

HOW TO PREPARE A SITE FOR DEVELOPMENT & PROBLEMS YOU SHOULD BE AWARE OF—A PRIMER FOR CDCs

I. GAINING CONTROL OF A SITE FOR DEVELOPMENT—ARE YOU READY?

The past decade has recorded significant increases in development projects being completed by practitioners in the community economic development (CED) industry, as non-profit community development corporations (CDCs) seek new and creative ways to generate unrestricted income for their day-to-day operations. In addition, community based organizations (CBOs) are expanding their operations in developing affordable housing units for residents in urban and rural disadvantaged and disinvested communities served by CDCs and CBOs.

NCCED's 2005 Census Report entitled, *Reaching New Heights Trends and Achievements of Community-Based Development Organizations*, which measures the quantitative achievements of community-based development organizations, and released on June 27, records a significant milestone realized by CDCs—the total number of affordable housing units generated by community groups passed the one million mark sometime in 2002 or 2003.¹

While veteran CDCs may have acquired a wealth of experience in site development for new and refurbished buildings across the United States, it is recognized that many community-based organizations are now venturing out on this landscape. As so many who have completed development projects will confess, before the invitations can be sent to elected officials, funders, partners and prospective tenants, or small business operators, to attend the ribbon cutting event to celebrate the completed project, there are many challenges along the way to that unveiling.

In its publication entitled, *CDC/Retail Development a series of Basic Guide & Tips for CDCs Considering Retail Development*,² also published by NCCED, CDCs are encouraged to examine and evaluate their readiness for a housing or retail development initiative before they commit to a particular development project in their community.

The following captures some of the critical elements to consider before you make those commitments that can be time consuming as well as expensive:

- Does your CDC have any experience in housing and/or retail development?
- Do you have an experienced staff person who could be assigned to oversee the project?
- Does your CDC have a relationship with an experienced development consultant or development specialist?
- Is your project going to be a speculative building—one that is erected without a tenant or buyer so that it may be leased or purchased by a company in the future?³

¹ *Reaching New Heights, Trends and Achievements of Community-Based Organizations*, published by NCCED, June 27, 2006.

² *CDC/Retail Development a Series of Basic Guides & Tips for CDCs Considering Retail Development*, G. Lamont Blackstone, The Retail Initiative, Inc., published by NCCED, ____.

³ *How to Develop a Speculative Building*, published by Impact Seven, Inc., August 1998.

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Since we also know that experience is gained through experience. If your CDC cannot answer these questions in the affirmative does that mean that you should not venture into the deep waters of housing or retail development? Absolutely not, especially since some of these development functions can be handed over to a co-developer or to a development specialist.

This Primer focuses on the first stage of housing or retail development—preparing a site for your housing or retail project and addressing the challenges that you may encounter along the way.

II. DOTTING AND CROSSING SOME LETTERS OF THE ALPHABET WITH RESIDENTS AND BOARD OF DIRECTORS

We assume that your organization has already dotted all of the significant letters in the alphabet with the residents in the geographic areas that are serviced by the CDC and that there is community buy-in to the level where the residents consider themselves partners in the proposed project. It is also assumed that all of the necessary operational areas—consistent with the Bylaws—have been covered and recorded in the minutes of the Board of Directors (Resolutions if necessary) to reflect that the board has approved going forward with the project.

Some considerations also should be given to ensuring that the organization has achieved the agreed-upon level of pre-site-purchase fundraising; the lender and proposed development team—which includes your attorney, architect and engineer—are on board; your local political capital is in hand, since you and your staff have completed all of your meetings with state- and local-elected officials, including those at the residential level; your partnership and/or co-developer agreements have been fully executed; pre-purchase environmental investigations and remediation research have been done; closing on the purchase of the site is already completed; and title to the site is in the name of the CDC or newly-established 501 (c) (3), or for-profit subsidiary.

In the event that you have not yet covered all of these areas and you are still looking for the right site for your planned project, the following tips are recommended by G. Lamont Blackstone:

- ❑ Assess trade area, competition, and adequacy of site and parking.
- ❑ Select consultants (as needed) to do due diligence activities, e.g., surveyor, attorney, environmental engineer, and preservation specialists, to assess environmental risks and supervise remediation work.
- ❑ Negotiate sales contract(s) or ground lease terms for component parcel(s).
- ❑ Supervise work of other due diligence consultants.
- ❑ Coordinate terms of site acquisition documents with requirements of equity investors and third-party lenders.
- ❑ Coordinate site assembly activities with other functions; and

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- Complete zoning and land-use records (records of titles and deeds and environmental liens).

