

PUBLIC-PRIVATE PARTNERSHIPS IN PLANNING:
A KING COUNTY CASE STUDY

by

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The urban planning profession and the various professions associated with it (architecture, landscape architecture, real estate development, engineering, to name a few) play critical roles in shaping the urban fabric. Within these professions, it is important to understand the interplay of factors - economical, political, social, and/or environmental – that influence the way cities, and their citizens, develop in an increasingly urbanizing world.

Urbanism presents both challenges and opportunities. Along with meeting the basic needs of any growing population, there is equally a goal among the urban planning profession to raise the standard of living. Additionally, questions on how to meet and absorb this change, while encouraging opportunities for new development, are of increasing concern to planners and other key stakeholders. As Patsey Healy has stated, “ ‘capacity’ and ‘quality’ (of land and property development) are central preoccupations of urban policy” (211). In order to meet these concerns, the planning profession requires more frequent and creative dialogues with the development community. If planners are concerned about better quality development, then it is crucial that they work more closely with those professions that are *building* the development projects. This requires a recognition of the potential to encourage a confluence of conflicting ideologies and values.

The purpose of this paper is to examine the various factors that influence the interface between planning and development, and to see how these two professions can negotiate to establish policy objectives that provide better quality developments. This paper will also present a case study of a public-private partnership that was created for the 2007 North American Industrial and Office Properties (NAIOP) competition. The case study will demonstrate how one development

proposal can suggest a mutually beneficial partnership between two key stakeholders: planners and developers.

Key stakeholders and their roles in the development process:

A central figure in the development industry is the developer who leads a team that is responsible for negotiating with the public (including citizens, regulators, politicians), as well as investors for partnering in projects that achieve a financial return for the least amount of risk. Developers provide a real-estate product that can make a positive impact within the community it builds, and the market wherein it operates.

Municipal planners play a key role in the development process by working with the public to create Official Community Plans and Neighbourhood Plans (names and scopes of plans may vary from city to city) that provide the base rules to assist in development coordination. Planners help outline the nature of future real-estate developments by working closely with the public to articulate future needs.

What are some of the issues shaping urban development today?

It is estimated that over half of the world's population lives in urban centers¹. This urban growth will have major economic, physical and social impacts, stimulating change and adaptation within cities. Cities that were once spatially defined by their territorial boundaries are now part of a tightly woven fabric within a global network of cities, by which physical boundaries are stretched across national and international borders.

¹ <http://www.un.org/esa/population/publications/sixbillion/sixbilpart1.pdf>

The globalization phenomenon significantly influences the role of urban planning and of the professional planner as it directly affects the rescaling of economic structures from regional or national markets to international ones. Following rounds of de-regulation, restructuring, and privatization, these markets are less limited by local, regional or national “boundaries”. The planning profession has responded to increasing global pressures but needs to be increasingly more proactive rather than reactive. There are many cities and municipalities that are currently strategizing growth plans that look fifty to one hundred years into the future. (Calgary, Alberta is implementing ImagineCalgary, which plans for the next 100 years:

[\(http://www.imaginecalgary.ca/\)](http://www.imaginecalgary.ca/). Urban growth forecasts and plans of this length are greater than those commonly issued during the 1950s and 1960s. Although these plans may offer a longer range, they may arguably be too general to really prove beneficial.

Globalization has directly affected cultural, economic and political aspects of cities which, taken together, impact the way urban planning responds to contemporary issues. According to Thornley and Rydin, quoted in Wadley, “globalization manifests in five dimensions: culture, environment, movement and technology, the economy and politics. The last three, as progenitors of neo-liberalism, particularly influence planning” (173). To meet these diverse (and expanding) dimensions, the planner of today requires greater generalized knowledge. Knowledge that offers a broader perspective to meet the current pressures affecting urban development: an approach to planning that epitomizes sustainable development by including the social, economic and environmental perspective, in addition to the physical.

As a result, urban planning should include a multiplicity of the people and professions, ethnicities and cultures that exist in an urban world. In doing so, urban planning must recognize a shared division of power, one that respects public participation when plans for communities, cities and regions are being considered. More specifically, the planning profession must also assume new powers (municipalities that act as developers now play a greater role in facilitation and negotiations), as well as relinquish old ones (allow for public participation instead of top-down approaches) if it is to form more collaborative partnerships.

Planning and Markets

Presently, municipalities are recognizing that “the market is the medium for the conduct of planning in all liberal democracies” (Banerjee, 10). While the free market economy offers challenges to cities and urban development, many would disagree with the idea of planning as having a close relationship with the market, let alone accept the market as ‘the medium’ for its conduct.

However, as Richardson & Gordon have queried, as quoted in Banerjee, “Is planning subservient to the market?” (3). Historically, planning was primarily associated with the public sector; it was a function of the state, a government agency. However, continuing to “associat(e) planning with the state, and the juxtaposition of planning against the market, (continues to provoke) long-standing prejudices both among planners and planning’s enemies” (Alexander, 103). Planning is by its nature having to respond to market forces as it deals with land and property values. Land and land-use plays a major role in local industry and consequently in the local economy

(Banerjee, 224). Planning must therefore not only respond to market forces but learn to associate it with those forces.

Planning exists to help support and provide a better quality of environment for a region's populace. Its primary focus is for the betterment of society and quality of life for present and future generations. Therefore, with the suggestion that planning is now more closely aligned to the market and market principles, it is presupposed that the goodwill of the public will be pushed aside for individual profit. (Profit in this sense does not necessarily denote purely financial remuneration. Rather, it can be attributed to rewards of any kind that are granted to one person or one group, thereby ignoring the majority). Or as Alexander asks, "How can we promote planning in public discourse, when the spread of neoliberal 'free market' ideology threatens the public sector as a whole, and its antiplanning proponents are undermining planning in particular?" (2) How can planning and planning priorities work within the market system so that the values and goals of the profession are not clouded by trends and short-term gains at long-term expenses? Is planning only the property of the public sector?

