Redefining the Development Process

Choosing Collaboration over Contention to Protect Natural Resources and Maximize the Public Value of Private Development
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Introduction

Overview

This handbook is a companion to a series of workshops offered in the fall of 2007 of the same title: *Redefining the Development Process: Choosing Collaboration over Contention to Protect Natural Resources and Maximize the Public Value of Private Development.*

Premise and Intent of Workshops and Handbook

The premise behind the workshops and this handbook is the growing recognition that traditional approaches to development alone are not resulting in the public values envisioned by local citizens and defined (to various levels) in local comprehensive plans. The proposition, as presented here, is that a more proactive way of thinking about how LGUs manage development is necessary if outcomes are to be improved.

The intent of the workshops and handbook are to:

- Increase awareness of evolving approaches and practices for LGUs to work with landowners and developers to maximize the public value of private development
- Provide insights into how LGUs can reshape the way traditional regulatory controls are leveraged to achieve their unique community vision and set of public values
- Gain first-hand exposure to other practitioners’ and developers’ perspectives on working effectively together, and what is necessary for a successful relationship
- Take away specific practices, techniques, and examples that can be applied in any community

Note that this handbook is not an exhaustive evaluation of best practices that will result in better LGU performance and development outcomes per se. Instead, it is a start to a new dialogue among public-side practitioners to think differently about managing development, sharing ideas of merit, and building confidence that a public values-driven collaborative development track is a viable alternative to a traditional development track to achieve better outcomes.

Complementary Resources for LGUs

To complement this handbook, a growing variety of resources are available to LGUs in preparing comprehensive plans that reflect the vision and values held by local residents. This is especially the case with integrating natural resource open spaces/greenways, parks, and trails into local comprehensive plans.

Although not exhaustive, the following is a listing of resources worth reviewing when preparing comprehensive plan updates or updating traditional development controls.
**Introduction**

This handbook is organized under three sections that explore various themes, as follows:

- **Section 1 – Thinking Differently** explores the rationale for taking a new approach to managing development and model for framing the discussion in subsequent sections
- **Section 2 - Redefining LGU Role** defines the mind-set change LGUs have to undertake to manage development differently to be more successful at achieving desired public values out of private development
- **Section 3 – Leveraging** explores the use of traditional development controls and incentives as leveraging under a collaborative development track to achieve desired public values

**Organization Providing Assistance**

The following organizations offer a variety of services and resources that complement the handbook:

- Embrace Open Space (http://www.embraceopenspace.org)
- Trust for Public Land (http://www.tpl.org) – Local Greenprinting for Growth Workbook series
- ULI Minnesota (http://minnesota.uli.org/AM/Template.cfm?Section=Conservation_Development)
- Minnesota Land Trust (http://www.mnltrust.org/prog-consplanning.html)
- 1000 Friends of Minnesota (http://www.1000fom.org/)

**Publication Resources**

The illustrated publications are complementary to this handbook, particularly in the area of comprehensive planning and refinement of traditional development controls.
Thinking differently about managing development starts by recognizing that natural resources/ecology, cultural amenities, and economic viability are intrinsically-linked components to creating sustainable, livable communities. Figure 1 illustrates this interrelationship.

The premise is that to protect and preserve natural resources and provide other public values, they must be considered within the context of, and balanced against, the other two components of community development. Put in another way, realizing desired public values is contingent upon residents valuing them as amenities to their lives and then being willing to pay for them within the marketplace. The marketplace in this case is broadly defined to include everything from residents’ willingness to pay additional taxes to directly pay for amenities to leveraging the private development process to indirectly pay for them. Whatever way these values are paid for, costs are indeed significant and a choice has to be made as to the public’s appetite for one way versus another. With history as our guide, willingness to pay additional taxes has proven to be very fickle. So taking full advantage of leveraging the private development process is where the opportunity seems to lie.
Under this premise, LGUs that recognize the need for balanced, win-win outcomes and then shape their implementation strategies around working collaboratively with landowners and developers will have the best prospect for actually achieving their vision – one that goes well beyond minimal public-side outcomes fostered by traditional development controls. This is one of the main premises behind this handbook.