But what should you do if the only site of interest for your project is also listed in the your state or county's Brownfields register? Should you abandon your project or move forward with due caution and benefits available to you? Absolutely, yes, you may want to move forward.

III. EDUCATING YOUR INTERNAL TEAM

You and your team will feel less intimidated by all that is involved in selecting a site for your development project and managing the challenges you may encounter if you spend the time educating yourself, your Board of Directors project liaison (and others) in your non-profit organization. The experienced development team you select will be moving quickly and assume that you understand some of the most commonly used development terms. The following Glossary of Terms is designed to help you get there before you begin your project:

Glossary of Terms

Term(s)	Explanations
Brownfields	Former industrial and commercial properties where contamination may be present.
Site Name	The address and specific location of the property to include boundary plan.
Potential viability	Includes accessibility, traffic flow, and proximity to local traffic centers.
Restricted land use	Indicates whether the site or area within the side has a recorded environmental restriction and/or other institutional controls preventing certain types of land use or other activities.
Stand-alone operation	The type of building use—apartments only; retail only.
Mixed-use building	Refers to type of building use but expands to identify that there would be more than one type of usage—usually housing as well as retail. For example, a building in which commercial, office, light industrial, warehouse or small business activities are in the same building as a residential unit.
Full-scale retail center	Indicates that property is targeted for retail only—there will be no residents living in the building.

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Term(s)	Explanations
MacRae's Industrial Directory or Bluebook	Identified as "the original industrial directory since 1893" offering a range of safety tips, products and tools for industrial site cleanup.
Market research	Study of a specific area to determine its potential for supporting an economic development activity. Research can be "formal": market studies—or "informal": resident and community surveys.
Sub-marginal land	Land that is not developable or productive due to location, topography and soil conditions, or for other reasons.
Sanborn fire insurance maps	Fire insurance maps are detailed city plans, usually at scales of 50 or 100 feet to an inch. They show individual building "footprints," complete with construction details, such as building material (brick, adobe, frame, etc.), height (of larger buildings), number of stories, location of doors, windows, chimneys and elevators, use of structure (dwelling, hotel, church, etc.), street address, and occasionally the ethnicity of the occupants. Other features shown include lot lines, street widths, water pipes, hydrants and cisterns, and fire-fighting facilities.
Risk capital	Capital not secured by a lien or mortgage. Long-term loans or capital invested in high-risk business activities.
Risk of loss clause	Provision in the purchase contract that states that the seller is solely responsible for any loss or damage to the property from the date that the contract is executed until the deed of conveyance is delivered to the purchaser or recorded by the title company after settlement.
Site history	General information about the identified site including the history of ownership and activities; photographs and floor plans of your site as well as information on the existing building's features and specifications, utilities, transportation, and other information. Also includes background information on suspected contaminants.
Less-than-fee acquisition	Acquisition of only certain rights to a property, such as façade easement, simple easement or development rights. Common form of acquisition in historical preservation programs.
Lien	Claim against a property resulting from an unpaid obligation to the seller. Makes a title uninsurable. Please note that there are different types of liens.

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Term(s)	Explanations
Judgment Lien	Claim against an owner's property, based on a successful lawsuit against the owner, which resulted in a judgment against the owner that required owner to pay money to some other party.
PID	Property Identification Number of the site that your CDC plans to purchase.
Certificate of Title	Certificate of right to ownership of the title to the property. Evidence of title usually includes a deed or bill of sale.
Title Insurance	Ensures the purchaser and lender that the purchaser is beginning ownership, that the seller has good and marketable title to the property, that all required actions to transfer the property were accomplished in accordance with local law, and that no private or public party has any claim against the property. Also ensures that the lender has a valid security interest, which has priority over all other liens except those specifically noted as exceptions.
Tax abatement	Reduction in property taxes for a specific property over a certain period of time.
Tax increment financing (TIF)	Method of financing public and/or private development projects involving a freeze by a local government of the tax base within a designated district. Revenues generated by reassessment or new developments are placed in a special redevelopment fund to finance community improvement projects.