Institutionalized city planning is locked within the bureaucratic structures of local government. Its role is to influence urban growth patterns with appropriate and pragmatic solutions. Municipal planning struggles for the right balance along a continuum where the political influence shifts between 'right' and 'left' and where economic forces also teeter between these two sides. But planning should not only be linked to government agencies. Today, there are many community development organizations that are neither privately nor publicly run. Additionally, there are many special interest organizations that fall into the grey area of civil

society that rests between the market and the state (Alexander, 103). There are also many private planning firms and architectural firms that have community and master planners on their staff.

“Planning, then, is not only a property of the public sector” (ibid).

Perhaps it is more amenable to suggest, as Ricardson-Gordon do, as quoted in Banerjee, that one cannot ignore the fact that “planning tends to meddle in the workings of the market” (2) and that because the market is the preferred exchange system, urban planning does not have to demoralize or weaken the market economy or capitalism generally. Rather, planning needs to find a way to operate within this market system.

It is important for planning professionals to have an understanding of the market and economic issues. Any change in the economy will affect planning and, because of its interdisciplinary nature, all other professions associated with it. A city, and by extension the planners in both public and private environments, are therefore intricately tied to its economic engines. Though the market can be “blind and deaf” as Octavio Paz suggests (Banerjee, 10), it is the planner and the planning professions that “must have eyes and ears for it is the guide” (ibid).

The Context of the Development Industry

Recognizing that the planning profession must work within the market economy rather than against it, it is important to ask which key stakeholders define the private sector within this economic spectrum. Additionally, it is important to find out how planners collaborate with these stakeholders, recognizing that together they can contribute to the betterment of society.

Coiacetto suggests that “effective planning strategies will have to rely on more than an analysis

of land and demographic factors. Planning needs to understand the local development industry” (371). In order to significantly influence the shape of urban development, planners have to influence the actions of the key stakeholders who actually build the cities; “...this requires a sound understanding of the perspective, actions and strategies of those builders” (353).

Generally, the development industry aims “to add value to a property by identifying its optimum use” (quoted in Wadley, 176). Yet more recently, the role of the development industry has become somewhat more difficult to articulate as it requires a greater sense of creativity than in previous decades. With cities undertaking major redevelopment projects that are seeing large tracks of land being transformed from former industrial economies to new, modern cities, development is “less about greenfield expansion and more about complex projects for transforming urban sites” (quoted in Wadley, 189).

The capacity of the development industry to help effect beneficial change in a city is substantial. But this capacity cannot exist independently. In order for there to be effective development, there must be a cooperative approach between developers and planners. “...by validating the potential and contributions of good developers, planners might find a positive and, most likely, cost-effective way forward” (Wadley, 190). Planners need to have a strong understanding of the capacity of the development industry, its limitations and dynamics. This knowledge, coupled with the planner’s knowledge regarding regulatory controls and political dimensions, can provide a fertile common ground.

The fusion of planning and development offers a more non-codified approach to urban development, where cooperation and creative negotiations can influence the quality of environments for the betterment of its citizens. The role of the planning professional can, for some, be defined as the counterpoint to the development professional, one "... who (can) advance the (planning) profession by maintaining constructive interaction with built environment stakeholders" (Wadley, 175). Rather than accepting the traditional form of planning as having to regulate developer-led environments, planning can offer a more accommodating and flexible role whereby the interests of both stakeholders can be equitably positioned as priorities for a municipality. In recognition of this potential, "many public sector planners are working with the private sector to develop joint private-public ventures ranging from downtown revitalization programs to major infrastructure improvement projects" (quoted in Banerjee, 9). This is not a one-off event. According to Dowall, "in the future planners will increasingly take on public real estate development assignments" and the planning and development nexus will become even more closely interlinked (512).

Recognizing the changing nature of the private and public sectors within the market economy necessitates a second look at where planning and development intersect. The shift in focus for the planning profession – to accommodate a broader and more inclusive perspective – suggests greater room for flexibility and negotiations both within itself and with other key stakeholders.

The partnering of public and private sectors with respect to the planning profession is not new. However, it is the new role played by the public sector in recent times that suggests a broader responsibility than just "land assembly and infrastructure" development, headed by urban

renewal and redevelopment programs in the 1960s and 70s in the United States. More specifically, it is the government's involvement in the real estate development process that details this new responsibility. It seeks to promote economic vitality for the municipality, and to improve the quality of development and provision of amenities that can help to create a better environment for people to live within. To meet these changes, new planning roles are needed along side a new matrix of skills that define how "planning must now facilitate as well as regulate" development (Wadley, 175).

Influence of Planning on Development in the Contemporary City

The new responsibilities facing planners are not simple due to the fact that the public and private sectors are, at times, co-operating on projects, as outlined by municipalities. And planning has not become more democratic in its decision-making. Increasingly at stake is the preservation of the sense of "community" which is often lost in development proposals. Working alongside developers, planners can help refocus projects to include ideas, concepts, amenities, etc. that advocate the idea of place-making. This loss of community is occurring not because development and developers are not interested in place-making initiatives, but rather because of the larger issue of the changing nature of contemporary cities and the different patterns of people's interactions, as result of the influence of globalization.

Globalization has accelerated a compression of space and time through innovations in technology and telecommunications. The motive forces defining this new spatial reality for cities have occurred at unprecedented rates. Many structural and social adjustments are needed when global market forces interact in, and around, local regions. To meet these changes, cities

and municipalities have to be more flexible with their policies and processes in order to respond to these changes.

At a local municipal level, the impact of such global trends is evident in the changing nature of municipal financing. "...political calls for small government and deregulation aim to 'hollow out' the public sector and reduce people's collectivist expectations" (Wadley, 173). But as Wadley goes on to note, "[s]patial expansion of operations in the development industry must, nevertheless, incorporate the local sphere" (ibid, 176). The planning profession can provide that link to the local sphere. Planning's role is to offer a more participatory and democratized version of itself, characterized by the knowledge of the individual and of the local community. "Public planning can demand from developers not only a 'sense of community' but also the wherewithal-physical or otherwise-for job creation" (quoted in Wadley, 176).

