bit more facilitating (Bontje 2003; Groetelaers, 2004).

Market parties, especially investors and developers, started speculating on land by acquiring agricultural lands at the outskirts of the cities from the landowners, with the idea that these grounds would be designated for housing in the future. Active land acquisition by

both market parties and municipalities turned out to be very risky during and after the 2008 financial crisis. Municipalities were not changing zoning codes as easily and frequently as before because of the limited corresponding demand. As a consequence, both municipalities and market parties were left with their acquired land which resulted in a lot of write-offs and even bankruptcy. The effects of the financial crisis on the housing market are now still visible in Dutch urban development (see, for example, Hoekstra & Boelhouver, 2014; Boelhouver, 2017).

The shift from an active land policy towards a facilitating land policy requires a different approach towards the process. In practice, however, it turns out that both public and private sectors are used to their former roles so that they have trouble changing to a different role or do not feel the need to change former roles. Some municipalities are still implementing active land policy though on a smaller scale. They see this active land policy as a steering mechanism to achieve their ambitions. Among developers,

some are responding in a very pro-active way to the active role, while other, more traditional, developers still try to develop the old way. Developers have gotten so used to their former roles in the process that they experience a lot of trouble being the initiator and still look for guidance from the municipality. Moreover, when developers are expected to be the initiator of urban development, they have to pay for most of the expenses and hence take more risks in the development. With the current trend in which municipalities would like to establish more detailed plans regarding sustainability, which vary from energy neutral houses to self-sufficient drainage systems, developers might bear additional costs that come along with it. Another trend is the shift from green field development towards the brown field or inner city redevelopment which would also entail higher development costs.

The effects of the changes are visible in the mindset towards the changed allocation of roles as represented in Table 1.

TABLE 1 ► STAKEHOLDERS IN DUTCH URBAN DEVELOPMENT

Stakeholder	Emerging role in a private-led process	Importance to the process
Developer	Becoming the initiator in the urban development process	In a more private-led urban development process, developers become the focal point for a development to actually take place
Municipality	More facilitative towards developers and becoming more framework setting instead of active land policy	Need to formulate clear guidelines for developers to operate in
(Institutional) Investor	Increased interest by domestic and foreign investors in the rental market	Investors provide the equity that is necessary for developers to realize their projects
End-user	The end-user is getting more involved in the initiating phase and even becoming the client for developers	Since urban development has shifted from supply-led towards demand-led, developers have to listen to the wishes of the end-user

Note: based on a synthesis of the literature and research interviews

URBAN DEVELOPMENT IN THE UNITED STATES

What allows the urban development process in the United States to be characterized as private-led is the fact that municipalities are largely dependent on developers and the market to actually implement their plans. Municipalities create the zoning and comprehensive plans and then take a backseat waiting for developers implementation. In general, there are two reasons for cities to operate this way. First, most of the cities simply do not have the human and financial capacity to actively initiate development. Second bigger cities do not feel the need to invest money in development because there can be a high demand for projects from developers.

Prior to the 2008 financial crisis, this was pretty much the only way urban development occurred in the United States. Developers had a lot of power in the development process. When developers came forward with a project proposal that contradicted the zoning plan, after some negotiation they would often still get an approval from the municipality. This process is very closely related to the importance of property taxes to American municipalities (property taxes can account for upwards of two-thirds of capital and operating expenses (Ross et al., 2015)). A trend that was visible prior to the crisis was that municipalities were sometimes more inclined to approve the project that generated the most property tax instead of the project that was in the city's best long-term social and economic interest (see the theoretical exposition in Molotch, 1976). This approach by municipalities caused a lot of problems, including that there was rarely any regional vision for what to develop and what was needed in the area.