IV. BROWNFIELDS REDEVELOPMENT

In the mid-1990s, the Clinton Administration unveiled a series of tax incentives attached to community economic development initiatives, which were designed to accelerate the redevelopment of urban and rural communities. The Administration's Brownfields National Partnership, which was announced in May 1997, included in this menu of tax incentives and brought to bear the resources of more than 20 Federal agencies.

According to The State of the Cities 1999, brownfields are former industrial and commercial properties where reuse is complicated by real or perceived contamination. The report indicates that there are an estimated 450,000 brownfields that exist across the country, in 223 American cities—with many located in urban areas—and that these communities had more than 178,000 acres of brownfields. At

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that time, it was believed that if these acres were redeveloped, they would generate additional tax revenues of \$955 million to \$2.7B and create more than 675,000 jobs.⁴

Grants were incorporated in the Community Development Block Grants (CDBG) budget, in conjunction with Section 108 loan guarantees to redevelop moderately contaminated industrial and commercial sites found along many neighborhood commercial corridors. Both the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Environmental Protection Agency (EPA) played strategic roles in the brownfields redevelopment program. The EPA provides funding for assessment, cleanup, and job training and several CDCs have accessed these funds. EPA grants may be used for sites contaminated by petroleum and hazardous substances, pollutants, or contaminants—including hazardous substances that may be co-mingled with petroleum.⁵

While over the years the guidelines for brownfields redevelopment were revised, CDCs took advantage of these initiatives to secure and redevelop several sites in their neighborhoods and to create jobs for residents. As a result, many of the CDCs formed partnerships with for-profit corporate developers and expanded their expertise in site preparation and development as well as environmental investigations and remediation.

Industrial buildings continue to be in high demand as for-profit companies seek locations close to public transportation nodes and want to gain access to the broad base of prospective employees in urban and rural communities across the United States. They also are interested in gaining the benefits from the tax incentives. Many of these for-profit entities also accrue community goodwill by establishing development partnerships with non-profit organizations that have a strong presence in these communities.

The series of necessary environmental investigations and remediations may seem daunting at the outset, yet there are many resources available to the first-time and seasoned developer. It is also important to keep in mind that there are numerous opportunities to create collaborative relationships and/or partnerships with other non-profit organizations that have gained experiences in environmental investigations and remediation.

V. ENVIRONMENTAL INVESTIGATIONS AND REMEDIATIONS

Whether your project engages an existing building to be refurbished or a brownfields site, many community economic development projects fail and incur high cost overruns as a result of poor time-management planning and a clear work plan with definitive timelines and responsibilities.

⁴ *The State of the Cities 1999*, published by The U.S. Department of Housing and Urban Development, 1999, pp. 53-54.

⁵ See www.epa.gov/brownfields

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In its online publication entitled, *Opportunities Are Waiting to Happen Redeveloping Abandoned Buildings and Sites to Revitalize Communities*,⁶ the City of Kingston in the state of New York developed a guidebook for the faint hearted and several states maintain databases of sites that are known to be contaminated by substances that would limit the use of the land. In California, the Department of Toxic Substances Control offers a comprehensive, online reference not only of brownfields that are contaminated but also shares the history of each site, past use of the site and causes of the types of contamination found, remedial action recommended, and the status of those reports.⁷

The Northeast Waste Management Official's Association (NEWMOA), in its online publication entitled, *Improving Site Investigation*,⁸ offers a wealth of tips for site owners and prospective owners, to be conducted during the preliminary assessment (PA) of the site. Among these tips, specifically designed to eliminate risks, are the following:

- ❑ Inspect (visually) the site under consideration as well as adjoining properties.
- ❑ Conduct on-site preliminary research to include interviewing former site owners and owners of adjoining sites to gain some history on the past uses of the site.
- ❑ Review federal, state, local and tribal government records including local historical society information.
- ❑ Add to your research any aerial photographs and USGS topological and geological maps.
- ❑ Investigate permits for landfills or other units, storage tanks, or hazardous waste management.
- ❑ Examine Sanborn fire insurance maps, MacRae's Industrial Directory, site plans and as-is drawings; and
- ❑ Incorporate state public health records and registries that will inform you of land use restrictions and institutional controls.