Public and Private Collaboration

Urban planning and planning policies play critical roles in helping to foster, shape and promote a balanced approach to urban growth and management. They contribute to the development of an area's urban fabric and, more recently, play a key role in its institutional capacity to promote more sustainable developments. Recognizing that the existing urban environment is not static, there is a need for municipalities to evolve and adapt incrementally based on new and emerging trends in urban development today. Concomitant with this municipal evolution, the development industry is itself greatly influenced by municipalities' changing policies towards land development.

Municipal financing is increasingly being pushed and pulled in many different directions. This is a result of a number of factors including: rising costs, aging infrastructure, senior government downloading, declining grants and demands for more and broader services (Vance). To meet these challenges, municipalities are increasingly turning towards the idea of joint development opportunities as they allow public agencies greater influence over plans and design while further leveraging public benefits from development projects. According to Algatt and Leanney as quoted in Dowall, the additional benefits of joint development include: “Urban redevelopment in decayed neighborhoods considered too risky by developers to tackle on their own” (504); or as Deane and Hankla offer: “increased tax base as under-utilized and surplus public lands become developed and added to the tax roles” (ibid); “financial gains from ground lease income and participation in ongoing cash flow from joint development projects; private developer-provided public spaces and amenities such as theaters and cultural centers; and developer subsidies for new public facilities” (ibid).

While there are many benefits to the partnering of the municipality and private agency, disadvantages also exist. This includes the notion that “local governments have been accused of focusing on short-term real-estate development before strategic planning” (Wadley, 177). Additionally, it is plausible that some public-private partnerships go “...sour, such as when the local government and developers fail to gauge the strength of public opposition to a project” (Dowall, 505). Of course, there are many other factors that hinder these joint ventures, including legal issues, necessity of multiple funding sources, delays in permit approvals, increased costs based on fluctuations in markets, all of which can have major time and financial delays (ibid).

Despite all the possible downsides that can occur with projects, according to Dowall there are many reasons why the development industry is keen to venture collaboratively with the public sector. One major reason is the fact that municipalities often own large tracks of desirable land, prime real estate parcels for developers (ibid). These lands exist because of the changing nature of cities from manufacturing to more knowledge-based economies. The physical transformation of this economic shift is showcased by abandoning former industrial yards for regular downtown office space to conform to the new economy. Alternatively, those lands exist due to transportation methods - now outdated by the car, rapid transit systems and/or innovations in technology - whose existence has proven futile (at least specific to that location), thereby offering large-scale, contiguous parcels for redevelopment. In such examples, many developers would happily partner with municipalities to co-develop those properties.

Implicit in this joint development, however, is the recognition that both parties want to provide successful development projects for the municipality within which they operate. Granted, success is defined by different measures for each stakeholder. But ultimately both planners and developers want to provide good quality development in a timely manner and with a reasonable profit to allow the market to work.

Leveraging the Land-Use Code

A creative use of a municipality's land-use code helps define the boundaries for such public-private partnerships between municipalities and developers. A municipality's land-use planning system does more than simply regulate property and land development; it is a substantial tool by which planners negotiate its terms with members of the development industry. The evolution of

the land-use code from a “rigid rulebook” to one of the most powerful tools of negotiation offers substantial leveraging potential for municipalities.

Recognizing that cities are changing and new influences towards more sustainable practices of development are becoming increasingly important, it is critical to ask: just how far should the policies for the promotion of development be combined with policies for the regulation of development? (Banerjee, 224). How does the land-use code regulate as well as promote good development? One method that has proven effective in cities like Vancouver and Seattle is the option of bonus densities as a means of promoting better quality development while regulating development. Promoting such environments is not limited to simply controlling building height and massing. Rather, municipalities can significantly influence the development industry to promote more sustainable patterns of development that recognize not only environmental practices but also the importance of planning for the social sustainability of environments.

Bonus densities are increasingly popular as municipalities search for new ways to finance the costs of public amenities while promoting better quality development principles. Municipalities are adopting a variety of bonus density systems (affordable housing, heritage preservation, tax incentives, etc.) in order to create incentives for developers to provide community amenities that help promote a higher standard of quality environments in exchange for amendments to zoning and land-use requirements. Recognizing the leveraging possibilities available to them through the land-use code, more municipalities are adjusting how they incorporate the code, allowing them to help meet current priorities that are both community specific and city-wide. More recently, there have been discussions among municipalities to create planning policies that would

incorporate green building as a negotiated piece in bonus density, thereby promoting good development alongside regulated development.

Understanding the benefits that density bonusing can provide to a municipality, how does one determine an appropriate bonus density system, and what are the issues associated with this? How can a bonus density system be shaped to capitalize on the recent trend of sustainable development and ‘green building’ in a municipality?

One can appreciate that municipalities want to preserve land, protect environmentally sensitive areas, preserve heritage buildings and agricultural land, and promote more sustainable buildings. To do this, municipalities are leveraging their land-use code so as to provide incentives to developers to help meet these varied goals. Zoning can be a valuable tool for assisting with environmental protection, production of sustainable buildings, etc. Leveraging the land-use code is a result of municipalities having to be more creative in their pursuit of funds for municipal projects and developments. Slight modifications to a municipality’s zoning code detailing use, height, bulk or density can prove successful at leveraging developers to follow certain actions. “Planning departments can promote energy efficiency by including high performance “green” buildings as a public benefit (linked to environmental/health benefit), and granting additional density for green building measures” (The Sheltair Group, 18).

However, some suggest that this leveraging is not a system of exchange per se but rather the selling of a municipality’s land use code, therefore interpreting the code as a market commodity. But if the code is viewed as a commodity, it risks losing its validity and credibility as a system

for regulating land development. Therefore, it is important to ask whether bonus densities are an appropriate way of helping achieve the public good or, more broadly stated, is it appropriate for municipalities to base planning policy on development profitability?

Bonus densities work for the very reason that they are the result of a dialogue between stakeholders. It would not be an effective tool if it required special studies and/or extensive community consultation to determine the priorities for the specific development and surrounding area. The challenge of defining the amenity needed has been completed by the municipality's staff (and approved by City Council) and therefore it is simply the art of negotiating an interest-based solution for both key stakeholders. In no way does this negotiation diminish the validity of the code. If anything, the strength of the code vis-à-vis the negotiated process validates it as an underutilized resource.