Cities in the United States were very much affected by the economic crisis (Chernick et al., 2011; Malpezzi, 2017). Because the market initiated development, the supply of new real estate almost entirely stagnated due to the low demand for new developments. That was the point when planning by municipalities in the

United States became very important in order to make the desired and necessary developments happen. Municipalities created a lot of plans and visions that turned out to be infeasible for market parties to carry out. Nowadays, developers want to develop again and the downtown areas of cities are crowded with cranes. The urban development market in the United States is getting stronger and some of the practitioners are even saying that the market is about as 'crazy' (i.e. active) as it was prior to the crisis.

The institutional conditions regarding urban development in the United States have changed in recent years. The beliefs that there were about a private-led urban development process are being questioned in some cases. Regarding the stakeholders, there are new actors that have entered the market and the existing actors have new roles due to changed conditions.

The most interesting finding regarding the formal institutions that are present in the American urban development process is that these are mostly in favor of the market instead of the municipalities. The most important formal condition in American urban development is the zoning code, which municipalities are often, though not always, mandated to create. Municipalities and developers can negotiate for a change in zoning, usually to one of the conditional uses that are included in the zoning plan but sometimes also to the uses that initially are prohibited. This is the primary way municipalities influence a development. When a developer initiates a plan that is according the zoning code, there is not much a municipality can do to shape its realization (Hirt, 2015).

Madison Wisconsin is a Dutch-style traditionally left-leaning mid-sized city with a history of having a broad range of progressive social and economic policies (Clavel, 1986). Yet a former mayor, David Cieslewicz, who emerged from a green coalition, says that even here "... *private-led urban development is pretty much the only way there is to develop.*" (research interview,

TABLE 2 ▶ STAKEHOLDERS IN AMERICAN URBAN DEVELOPMENT

Stakeholder	Current role	Importance to the process
Developer	Approach local municipalities with project proposals in a very pro-active way	American cities are dependent on developers for development to occur
Municipality	Are responsible for the planning of cities, which includes making comprehensive and zoning plans and associated visions. They want to get more involved in the development process through active planning	Municipalities have to set frameworks for development and facilitative to the market in order to make development happen
Communities/ Neighborhood Associations	Represented in the city council by an elected official who serves the interests of his/her constituents	Can be very powerful in the decision-making process of the city: often if a community does not want a certain development to happen in their neighborhood, then it often will not happen
Non-profits	Involved in the process to serve the social and environmental interests of a certain area/group, often through grant funding for site clean up	Serve as a bridge between public and private and can engage in real estate deals to acquire property

Note: based on a synthesis of the literature and research interviews

2016). This is a belief that is very common in American urban development; however, this is not the only way it can happen. The facilitative policy by municipalities is a pattern that has been the case in American urban development for a long time and has led to a certain degree of path-dependency among the stakeholders involved: municipalities expected developers to be initiating and developers expected the municipalities to be facilitative.

However, since the economic downturn, in some locales, the American urban development process has shifted towards a more public-led process without some of the parties involved even noticing. The economic downturn caused municipalities to respond in a pro-active way by getting all the stakeholders involved and searching for the best overall outcome. Developers are offered a seat at the table more often to help to co-create plans. By inviting the developers in, the goal is to see what the market thinks about the plans and if they are actually feasible and enforceable.

It has become increasingly difficult for developers to get full loans for their projects. At the time of this research the interest rates on bank loans

were very low. Yet developers could not get a full loan. There are some governmental tools and instruments developers can use in order to get some financial support. One prominent tool is called Tax Incremental Financing (TIF) (see e.g. Root, van der Krabben, & Spit, 2015; Wisconsin Policy Forum, 2019). TIF is a financial tool that uses increases in property tax to pay for public investments in a particular area. For municipalities, it is an interesting tool because it makes it easier for them to make some money available for urban investments and they can achieve their goals faster. For developers, it is an interesting tool because the municipalities are making investments in their development area. A lot of developers almost expect to get TIF support and if they do not they will just move on to the next city where they can get it.