**THE NECESSITY OF A CHANGE**

Although changing established practices is challenging, it is often necessary on the road to greater success. In the context of this handbook, the need for change is driven by a reflection on the level of past success in realizing the public values being strived for under traditional approaches. The simple question is: *Are we satisfied with the results of our past planning and implementation efforts?* And if not, *what needs to change to get better at serving the public good?*

In its truest form, the act of preparing a vision and set of desired public values for a community or region is a creative process. Through public process, the community participates in setting forth what it wants to achieve, which is then reflected in their parks, open space, and trails plan and comprehensive plan. Many of these plans are visionary in their description of the preferred future that residents see as critical to their quality of life expectations. In most contemporary plans, preserving natural open spaces and providing parks and trails is becoming an ever more resounding core value than was the case in previous decades – perhaps due to the increased pace of open space giving way to development.

Unfortunately, the act of translating a local comprehensive plan into a set of regulatory requirements diminishes the flexibility and collaborative give and take needed for creative, balanced outcomes to evolve as land is actually developed. Through a strictly regulatory approach, LGUs (and other regulatory agencies) have in effect often become their own limiting factor in achieving the public value outcomes most desired. Whereas the writing of any given ordinance and land use zoning decision is well intended (and necessary), their rigid application often has unintended consequences and may result in less than optimal outcomes due to the uniqueness of each and every site. Further, rigidly applied regulations irrespective of the situation inherently impact the economics of a development with sometimes little discernible public-side value. These economic hits further limit a landowner’s or developer’s willingness to be flexible or provide any public values beyond which are absolutely required. Figure 2 illustrates this point.

**Figure 2 – CAUSE-EFFECT OF INCREASED REGULATORY REQUIREMENTS**

<table>
<thead>
<tr>
<th><strong>Increased Requirements</strong></th>
<th>Increases Development Costs</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>More Rigid, Limited Development Package with Fewer Public Values</strong></td>
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**Predictable Ramifications:**
- Decreased willingness (or economic ability) by developer to provide any additional public values beyond the minimum required
- More rigid, safe, by the rules approach
- Creativity marginalized and primarily directed at development values
- More conflict over all issues, fees, and charges
A good example of this is wetland setbacks, in which a required setback of some dimension, such as 30 or even 50 feet, is well intended, but in application may not be the best ecological solution for a given site. For example, the best ecological outcome may require less of a setback in some areas and considerably more in others.

Another example is the filling of a degraded wetland that might make sense in order to preserve an upland buffer adjacent to a high quality wetland. Whatever the case, under a rigid traditional approach, the LGU limits its own opportunity to negotiate a better solution unless there is an accepted alternative track for that to occur.

Importantly, this discussion is not to suggest that traditional development controls are not important. Quite the contrary, as will be defined in this handbook, they are very important and systemically updating these controls has much merit to maximize their effectiveness. However, even a well-written and complete set of controls are not an end unto themselves. Instead, they are best viewed as a means to an end when used as leveraging under an alternative development track that is more flexible, collaborative, and outcome-based. This distinction is fundamentally important to thinking differently about managing development and the role that LGUs see for themselves in that process: One that is less of a regulator and more of a creative planner leading the way to a preferred future. Figure 3 conceptually illustrates this point.

**Figure 3 – Mind-Set Change to Achieve Preferred Future**

**LGU as Regulatory Authority Mind-Set**

Whoa! That does not meet our requirements! Try again and come back....

Yes it does! You can't make me change it! We followed the rules to the letter!

**LGU as Creative, Collaborative Partner Mind-Set**

How about moving that lot over here to free up open space? We'll work with you on filling any economic gap that creates!

Yup, I can do that if you offer more flexibility on lot sizes and consider reducing the road width. If so, you got a deal!
As the illustration suggests, the importance and use of traditional development controls is not diminished, just reshaped to provide the essential leverage needed for the LGU to set the stage for the collaborative process. In fact, the stronger and more thought-out traditional development controls are, the better positioned an LGU is to leverage against those controls. Used thoughtfully, traditional development controls can effectively establish an LGU’s balancing point between the desire for (or acceptance of) economic development relative to preserving the values that residents hold about living in the community. (This point is considered in greater detail later in this handbook.)