Of increasing concern is the notion that bonus densities are providing housing or amenities that would otherwise be directly provided by the municipality. Bonus densities should not be provided if they are items that are normally part of the local government infrastructure or those paid through taxation. However, it must be remembered that the extra density given to a development assists in providing an amenity that meets an identified community need (as outlined in the Official Community Plan (OCP)), and maintains or improves the existing community's quality of life should the area accept the higher density. Interestingly, bonus densities tend to work best in areas that are already dense, where public services can support the additional populations. "Density bonusing is usually only used in a commercial core, where

valuable, revenue-generating space is available in sufficient quantity to invite participation by developers” (The Sheltair Group, 18).

Ideally, a municipality should maximize the impact of an incentive provided to the developer. But the question remains, how exactly does one do this? After all, bonus densities are incentives and not compulsory for a developer to follow. Thus, although some may suggest that exchanges between a municipality and a developer exemplify commodification, this ‘selling’ of the land-use code is not compulsory. Effective and worthwhile developments can still be achieved without the need for a developer to consider bonus densities. In recognition of this, “a voluntary bonus density system would have to be in the developer’s best interest in order for them to participate” (Sund, 8).

When a municipality is structuring an incentives-based system for developers, it is critical to acknowledge the differences between and benefits of either a voluntary or a mandatory program. Should it be a voluntary program, it “needs to be enough of a bonus for the developer to participate” (ibid). Voluntary based programs “...are less difficult to implement politically, as they do not threaten the investments of current or prospective landowners. They also face little risk of successful legal challenges, both because they are not regulatory in nature and because few, if any, parties would be have reason to bring suit” (Sund, 10). Although a mandatory approach would, in theory, suggest a high rate of participation, it may actually discourage development activity should compensation be too low.

When considering implementing an incentives-based system within the land-use code, it is critical to think about a framework for evaluating and quantifying how to grant certain incentives. Each development opportunity will provide a different economic impact. How then to measure the economic impact of bonus densities? This is important to determine as it will indicate the amount of the incentive required by the municipality to be given to the developer so as to ensure participation. Depending on the incentive provided, there may exist many different ways to calculate the appropriate value. One example within the South East False Creek area of Vancouver, B.C. showcased how developers were granted an extra 10% of the permitted 3 Floor Space Ratio (FSR) for a total of 3.3 FSR with the provision of heritage revitalization (Development Permit Board Meeting Minutes, City of Vancouver website). According to Mr. Segal, the senior urban planner for this project, the extra 10% constitutes 2 ½ floors of the three floors that are beyond the 90 feet (ibid). “Mr. Segal stated that the testing of the overall massing, including a view analysis, concluded that the site can take the discretionary 3 FSR as well as the additional 10% in terms of those impacts” (ibid). With heritage revitalization vis-à-vis bonus densities already written into the Zoning Bylaw, a negotiated, site-specific analysis and approval did occur.

In terms of green building initiatives, which have not yet been adopted into any B.C. municipality’s Zoning Bylaw, “builders can agree to green measures at the pre-development stage, but then, upon realizing the incremental costs during the building permit stage, refuse to incorporate such measures, citing the BC Building code as the minimum standard” (The Sheltair Group, 18). According to the Sheltair Group report, currently there is no municipality in B.C. that provides density bonusing for “green” initiatives. The report does note that “Hailey, Idaho

allows a 10% density increase if alternative energy provides at least 50% of total requirement for the Planned Unit Development (PUD). <http://www.haileycityhall.org/building/home.asp>” (The Sheltair Group, 19). Due to the voluntary incentive of the current Vancouver code, there is no mechanism to legally insist that developers build to a certain green code and therefore “there is no guarantee that the actual performance of the building will meet the required levels promised” (South East Fast Creek Matrix, City of Vancouver website, 5). Therefore measurement, implementation and enforcement may be difficult to achieve.

“Green” Building Initiatives

One of the major challenges in trying to formally amend the Zoning Bylaw to include a “green” building initiative is the sheer complexity of trying to quantify an appropriate incentive.

Knowing that the technology of “green” building is rapidly changing, and knowing that the costs associated with this technology are consistently in flux (because they are generally at the whim of construction costs which, in Vancouver’s recent history, has seen tremendous increases to a developer’s hard and soft costs), it is increasingly difficult to quantify this incentive. Even if one could agree on the incentive, there would be a similar difficulty in trying to quantify an appropriate measure to test the success of this incentive.

One could potentially test the success using a rating system such as that prescribed in the Leadership in Energy and Environmental Design² (LEED) guideline. “Utilizing third party labeling programs (such as LEED) alleviates the onus on municipalities to train staff in energy efficient measures” (The Sheltair Group, 18). The only disadvantage to this rating system is that

² “LEED is the benchmark environmental rating tool in the United States. Developed by the USGBC (U.S. Green Building Council), it attempts to provide a voluntary national benchmark for ‘green buildings’ over the life of a building” (The Centre for Subtropical Design, 21).

it does not include an analysis for residential buildings and is really only effective for large scale projects. A project might therefore only be eligible to meet this rating system if it is of a certain size (Sund, 28).

While a more complex project will have higher costs, working on small projects may not be cost feasible. “Some projects are simply too small to absorb the higher development costs for a more complex project” (27). “Also, the additional density permitted can offset the energy savings of the new features, resulting in an overall larger development, yet no net gain in energy conservation. This approach requires staff training in “green” building measures and allocation of staff time to develop the provisions for inclusion in the appropriate bylaw” (The Sheltair Group, 18). Not only is there no residential rating system, but according to the Innovative Sustainable Development through Statutory Planning and Development Regulation report from Australia, “[sustainable development] practices within the commercial and industrial sectors were seen as being easier than the residential sector to influence using incentives if significant savings can be demonstrated in operational costs or significant marketing advantages are apparent” (The Centre for Subtropical Design, 2).