Once you begin construction, you and your development team also want to pay close attention to the safety and health guidelines mandated by the Occupational Safety and Health Act (OSHA) and ensure that you do not violate any of OSHA's Top 10 Willful Violations and its Top 10 Serious Violations identified by this office.⁹ There are online safety-training videos available for purchase that will support you and your team to work within the Act's guidelines and safety regulations.

VI. YOUR DEVELOPMENT TEAM—WHO DOES WHAT

According to Great Lakes Capital Fund, in its workshop presentation entitled *Multifamily Housing Development 101*, offered at the 2006 Michigan Conference on Affordable Housing, June 5-7, in

⁶ See http://www.nyswaterfronts.com/communities_guidebook_ab.asp

⁷ See <http://www.dtsc.ca.gov/SiteCleanup/index.cfm>

⁸ *Improving Site Investigation*, an online publication published by The Northeast Waste Management Officials Association (NEWMOA) at www.nwmoa.org, December 2005.

⁹ See <http://www.safetyvideodirect.com/adobe/OSHA-top10-2004.pdf> and <http://www.safetyvideodirect.com/oshatopics/default.asp>

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Lansing, Michigan, the success of a project is directly related to the responsibilities of the members of the development team.

Whether you are developing rental affordable housing projects or your organization has undertaken a retail strip development objective for small business owners in your community, the following could be tailored and applied to your development needs as you interview and make determinations on the members of your development team:

Market Analyst—The market analyst should—

- Have experience with various financing programs; and
- Have experience doing market studies.

Market Analysis—The market analysis will be expected to—

- Identify depth of housing demand
- Establish rents, number of units, bedroom mix, income targeting, and amenities
- Assess competition
- Assess type of housing needs (i.e., senior, family, etc.)
- Determine absorption rates; and
- Provide information to assist in marketing plan.

Developer—The developer should—

- Have experience in affordable housing development; and
- Have experience in the financing programs.

The Developer will be expected to—

- Assist in site acquisition;
- Complete finance application packaging and coordination;
- Gather financial statements;
- Coordinate the development team; and
- Obtain community approvals.

Architect—The Architect should have—

- Experience in affordable housing design based on financing programs.

The Architect will be responsible for—

- Site plans and building plans;
- Coordinating with the General Contractor on design and costing specifications;
- Construction inspections; and
- Preparation of bid documents (where applicable).

Attorney—The Attorney should have—

- Experience with housing development and financing programs.

The Attorney will be responsible for—

- Organization documents;
- Assisting in local approvals;

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- ❑ Preparing and reviewing partnership documents;
- ❑ Legal opinions; and
- ❑ Closing due diligence.

General Contractor—The General Contractor should have—

- ❑ Experience in building affordable housing and financing programs.

The Contractor will be responsible for—

- ❑ Design assistance
- ❑ Financial strength
- ❑ Preparing bid documents with architect; and
- ❑ Warranty work.

Property Management—The property manager should have—

- ❑ Experience with managing affordable housing and financing program requirements.

The Property Manager will be responsible for—

- ❑ Preparing budgets
- ❑ Preparing marketing and management plans
- ❑ Meeting and monitoring compliance
- ❑ Ongoing maintenance; and
- ❑ Meeting the financial needs of the partnership.

Lender—The Lender is Responsible for—

- ❑ Mortgage financing
- ❑ Construction financing
- ❑ Underwriting feasibility; and
- ❑ Coordinating with the development team.

Accountant—The Accountant should—

- ❑ Have extensive experience working with tax credit projects; and
- ❑ Have a strong working knowledge of the tax credit code.

The Accountant will be expected to—

- ❑ Review the Tax Credit Application before it is submitted (if applicable) to ensure accuracy;
- ❑ Certify cost for the 10% Carryover Applications;
- ❑ Upon construction completion, submit a Cost Certification
- ❑ Complete annual audits for the project operations; and
- ❑ Handle any tax issues with the project.

Elected Officials—The elected officials are responsible for—

- ❑ Community support; and
- ❑ Lender relations.

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VII. CONCLUSION

When any non-profit organization makes the decision to take the critical steps to develop a project in our disadvantaged and disinvested urban and rural communities the tasks may appear overwhelming for those organizations that are stepping out in this arena for the first time. As discussed at the beginning of this primer, experience is gained through taking a risk.

