



Land Development Process From Open Land to Market

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I. MARKET DEMAND

- Developer reacts to a market need
- Developer anticipates a market need
- Developer works with a Community to re-define markets (revitalization)



II. LAND

- **Location, Location, Location....**
It is getting very hard to match land in the right location to market needs
- **Land Costs**
Land costs have not come down in proportion to environmental or entitlement constraints



II. LAND *(continued)*

- Regulations and Predictability of the Entitlement Process
 - Procedural Predictability is very low
 - Developers would generally give up some cost for entitlement predictability
 - Entitlement Process is directly proportionate to Public Opposition
- Environmental Features / Constraints
- Infrastructure Availability

III. PROPERTY INVESTIGATION

- Overall due diligence
- Zoning issues
- Environmental constraints
- Political attitude relative to growth / development
- Community land use plans
- Potential public opposition (likely!)
- Cost and pro forma

IV. ENTITLEMENT / APPROVAL PROCESS

- Local
 - Planning authority is delegated by the State
 - Dillon Rule vs. Home Rule
 - Bottom up
 - Generally a “Board” approval process with many players
 - Often very lengthy
 - Multiple departments / agencies
 - Often little internal coordination / communication



IV. ENTITLEMENT / APPROVAL PROCESS

- Local *(continued)*
 - Opportunities / requirements for public participation
 - Participation often means “opposition”
 - Public opposition often overrides technical facts

IV. ENTITLEMENT / APPROVAL PROCESS

- Local *(continued)*
 - Local policies / regulations
 - Comprehensive Land Use Plan
(note: even if it exists, it's probably outdated...)
 - Capital Improvement Program
 - Code and Regulations
 - Zoning ordinances
 - Subdivision regulations
 - Natural resource protection
 - Exactions / fees / taxes

IV. ENTITLEMENT / APPROVAL PROCESS

- Local *(continued)*
 - Approvals and filing of plats
 - Conditions to include State and Federal permitting requirements
 - Legal information filed for future reference
 - ROWs and easements
 - Special conditions
 - Zoning and Use

IV. ENTITLEMENT / APPROVAL PROCESS

- Regional (County)
 - May be the governing approval entity
 - Often an advisory level referral and review to consider regional issues and coordination
 - May involve regional watershed or health related oversight and procedures

IV. ENTITLEMENT / APPROVAL PROCESS

- State
 - State land use plans are rare; often little guidance
 - State provides a combination of procedural entitlements and regulatory mandates
 - Mandates are often environmental requirements & procedures
 - State can also enable impact fee and taxation powers
 - Some Federal requirements are delegated to the State for implementation and enforcement

IV. ENTITLEMENT / APPROVAL PROCESS

- Federal
 - No Federal land use law
 - Primarily environmental requirements
 - CWA / wetland procedures most significant to a “private” development project
- Informational resources
- “Stakeholder” interaction
- Exactions, impact fees, costs of entitlements

V. CONSTRUCTION

- Financing and risk
 - Community (usually State enabled) will usually require upfront financial guarantee
 - Letter of Credit or equivalent.
 - Length of entitlement process and construction often have to weather changing economic and lending conditions.
 - Many jurisdictions have “concurrency” requirements that require significant upfront construction and finance / market risk.

V. CONSTRUCTION *(continued)*

- Reality between Design & Construction
 - Construction contingencies and cost will occur; it's only a matter of magnitude.
 - Site conditions don't always permit strict adherence to design
- Site conditions, including weather

V. CONSTRUCTION *(continued)*

- Additional recent regulations (Stormwater)
 - The public (particularly opposition) was generally out when entitlements are granted.
 - Stormwater regs are giving them the ability to stay involved through construction.
 - These regulations are proving to be very costly and will increase
- As-built information
 - As-built information & dig alert systems are critical for safety of existing infrastructure.
 - Record information for new construction and use of technology (G15) should improve future risks.

V. CONSTRUCTION *(continued)*

- Closing out and finalizing construction
 - Maintenance guarantees
 - Dedication of infrastructure (or legal filings for private facilities)
 - Finalization and filing of easements

VI. TO MARKET

- Is the market still there?
- Is the market still the same after
 - Property Investigation,
 - Entitlement/Approval Process,
 - Construction?



BOTTOM LINE

At one time the answer to ensure success was:

Location

Location

Location . . .

BOTTOM LINE

NOW it is:

- Location
- Solving environmental constraint issues
- Political cooperation
- Obtaining entitlements
- Beating public opposition
- Solving layers of regulatory permitting
- Guessing right on market conditions
- Liveable exactions, impact fees, & unforeseen entitlement expenses
- Satisfying construction regulations
- Getting lucky with weather and site conditions
- Still having a market when you are ready
- A good bank / banker
- *And more...*