One of the other significant concerns associated with this incentive is the view that a developer is usually only concerned with the present: he/she wants to build the project and then move on to other projects. Recognizing that some of the financial benefits of “green” building technologies are only financially lucrative in the future (one year or more), developers are rarely still around to profit from them; ultimately, the benefit of the incentive is recognized by the user and not the developer. Therefore, when trying to quantify this benefit, it is difficult to predict the future

benefit until it is achieved. The potential to misinterpret future costs/benefits at the early stage of a development project could significantly alter the developer's project based on inappropriate incentives being granted.

If considering a tax relief program, then calculating the incentive "is quite a simple matter, while at the other end of the spectrum, exemptions from site or building regulations might be granted, many of which would be difficult to price" (Sund, 25). One key question to ask is: how much does the incentive affect construction costs? It is critical to determine the financial tipping point of a development project, that is where it meets all of a municipality's objectives while still allowing a positive internal rate of return as evidenced in a pro forma analysis. If the developer is able to achieve a reasonable rate of return while meeting a municipality's objectives without having to consider incentives, then the developer is free from complying with additional municipal zoning requirements. The cost savings would be unique to each project, and therefore determining a particular criteria and evaluation process would be difficult.

When assessing the financial impacts of incentives, it is important to determine whether the value of the incentive bonus is negotiated or is as-of-right (Sund, 25). An as-of-right valuation of the bonus provides the developer with clarity and greater certainty of what needs to be accomplished to meet the incentive. This creates an equal playing field for all developers as all cases would be treated according to the same guidelines and measurements. This is appropriate as there could be significant "liability and law suit issues should criteria be unclear or deemed unfair" (South East Fast Creek Matrix, City of Vancouver website, 5). However, an individual, site-specific negotiated valuation of the bonus offers greater flexibility and can provide greater

benefits as it can be tailored to meet specific economic and site characteristics. This way, each case is weighted according to the merits of its location and the community needs as outlined in an Official Community Plan (OCP). Of course, this type of bonusing system is not predictable and does not guarantee an outcome similar to any that came before. Recognition of this reinforces the fact that bonus densities are simply a tool, implemented by municipalities, to assist in achieving community benefits that extend beyond the priorities of the current agenda.

Municipal governments are in a favorable position to act as a driver for sustainable development. Given the current political culture regarding climate change, it is understandable that Vancouver's new Director of Planning, Brent Toderian, has said that "sustainability is the No. 1 goal and density is the No. 1 tool" (Vancouver Sun). Recognizing that cities like Seattle, Washington, have effectively created bonus-density systems for "green" buildings, Toderian and the City of Vancouver are exploring how "developers might be able to get bonus building space, more than the usual zoning would allow, in return for using green building technology" (ibid).

Case Study: King County Administration Building, Seattle, Washington

An example of a cooperative venture between public and private sectors is found in the proposal



made by Verde Ventures in response to a Request for Proposal (RFP) issued by King County for redevelopment of the King County Administration Building in Seattle, Washington, in 2007. The public-private partnership identified in the proposal built on the expertise of each key stakeholder

(developer, municipality and county) by appropriately allocating a shared division of resources, risks and rewards. This proposal was made on behalf of five University of British Columbia students who collaborated to form Verde Ventures (a fictitious development company) in order to compete in the 2007 NAIOP student challenge.

Introduction

King County is located in the State of Washington and its county seat, Seattle, is the largest city in both the county and the state. Administration offices and services for King County are presently located in various office buildings in downtown Seattle. Intending to consolidate office and service space under one roof, King County issued an RFP to replace its current King County Administration Building (hereafter the “KCAB”) with a new mixed-use structure that would be revenue neutral³ to the county and that would provide county employees with 160,000 square feet (sf) of office space along with additional space to accommodate future expansion. The new

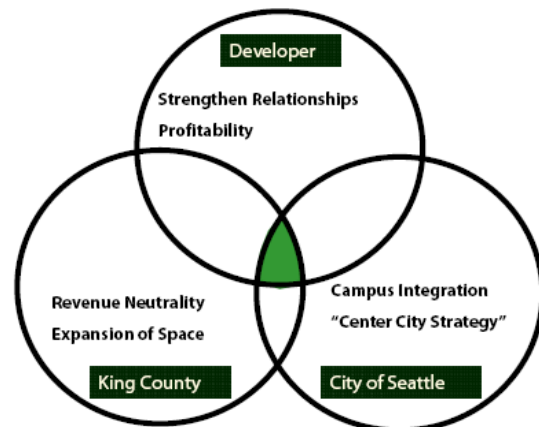
³ To mitigate cost to taxpayers, revenue neutrality means that the County does not wish to incur more than the current cost of operating the KCAB when it initially receives its 160,000 sf of space.

building would serve the public more efficiently and contribute to the revitalization of Seattle's governmental campus.

To meet the requirements of the RFP, Verde Ventures proposed a mixed-use office and retail development comprised of 590,000 sf of gross buildable space. This would include 15,000 net sf of street-level retail units and 460,000 net sf of commercial office space. The new building would have two levels of underground parking (266 spaces) and would be constructed under current Downtown Mixed Commercial (DMC) zoning regulations. A public-private partnership was key to the success of this redevelopment proposal as Verde Ventures could not meet all of King County's RFP while also achieving an appropriate return (~15% Internal Rate of Return (IRR)⁴). Therefore, this proposal was structured as a cooperative strategy whereby King County would relax several requirements and share in a greater portion of project costs while the developer would assume most of the risk and take on a greater portion of construction costs.

Stakeholders

In considering the redevelopment of the KCAB site, Verde Ventures undertook an interest-based approach that would best satisfy the needs and wants of the various stakeholders involved. These key stakeholders included: King County, the City of Seattle, Verde Ventures, and the general public. King County's motive was to acquire



⁴ Internal Rate of Return is "the rate of growth a project is expected to generate", taken from <http://www.investopedia.com/terms/i/irr.asp> on June 3, 2007

efficient space without exceeding current operating costs for the current KCAB. The developer, Verde Ventures, required an appropriate financial return while endeavouring to build and maintain strong relationships with all stakeholders. Paramount to the City of Seattle was the idea of better integrating the KCAB within the existing governmental and civic campus while also promoting downtown Seattle as a place to “live, work and play”. The latter is part of the city’s “Center City Strategy” aimed at generating employment and revitalizing the downtown community. With respect to the general public, the developer recognized the public’s need for useful and visually appealing environments. Given the lack of amenities within the existing governmental and civic campus, this redevelopment project could help fill this need by fostering a more safe, comfortable and attractive place.