A NEW MODEL FOR MANAGING DEVELOPMENT

To frame this discussion about thinking differently, a new model for managing development is proposed – one that fosters collaboration over contention to achieve higher public values from private development. The core principles behind taking a new approach include:

- More effectively and purposefully leveraging* an LGUs’ regulatory authority to achieve desired public values within the context of economically-viable and marketable development
- Fostering a collaborative approach to community development from a position of strength, flexibility, and incentives
- Striving for win-win-win outcomes that respond to the interests of the local citizens (as represented by the LGU), other regulatory authorities, and the developer

Taking action on these principles requires a new way of thinking about an LGU’s role in the development process: Going from that of a regulatory authority to one that takes on a leadership role in proactively shaping the final built form of the community. Figure 4 illustrates this shift.

FIGURE 4– LGUs ROLE IN MANAGING DEVELOPMENT

Traditional Scenario for Development

Developer Drives Process Following Defined Regulations

LGU Reacts Relative to Regulations

Preferred Scenario for Development

LGU Defines Public Values Being Sought

Developer Accommodates, Within Context of Economic Viability

Although it is fair to surmise that this is in fact being done to varying degrees across the region, it is an equally valid presumption that much opportunity remains to think and act differently in order to realize better results out of the private development process.

A more proactive way of thinking about managing development is centered around the notion that an LGU’s regulatory capacity can be used more effectively to entice developers into a collaborative process. At the core of this approach is that win-win-win outcomes for the LGU, developers, and regulatory agencies are not only possible but necessary to realize developments that have enduring value and preserve the local sense of place and landscape character. The following public values-based development model captures the important facets of this approach.

* Leveraging – i.e., effectively using one’s position in a given situation as a means to influence outcomes
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As the planning model illustrates, the leveraging position that an LGU has under a public values-driven collaborative track is underpinned by a well-defined community vision and set of public values that are clearly defined and articulated in local comprehensive plans. Further, well-written and positioned regulatory controls that support a traditional approach are vital to establishing the LGU’s leveraging position under the collaborative track. That said, it is important to recognize that strengthening traditional controls is a balancing act, and LGUs should be careful to only go as far as needed to achieve desired results. This handbook will repeatedly come back to these basic precepts.
The need to think differently about managing development did not emerge in a vacuum. It is based on the reality that many citizens and their elected leaders are frustrated with the form that many developments take and the lack of regard for preserving natural open spaces or realizing other public values being strived for. An hour or two spent on Google Earth or similar program clearly illustrates the often seemingly arbitrariness of land development patterns that happen under traditional development approaches. The following aerial images provide two simple examples of how traditional approaches to managing development plays out in typical land use decisions.

**Review of Past Results Supports the Need for a New Direction**

As these aerials illustrates, preservation of contiguous natural open space and greenway corridors was not a key factor in land use decisions. Whereas the developments likely provide appealing living environments on an individual basis, it is at the expense of fragmentation of natural systems and loss of other public values, such as greenway-based trails. Importantly, the use of a more thoughtful approach to preserving public values does not have to result in significant loss of personal values. In fact, a well-designed conservation development can essentially appeal to the same personal values without compromising the values held by the broader community.
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1 – Thinking Differently

To be sure, the use of these examples is not to suggest individual choice must give way to broader public values. Quite the contrary, the goal with integrating open space, parks, and trails into the fabric of all developments is to add value to one’s personal living environment that goes well beyond that of the individual property. In doing so, both the quality of life of those living in a particular development is enhanced, as well as for those living elsewhere in the community that have access to them as part of the public domain.

The lack of being more successful in planning developments is often not due to the lack of resident desire or political will. Most residents accept the inevitability of change and want their community to be responsibly developed. More often, poor results are due to lack of understanding (and proof) that a better way exists to manage development that won’t end up alienating residents and political interests in the process. Indeed, the act of strengthening traditional development controls inherently threatens a host of interests, ranging from landowners and developers to individual residents who simply don’t want to be told what they can and cannot do with their property. So relying on a traditional track alone will likely not result in outcomes that are much different that what is already the case. In other words, if a growing community follows the same traditional track and time line as others have before it, one can expect essentially the same outcome and, unfortunately, sense of missed opportunity once it is too late to do anything differently.*

Using these simple examples alone, the rationale for taking a new approach to managing development is strong: An approach that is guided by a strong and defensible vision and set of values, yet has the inherent flexibility to accommodate, in good faith, the interests of individual stakeholders. This can only be accomplished through an inclusive, collaborative process in which individual participants trust that their interests are not lost in the shuffle within the context of acceptable boundaries defined by local elected leaders. Only then can one expect that the political will be in place to move forward in a timely enough manner to make a difference.