These risks could be minimized through collaboration and the formation of partnerships with for-profit or non-profit entities and members of your community—sometimes commonly referred to as the “end-users”. While choosing these collaborators or partners brings with it a certain level of anxiety and friction, the following are highlights for consideration when choosing potential partners, as outlined by the Amherst H. Wilder Foundation¹⁰:—

- ❑ **Capacity**—The capacity required varies with the scope of the work to be done
- ❑ **Difficulty**—Choosing members of your collaborative team is an act of power because they later select strategies and control resources
- ❑ **Dynamics**—Special relationships outside of the collaboration can affect the dynamics of the group
- ❑ **Familiarity**—Similarities in purpose, expertise, community, clients, and other factors will help the collaboration to be more effective
- ❑ **Impact**—The proposed members may be the end users—those individuals who are going to be most directly affected by the joint effort
- ❑ **Power**—The members of your collaboration should be chosen because they have the power to achieve results
- ❑ **Stimulus**—Some key people are “queen bees” who attract workers
- ❑ **Territory**—Since individuals tend to invite people from similar disciplines to work with them including others from many different sectors could help your project; and
- ❑ **Variety**—Collaborations need varied skill sets and powers.

Whether your project includes finding and taking title to a site that includes the revitalization of an existing building that may be challenged by lead paint or a site that is listed among the Brownfield Register in your urban or rural community, the work to be completed can be prioritized, the site improvements can be accomplished and the challenges you encounter can be overcome with support from your community and collaborators.

NCCED and OCS encourage you to take those risks that will change the face of your community. When you step out there and gain those experiences, with the right team, your organization also would change the quality of life for residents in these disadvantaged and disinvested urban and rural communities.

¹⁰ *Collaboration Handbook—Creating, Sustaining and Enjoying the Journey*, Michael Winer and Karen Ray, published by Amherst H. Wilder Foundation, May 1996.

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Suggested Readings and Electronic Resources:

1. Atlas, John and Ellen Shoshkes, *Saving Affordable Housing What Community Groups Can Do & What Government Should Do*, A National Housing Institute Study Funded by The Ford Foundation, 1997 at <http://www.nhi.org>
2. California Community Economic Development Association (CCEDA), *Dictionary of Community Development Terms—A Resource Book for Practitioners and Funders*, edited by Yael Falicoo, 1995.
3. Digital Collections: Sandborn Fire Insurance Maps at <http://www.lib.utah.edu/digital/collections/sanborn/>.
4. The Fannie Mae Foundation Housing Policy Debate, *Windows of Opportunity: Lead Poisoning Prevention, Housing Affordability, and Energy Conservation* Volume 17, Issue I, 2006.
5. The Fannie Mae Foundation's *Knowledgeplex: Affordable Housing Development & Finance*, at <http://www.knowledgeplex.org/topic.html?c=231>
6. Local Initiatives Support Corporation (LISC). *Preservation of Affordable Rural Housing: A Practitioners' Guide to the Section 515 Program*, written by Leslie Strauss, Lindley Higgins, Gideon Anders, Timothy L. Thompson, Christine R. Goepfert, Shereen Aboul-Saad and Adam Galowitz, March 2005 at <http://www.knowledgeplex.org/showdoc.html?id=89802>.
7. OSHA's *Top 10 Violations*, at <http://www.safetyvideodirect.com/adobe/OSHA-top10-2004.pdf>
8. The Partnership Project of the National Association of Development Organizations Research Foundation, *The Power of Partnerships A Guide for Practitioners and Policymakers*, April 1998.
9. U.S. Department of Interior, U.S. Geological Survey, *Do You Know the Hazard in Your Backyard?* July 26, 2006. See <http://www.usgs.gov/newsroom/article.asp?ID=1531>.
10. University of California, Berkley, *Sandborn and other Fire Insurance Maps—Earth Sciences & Map Library*, at <http://www.lib.berkeley.edu/EART/sanborn.html>
11. Walker, Christopher and Mark Weinheimer, *Community Development in the 1990s*, The Urban Institute, September 1998.
12. Winer, John and Karen Ray, *Collaboration Handbook Creating, Sustaining, and Enjoying the Journey*, published by Amherst H. Wilder Foundation, St. Paul, Minnesota, 1996.

Disclaimer: NCCED had provided this information as a general service to community development corporations (CDCs) and community-based organizations (CBOs). The information contained in this Primer does not contain all of the necessary elements that should be considered for preparing a site.