Surrounding Area and Site Description

The KCAB is located at the southern end of Seattle’s downtown. The site uniquely borders the downtown core to the north and the Pioneer Square Historic District to the south. The dividing road between the two areas is Yesler



Way. The KCAB is located in Seattle’s government and civic campus, which includes the King County Courthouse, Seattle City Hall, the Seattle Police Department and the King County Correctional Facility. The area is also home to City Hall Park and, in the future, will include a

new City of Seattle plaza and office building. Two blocks north of the KCAB is the Columbia Center, which marks the southern end of the financial district. Two blocks to the east of the KCAB is an interstate, the I-5.



The KCAB consists of 1.36 acres and is located at 500 4th Avenue in downtown Seattle, Washington. The site is bordered by 4th and 5th Avenues to the west and east (with a substantial grade from

4th to 5th Avenues), and James and Jefferson Streets to the north and south. The existing nine storey building was built in 1970 and currently houses the administration departments of King County. The only retail space in the building is a small coffee shop on the main floor. Underneath the KCAB is a tunnel connecting the building to the courthouse and overhead is a prisoner transfer skybridge connecting the courthouse to the King County Correctional Facility.

Regulatory Information

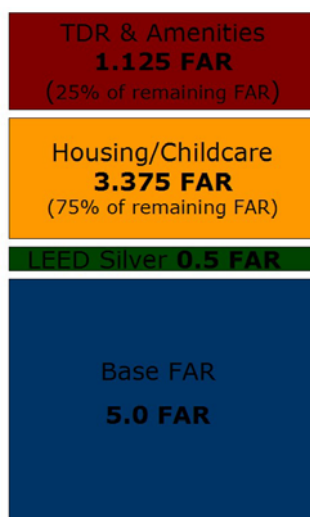
The KCAB is zoned for Downtown Mixed Commercial (DMC) and is bounded by Downtown Office Core 1 (DOC 1) to the north and east, and Pioneer Square zoning to the south and west. The DMC 340'/290'-400' zone



means there is a commercial height limit of 340 feet (ft.), and a residential height limit of 290 ft. with the option to expand to 400 ft.

Zoning	DMC 340/290-400
Building Size	590,000 gross buildable sf
Building Mix	Retail/Office Use <ul style="list-style-type: none"> • 15,000 net sf of retail space • 460,000 net sf of commercial office space
Project Structure	<ul style="list-style-type: none"> • Public-Private Partnership

The Floor Area Ratio (FAR) is 5 with a maximum of 10. This range in heights and FAR is crucial to negotiations when determining a public-private partnership because a step approach can be achieved for reaching different FAR should the developer meet certain criteria including LEED certification or amenity bonusing. For this redevelopment proposal, the bonus FAR could be achieved through:



- Amenities or Transfer of Development Rights (TDR): 25% of remaining FAR: 1.125 FAR
- Voluntary Agreements for housing and child care: 75% of remaining FAR: 1.125 FAR
- LEED Silver Rating: 0.5 FAR

Regulatory Alternatives Analysis

An application to the City of Seattle for a site-specific rezone of the KCAB site from DMC to DOC1 was not a feasible option. Though DOC1 allows 20 FAR and unlimited building height, the current political climate within Seattle would not approve such an application for the following reasons:

1. Updated Zoning Code

In 2006, the City of Seattle adopted a new comprehensive and updated zoning code that increased heights and FAR in the downtown core. This legislative rezoning of downtown Seattle was undertaken by City Council in an effort to shape the downtown core and to ensure that new development would be conducive to the planned growth strategy of the city. This rezoning took over eight years from initial stages to completion. Seattle is unlikely to consider a new legislative rezoning so soon after the 2006 update.

2. Timing

The amount of time and resources necessary to lobby City Council for a site rezone would have been substantial. The average time that it takes for a rezoning application to make it through City Council is between one to five years. In this period, the market could change substantially such that building plans may no longer be financially viable or desirable.

3. DMC Rationale

Rezoning would diminish the current Council-approved rationale defining DMC. This DMC zone was established to provide a transition, both in terms of height and density, from the DOC 1 zones of the north to Pioneer Square and the International District zones of the south. The Seattle Municipal Code states: “the scale of buildings [in the DMC zone] shall be moderate in height and mass to provide a physical transition between the high density office areas and surrounding lower scale mixed-use and residential districts.” Additionally, rezoning would have harmed the character of the government campus. Furthermore, if a site specific rezone was granted for the KCAB site, it would set a precedent that future developers could use to justify a rezone of their sites.

4. Optics

It would have been considered politically incorrect for the City of Seattle to allow a zoning change for a government entity and not for private developers, setting a precedent of favouring one stakeholder over another.

5. Swap Zoning

Swap zoning provides an alternative to a full rezoning. However, similar to a rezoning, swap zoning diminishes the validity of the DMC rational acting as a transition between two different areas. Moreover, the character of Seattle's government campus would have been dramatically and negatively impacted by a large DOC 1 office tower built in the heart of the campus. Building heights within the KCAB site have to be carefully considered within the context of the neighbourhood's overall character, as well as the form and character of the existing building fabric. Furthermore, swap zoning is uncommon in Seattle.

Site Strengths and Challenges

The KCAB is located in Seattle's Central Business District and is therefore within walking distance of the financial district, retail core and waterfront. Additionally, the site is very close to several transit options including 46 bus lines and the Seattle Sounder commuter rail line, and has adequate parking options with easy access to I-5. However, the site also has two major locational problems: the King County Correctional Facility is directly across the street to the east (and given its renovation less than 15 years ago, will likely remain in its place); and the Pioneer Square District, which has the highest concentration of social services in the city, is directly to the south. These realities underscore the reality that although this governmental campus is a busy pedestrian area during business hours, it is devoid of people at night and on the weekends.