* Definition of Insanity: Doing the same thing over and over again and expecting different results.
Albert Einstein

As this aerial illustrates, an attempt was made to integrate trails and ponding areas into this development. Unfortunately, the development resulted in the fragmentation of an adjoining greenway corridor. Further, the ponding areas offer little ecological value and the value of the trails is reduced due to their proximity to private property lines.

Under a more informed collaborative approach, many more public values could have been realized without compromising the economic viability of the project. In fact, more private value would likely have been added to these properties in the process of capturing higher public values.
In 2007, the Minnesota Land Trust (MLT) undertook an evaluation of conservation developments in Minnesota. A report entitled *Minnesota Conservation Development Evaluation* summarized the findings. The report is complemented with a number of other reports and listings related to conservation developments. The following summarizes select findings from this research with relevance to this handbook. The full report is available through the Minnesota Land Trust.

**Key Points Related to Existing Conservation Developments**

Key points taken from the MLT research of 15 LGUs with some form of conservation development occurring in their communities include:

- A number of LGUs have more recently crafted planning documents with a stronger emphasis on conservation design elements
- An increasing number of LGUs have or are in the process of conducting natural resource inventories
- A number of LGUs indicated that local ordinances will be updated to better reflect their planning documents and resource inventories
- Some LGUs expressed concern regarding development density goals set by the Met Council, which may make it more difficult to offer density increases as an incentive for conservation design
- About two thirds of the LGUs interviewed indicated that most of their current conservation design proposals were *not* developed within the context of a broader open space, conservation, or parks and trails vision, and were more isolated events than common place
- The LGUs with a conservation design option as part of their subdivision ordinance indicated that they tend to use a similar review process as with a traditional subdivision
- LGUs note a number of areas within their ordinances and processes that would benefit from some revision; Chisago County, for example, noted that their current density transfer program has resulted in the transfer of density from agricultural lands to shorelands, which is counter productive from a resource protection point of view
- In many cases, it appears that there is limited involvement from natural resource professionals as part of the design review process, unless the developer initiates doing so on their own

A few other worthwhile good, mediocre, and poor results from the MLT research related to the value of conservation developments include the following.

**Good or positive outcomes** include:

- More activity than expected in regard to the number of conservation developments that have or are in the process of occurring in the state
- Several exceptional projects with multiple public benefits are notable, including Wild Meadows, Inspiration, Fields of St. Croix, and Jackson Meadow
- Some projects offer obvious conservation/public gains, especially with recreation, stormwater, and sense of place
- All conservation developments required some form of permanent protection of the open space
- A strong push for shoreland protection zones was noted
Mediocre outcomes include:

- Many or most of the conservation developments were higher-end developments
- Only 2/3 of LGUs really had a specific goal of conservation development in mind
- Many density concerns remain
- Few conservation areas that were set aside included long term management
- Open space requirements ranged from 40-75%, but less than half had mapped priority areas ahead of time
- 2/3 of LGUs indicated that conservation developments were isolated events and largely developer-driven
- More negotiations required as part of the process was seen as bad

Poorer outcomes include:

- Several projects simply were not successful as conservation developments
- Several LGUs saw no appreciable benefits to conservation development
- Conservation development process is often seen as time consuming
- Few repeat developers have done conservation developers, with any number of concerns as to why
- Expertise was often lacking in the review of plans
- Often, the objectives and values being sought were not clearly defined by the LGU
- Struggles with engineering issues often emerge

As these results suggest, there are indeed a few select examples of successful conservation developments that serve as good examples to build upon. That said, it is also apparent that there is a need for dramatic improvement in the way in which LGUs work with developers and landowners, along with a better understanding on the public values that are being sought.