Another tool governments can use to catalyze development are tax credits. The tax credit program is actually a three-way partnership between a developer, government and an investor. Every state, but also the national government, has a certain amount of money available annually for credits. The amount of tax credit a developer receives depends on the value of the property, the percentage of the building

that will be allocated for the program's cause and the height of the tax credit in percentage. After the developer receives the tax credit, he will transfer the credit to an investor in exchange for a loan for the project. The investor can deduct the amount of money the tax credit is worth from the total amount of tax they owe to the state or national government. The main reason for governmental entities to provide these tax credits is to catalyze

and promote development for outcomes that need some extra attention, such as affordable housing.

A private-led development system such as in the U.S. has some advantages, but also some disadvantages. The following table highlights these.

TABLE 3 ► ADVANTAGES AND DISADVANTAGES OF THE AMERICAN URBAN DEVELOPMENT PROCESS

Advantages	Disadvantages
Low financial liability for municipalities because they do not make large investments in urban development	Lack of control over the process by municipalities because they are dependent on the market to initiate developments
Developers tend to be more specialized and innovative in their business and through their expertise and knowledge of the market they can work more efficiently	Dependency of municipalities leads to a lot of power for developers. In the negotiations between both parties, the developer often gets what they want if a municipality is desperate
A lot of specialization among developers because they want to distinguish themselves from other developers	Developers and other market parties focus less on the social aspect of urban development, for example, affordable housing
Building sustainable has become the norm urban development as an effect of market forces	A private-led market results in a very complex financial structure in which it is sometimes unclear how the developer gets a project financed
All sorts of developments are taking place. Developers look at every opportunity for development	

Note: based on a synthesis of the literature and research interviews

DISCUSSION

Traditionally the Netherlands and the United States have had very different urban development systems. However, what this research shows is that there are a lot of similarities. Major differences have a significant influence on the development process in both countries, but similarities raise questions about the labeling of an urban development system as 'public' versus 'private'.

The fact that American municipalities have tools to actively engage in urban development by purchasing from (when necessary reshaping) and selling land to the market symbolizes an active role in the process. Additionally, the extensive use of RfPs [Requests for Proposals] by municipalities is also a way municipalities try to show they want to catalyze development, although it sometimes frustrates developers.

Municipalities in the Netherlands are trying to pursue a more private-led role, while at least in selected places the opposite shift is (maybe unintentionally) occurring in the United States. This shift is mainly originating with the municipalities: Dutch developers are used to an active municipality and do not see the urge to change that, while developers in the United States feel like municipalities are interfering too much.

TABLE 4 ► SIMILARITIES AND DIFFERENCES BETWEEN THE AMERICAN AND DUTCH URBAN DEVELOPMENT PROCESS

Similarities	Differences
The planning process consists of zoning plans, comprehensive plans, permitting.	The United States is known to be private-led in many different aspects (e.g. health care, infrastructure), while the Netherlands is very much public-led
Municipal tools to initiate urban development.	Foundational political nature, including the fact that there can be great variation among the U.S. States.
Distrust between developers and municipalities: municipalities think developers earn too much money and developers feel like municipalities do not want to cooperate	Different tax systems and the role of property tax: In the Netherlands, the municipal budget consists of 8% of revenue from property tax, in the United States this can be over 50%.
Municipalities in both countries make extensive use of Requests for Proposals (RFPs)	Importance of social aspects in Dutch urban development

Note: based on data and analysis by authors

CONCLUSION

At a time of institutional change it is now possible for a more private-led system to unfold in the Netherlands. Municipalities are required by law to step back from risky land acquisitions unless it is necessary to achieve their goals. And there are a lot of plans and visions that support an active role by the market and a more facilitating role by the municipality. These changes increase opportunities for private-led urban development. However, in practice, it turns out that this facilitating role by the government is not really working out the way it should. Dutch municipalities are very used to having control over the development process, while their assumed facilitating role presumes that they will let go of this control. On the other hand, developers have a hard time understanding what this facilitating role by the government actually means. In the new era, they should be the ones who come up with plans and initiatives. However, the reality is that municipalities are still very much involved in the initiating phase of the process, especially through the RfP. Additionally, the developers are very used to their role in being reactive in the process instead of proactive. The result is that they still ask municipalities to be the initiating actor as they like to see clear guidelines for development.