Furthermore, due to the substantial grade from 4th to 5th Avenues on either side, nearly all of the pedestrian traffic is concentrated solely along 4th Avenue, underscored by the fact that public transportation only exists on 4th Avenue.

RFP Requirements and Goals

King County's RFP detailed five main requirements that needed to be met: revenue neutrality; the provision of 160,000 sf of office space for county employees with the intention to expand up to 500,000 sf in no designated timeframe; the county would retain ownership of the land; removal of the skybridge (see picture) and the construction of an alternate route; and the renovation of the south entrance to the King County Courthouse that opens onto City Hall Park, which is located across the street from the KCAB.

In addition to the requirements outlined above, the RFP also highlighted certain goals for this redevelopment project that needed to be met. They included: improving governmental service delivery and accessibility with no added costs to taxpayers within an integrated governmental office neighbourhood; improving the south downtown Seattle neighbourhood through an integrated set of capital improvements while contributing to the growth and vibrancy of the south downtown area; and providing sustainability through the consolidation of county service locations, the utilization of public transit, building a LEED certified building, and stimulating the job market through the development process.

The challenge for this redevelopment project was trying to find the right balance by which all, or nearly all, stakeholder priorities could be met. If Verde Ventures were to satisfy all of King

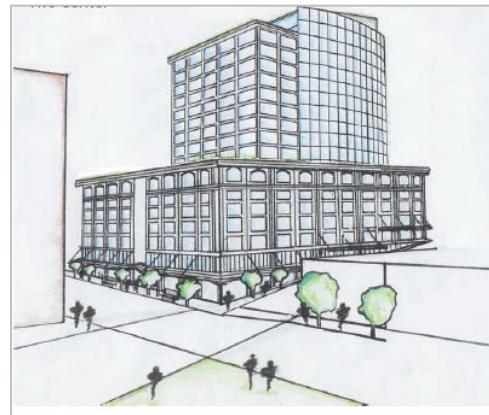
County's requests, this redevelopment project's unlevered IRR would be -14%. Therefore by not meeting certain King County requests, Verde Ventures was able to increase their IRR by a proportional margin.

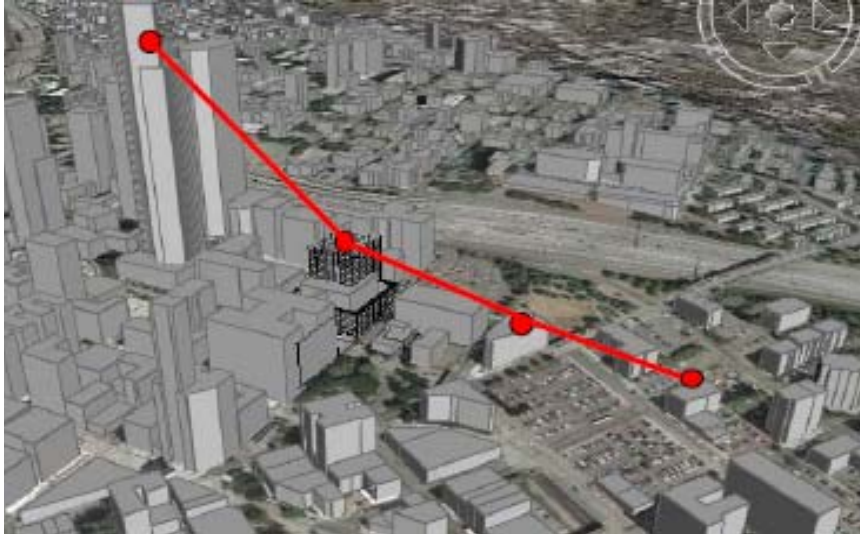
The Vision for the new King County Administration Building

Located in the heart of Seattle's government and civic campus, Verde's redevelopment proposal for the KCAB, referred to as the "Center", would help to reactivate and strengthen the pulse of the campus. The new KCAB would also help revitalize the south downtown neighbourhood and would anchor the governmental and civic campus by providing the missing link needed to foster better integration of the civic core.

Proposal

Verde Ventures proposed a certified LEED Gold, mixed-use, office-retail development following a podium and tower structure. The podium would have been seven storeys along 4th Avenue but only five storeys along 5th Avenue due to the steep grade. The twelve storey tower would bring the total height of the building to 220 ft., maximizing the allotted 10 FAR. Fourth Avenue would consist of continuous and diverse street-level retail opportunities while the remaining floors of the structure would be dedicated to office use.





Given the belief that a site specific rezoning to DOC 1 would not be feasible due to political and market constraints, this redevelopment would be constructed under the current DMC zoning

regulations. The design of this new building would respect the rationale of the DMC zoning that provides a transition between the different development potentials of the adjacent zones (DOC 1 and Pioneer Square Zones). The new building would be developed in a manner that creates a step in perceived height and scale from an intensive zone to a less intensive zone.

The design of the new building would have an architectural vocabulary that is modern yet sensitive to, and inspired by, the heritage context of the neighbourhood. The design would balance the King County Courthouse to the west, with its podium architecture mirroring the courthouse by way of continuity of building line and the building's vertical and horizontal rhythms. Elements of this podium architecture would also be referenced in the tower.

Acknowledgement of the surrounding area with respect to design and architecture would enrich the quality of the existing environment and create a more visually unified government campus.

The new KCAB would offer an indoor glassed atrium that would be flexible enough to allow for a wide variety of community programming. The atrium is designed to be fully open to the entrance of this new building and provides a weather-protected space within the government and civic campus that would provide for passive recreation as well as events and public gatherings that are best accommodated indoors. Considering Seattle's climate, atriums are ideal as they provide an alternative to outdoor space during inclement weather and, because it would be integrated with the transit hub along 4th Avenue, the atrium would provide a protected public space for the comfort and convenience of transit riders.

Public-Private Partnership Negotiation Structure

A principled negotiation between stakeholders seeks to focus on the merits of the conflict rather than a 'haggling' process outlining stakeholders 'dos' and 'don'ts' (Fisher and Ury, xviii). To mitigate further haggling, principled negotiations look for mutual gains that can be had for all parties where possible. "It enables you to be fair while protecting you against those who would take advantage of your fairness" (ibid).

