

ACRELive
Top Ten Issues Common to
Large Scale Multi-Year Projects
and Mixed-Use Projects

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Developing the Project

Assembling the Team

➤ The Client: The Development Team

- Developer
- Planning Team: Siting, Zoning, Environmental, Traffic
- Market Consultants
- Design Team: Architects, Engineers
- Financing Team: Debt and Equity Procurement
- Communications Team: PR, Community and Government Relations

➤ The Legal Team

- Transactional Lawyers:
 - Site Acquisition/Disposition
 - Financing
 - Incentives
 - Leasing
 - Construction
- Land Use Lawyers: Zoning, Entitlements
- Environmental Lawyers

The Private Role and the Public Role

➤ Private Role

- Development Expertise
- Private Capital
- Risk-Taking

➤ Public Role

- Long-Term Planning Vision and Program
- Land Assemblage
- Public Infrastructure
- Tax Incentives
- Other Public Subsidies

Assembling the Site

- Site Assemblage Tools
 - Long term private assemblages
 - Eminent Domain – politics and legal issues
 - Incentive Zoning to encourage site usage in large-scale assemblages

- Financing the Assemblage
 - Bridge financing
 - Public financing – tax incentives
 - Equity – land value capture in deal structuring

Zoning and Entitlements

- Use of Large Scale Plan or Site Master Plan
 - Basic Parameters – Uses, Floor Area, Massing and Siting, Public Spaces, Parking
 - Amenities and “Givebacks”
 - Affordable Housing
 - Public Amenities and Facilities
 - Job creation
- Additional Public Approvals Pursuant to Master Plan
 - Site-by-site approvals
 - Changed conditions over time
- Issue: Should a landowner rezone a site before a Developer is involved?
- Pros:
 - Maximize site value through entitlement certainty
 - Minimize up-front cost and time burden to developer
- Cons:
 - Cost, expense and expertise needed for entitlements process
 - Misreading the market; lack of understanding of practical development issues

Developing Infrastructure Across Multiple Parcels

- Public Incentives for Private Provision of Infrastructure
 - Tax-Exempt Bonds
 - Tax Abatements
 - Zoning Bonuses
- Phasing of Infrastructure Development Along with Revenue-Generating Development
- Cost-Sharing among Multiple Parcels
 - Private Covenants
- Direct Public Provision of Infrastructure
 - Tax Increment Financing
 - Special Assessment District

Site Development and Disposition Strategy

- Up-Front Site Disposition to a Single Master Developer
 - Useful when private capital or expertise needed for up-front expenditures
 - Master coordination of site design and improvements
 - How to capture long-term upside and value creation by developer for disposing landowner
 - Joint ventures
 - Ground leases
- Disposition of Individual Parcels Over Time
 - Useful when robust government planning and development function is available
 - Maximize value creation for disposing landowner
 - Phase and scale development for market conditions

Financing the Multi-Use Project

- Construction Financing
 - Creation of Separate Mortgageable Estates for Different Project Components
 - Condominium structure
 - Ground/net lease structure
 - Unitary source of construction financing with multiple takeouts for different project components
 - Multiple sources of construction financing with multiple takeouts for different project components
 - Cost allocations among project components
- Permanent Financing
 - Separate takeout equity and debt for different project components
 - Managing and operating the multi-use project