The changes in market conditions further hamper a private-led process. The fact that the focus has

shifted from green field development towards more inner city redevelopment makes a lot of projects infeasible for developers, in part by reducing margins for error. And it has become increasingly difficult for developers to get full bank loans for their projects, often requiring the developer to put in more equity. Additionally, developers are now often required to pay for public investments that are linked to their development projects (e.g. roads and traffic lights).

Another change in the market that is troublesome for developers is the sustainability goals of municipalities. Municipalities want buildings to be as sustainable as possible, while developers do not see the need to do so especially as it raises their costs of development.

Can experiences in the United States help the urban development system in the Netherlands? The main advantage, and actually also the reason why a private-led urban development process is advocated by some, is the low financial liability for municipalities. By not being the active and initiating actor, the risk of losing investments is very limited and that is just what municipalities in the Netherlands want after the economic downturn. The fact that municipalities and other governmental entities are withdrawing as the active actor in urban development opens up opportunities for the market. The United

States experience shows that a private-led urban development system can lead to a lot of specialization amongst developers because they try to distinguish themselves. And building sustainable real estate is something that is becoming the norm in the United States.

The disadvantages, however, are not to be overlooked. The biggest concern of American public practitioners is the lack of control over the development process. Municipalities in the United States are still obligated to provide zoning and comprehensive plans, but eventually, take a back seat. In the Netherlands, the opposite is true. It seems that Dutch municipalities will always want to be more in control compared to municipalities in the United States. However, it remains to be seen if a form of private-led urban development system can evolve in the Netherlands.

A negative aspect of the American private-led urban development process is its inattention to social goals. The most striking example is the lack of affordable housing in the United States (see, for example, Williams, 2004). Additionally, American municipalities are often accused of valuing their financial profit by approving development projects that earn them a large future tax flow instead of approving a project that would be in the best social interest of the city (Molotch 1976). In the Netherlands it does not appear that the provision of affordable housing will be a casualty in a private-led system given the way it has been institutionalized through affordable housing associations. And the broader social goals of urban development are also less affected by the pursuit of property taxes because Dutch municipalities are much less dependent on these taxes.

In general, this research shows that there is some opportunity for a private-led urban development system to become a success in the Netherlands. The institutional conditions are in place to make the shift from the public-led to the private-led possible. The biggest concern is the mindset

of the stakeholders involved. As long as the municipalities and the developers keep sticking to their existing role and keep distrusting each other, it will be hard to make this shift. Current market conditions are not in favor of a shift to a private-led system. Developers and other market parties have to rely on themselves in order to get their projects financed. Municipalities require them to pay for investments in public spaces and to be more sustainable. The market needs some time to become more innovative and to get used to their new role, while at the same time the municipalities need to facilitate and advise them as much as possible.

While the Netherlands can implement some features from the American system, it would appear to be very hard for the Netherlands to shift to an American style private-led urban development system. There is one main reason to assume this shift will be problematic. In the United States, financial support from governmental entities is almost taken for granted by developers when initiating a development. This financial support can be TIF, tax credits or direct investments in social spaces around the project. Besides the fact that developers expect to get financial support from the government, American local governments also emphasize that the majority of the developments would not have taken place if it were not for the financial support from the government. In the Netherlands, almost the opposite trend is taking place. Dutch municipalities are providing less support, while at the same time they expect the developer to contribute more. So it is unlikely that a 'copied' American system will be implemented in the Netherlands. But a private-led system will emerge in the Netherlands. Its exact form and shape will be of great interest to observe as it emerges.

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