For this project, the developer sought to meet King County's most pertinent requests while still reaching the minimum IRR requirement. Given this goal, the developer proposed a cooperative arrangement which accommodates the needs of both parties. The proposal was structured under a systematic process in an attempt to prioritize King County's need for revenue neutrality.

Under this joint venture, King County would receive 160,000 sf of office space at the end of construction, with room to expand to a total of 300,000 sf instead of the requested 500,000 sf

over 25 years. An expansion up to 500,000 sf implied an average annual employment growth rate of 5.3%, which significantly exceeds the employment growth rate projected by the Puget Sound Regional Council.

Verde Ventures was unable to assume the costs of constructing King County's initial 160,000 sf of space, relocating county employees, removing and reconstructing the skybridge, renovating the courthouse south entry and satisfying ground lease payments, all while generating a positive return. Even if King County undertook the relocation, skybridge removal and courthouse renovation costs, Verde Ventures still would not be aptly compensated for the project.

If King County shared 35% of construction costs for the initial 160,000 sf of King County space and granted the ground lease to the developer for a one-time payment of \$1, then Verde Ventures would be able to generate an unlevered rate of return of 9.4%. An unlevered IRR of 9.4% was below the developer's target rate of 15%.

However, if King County took on a portion of the project risk by providing mezzanine financing, Verde Ventures would accept a lower unlevered rate of return. This was in recognition that one of the fundamental components of any public-private partnership is the concept of risk transfer. A lower unlevered rate of return offers a lower risk profile and an increase in levered return as a result of the cheaper financing. The table below outlines the change in the levered IRR in shifting market mezzanine financing to King County financing.

Mezzanine Loan Options	Financing Rate	Unlevered IRR	Levered IRR
Market (LIBOR + 450 bps)	9.83%	9.40%	13.70%
King County Financing	4.34%	9.40%	17.56%

RFP Request	King County Request	Verde Ventures Offers	Change on IRR (Percentage Points)	IRR %
Initial Scenario	N/A	Verde Ventures Meets All RFP Requirements	N/A	-14.35%
King County Expansion Requirements	King County expands up to 500,000 sf over 20 years	King County expands up to 300,000 sf over 25 years	+ 3.99	-10.36%
Skybridge Removal/ Reconstruction	Verde Ventures pays for the removal and reconstruction of the skybridge	King County pays for the removal and reconstruction of the skybridge	+ 0.35	- 10.02 %
Courthouse Entrance Renovation	Verde Ventures pays for the Courthouse entrance renovation	King County pays for the Courthouse entrance renovation	+ 2.27	- 7.75 %
Ground Lease Structure	99 year ground lease: land value \$30 million at 5% coupon rate	99 year ground lease, one time payment of \$1	+ 2.81	- 4.94%
Relocation Costs	Verde Ventures pays \$45 gross per sf on 150,000 of space for 5 years	King County pays \$45 gross per sf on 150,000 of space for 5 years	+ 7.45	2.51 %
Payment structure for initial 160,000 sf of County space	King County does not have to pay construction costs for the initial 160,000 sf of office space	King County pays 35% of the construction costs for the initial 160,000 sf of office space	+ 6.89	9.4 %

The Center - Conclusion

The Center would enrich the qualities of the existing environment by complementing both the setting and building uses that surround it, while providing a destination where people can gather and interact. The Center would be integrated physically and visually within the existing campus.

Building a place and not just designing a space requires thinking about people, their needs and lifestyles. Consequently the Center is about places, not spaces. By stimulating enjoyable and convenient places, the Center was intended to respond to the needs of a diversity of people. It was to be a distinctive building that offered a variety of amenities from the integration of retail services with office use. Additionally, the Center would have offered a gathering place for social exchanges. With the addition of a public atrium, the Center would enhance social sustainability by providing a safe and comfortable place for interaction.

The Center would have contributed to the revitalization of the government campus and the overall south downtown community by creating a more lively and interesting destination for people. By providing a continuous and active street-front along 4th Avenue, and by maximizing the retail street's windows and doors to encourage vitality, 4th Avenue would become the retail hub of this campus. This revitalization would help boost the appeal of the commercial spaces within the building.

The Center's success would be built on the cooperative partnership of sharing resources, risks and rewards between Verde Ventures and King County.

Conclusion

As part of public-private partnerships between municipalities and developers, the creative use of a municipality's land-use code helps define the boundaries for this partnership. A municipality's land-use planning system does more than simply regulate property and land development. It holds tremendous power for when planners negotiate its terms with members of the development industry specific to their projects. The evolution of the land-use code, from a "rigid rulebook" to one of the most powerful tools of negotiation, offers substantial leveraging potential for municipalities.

The collaboration of planning and development offers a more informal approach to urban development where creative negotiations can influence the quality of environments for the betterment of its citizens. "Developers are more likely to succeed when assisted by good planners" (Wadley, p.189).

Understanding the changing nature of spatial structures within the public and private realm of the urban fabric, based on its social, environmental, political and economic constructions, provides a greater awareness of the consequences to such changes. It is therefore increasingly important for planners to stay current to these changes, learn from failed utopias, and dialogue with one another and with other professions in order to learn from different experiences, both locally and abroad. Urban planning needs to respect the individual character of cities and the professions that work within them, and to understand and respect the factors influencing the interface between planning and development. With a greater understanding, these two professions can negotiate to help provide better quality developments.

Professor John Friedmann succinctly describes why a multitude of changing planning roles and responses are necessary in the present context of globalization and I therefore give the last words to him:

“...It could be argued that the current era of globalization and the insertion of cities into the “space of flows” of global finance, information, and cultural exchanges will eventually lead to a greater homogenization of practices, and that the profession of city and regional, or spatial planning will exhibit more and more common characteristics. But even if this were the case on the technical side, actual planning practices must still respond to the particular conditions under which they operate, conform to the prevailing political culture, accommodate to its institutional settings, adapt to the limitations of resources for local development, battle with entrenched interests and traditions, and so gradually evolve its own national and even local style. Different societies, different cities confront different challenges that call for new approaches to planning” (228).

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