Clearly defining a community vision, understanding the public values being sought through the private development process, and working collaboratively with the development community are all vital to making wise land use decisions in the future.

As these images suggest, the choices made early in a community’s development cycle profoundly affect the final built form that a community will take many years in the future.

Based on the results of the MLT research, there is a reason for some optimism, as is there room for improvement on how LGUs interact with landowners and developers.

Image Source: Minnesota Land Trust

Which land use future best serves the public’s best interest?
Shifting to a more proactive collaborative approach to managing development is important no matter where a community is in its development cycle. This is especially true in the earliest phase of growth when even small land use decisions truly matter. Decisions made when a rural community begins to see development pressure set the stage for all development to come. Any land use decision made (or the lack thereof) will affect future opportunities that once lost cannot be easily recovered. Even something as seemingly simple and incidental as a single home being placed within a core natural area can fragment that landscape, making it that much more difficult to preserve a desired greenway corridor in the future.

Although traditional development controls may limit the extent to which a given parcel is developed, they often fall short in actually guiding development to preserve future opportunities. This is especially the case with preserving the long-term opportunity for interconnected natural greenways and trail corridors. The following aerial image illustrates this point.

As the aerial illustrates, the placement of 3 or 4 homes in a high-value natural area can instantly fragment natural systems and preclude any longer-term possibility for an interconnected greenway system in this area of the community. Had adequate forethought been given to this issue, these properties could have been placed more selectively where the personal values of the homeowners (which are legitimate) could have still be largely accommodated while preserving future opportunities. This simple example underscores the importance of LGUs taking a proactive role in not only managing density, but managing the final built form of the community as well.

For this reason, the use of an alternative development track (coupled with the capacity to implement it) has as much application for communities outside the urban services areas (and in the early stages of their development cycle) as it does for communities inside. Figure 6 illustrates the risk of opportunity lost whenever the ability to manage growth to achieve desired ends lags behind the development that is occurring.
When the ability of an LGU to manage development to achieve desired public values lags behind the pace of change, opportunity lost can become a pervasive problem and very disheartening to informed citizens.

Conversely, when early-on efforts are aimed at improving the ability of an LGU to manage development to achieve desired public values are made, the extent of opportunity lost can be greatly reduced and very uplifting to informed citizens.

As the figure illustrates, the potential for lost opportunities is very high when an LGU lacks the ability to effectively manage development, especially early on in its development cycle when opportunities are the greatest. This is typically due to:

- Lack of a well-defined vision and understanding of desired public values, most often due to the lack of sound public process and education
- Misguided traditional development controls that do not actually result in the desired outcomes (even when applied by the letter of the ordinance, or perhaps due to that application)
- Conflicting political will, which is a reflection of elected leaders attempting to balance perceived values versus perceived threats relative to a constituent interest
- Lack of staff experience, training, capability, and understanding of the techniques that are necessary to negotiate desired outcomes
- Economic uncertainty (perceived or real), which is often a reflection of the zero-sum outcomes fostered by traditional approaches, versus both sides seeking win-win outcomes

Clearly, the cost of learning on the job and applying the same unproductive techniques over and over again is too high. When each lesson learned results in a less than optimal development outcome, that opportunity can never be recaptured. In this context, if traditional approaches have proven limitations, the only reasonable strategy is to think differently and improve the public-side collective capacity to more effectively manage development.
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REALITY CHECK: A CHRONIC LACK OF FUNDING

The economic realities of implementing local comprehensive plans is also a major reason to think more proactively about leveraging private development to achieve higher public values. The fact is most communities are only partially successful in realizing the public values they strive for following traditional development and funding approaches. This is especially the case with parks, open spaces, and trails, which are often considered important, but not “essential” services. Hence, under-funding is a chronic issue. Whereas statutory and practical limits on park dedication and similar fees and charges play a role in this, so does the timing between when funding is needed and a local community’s willingness or capacity to pay. Figure 7 illustrates this perplexing but quite common dilemma.

**Figure 7 – Funding Needs Relative to Capacity to Fund**

- High Funding Needs Relative to Capacity to Fund
- Perpetual Funding Gap
- Funding influx (referendum, etc.)
- Willingness or Capacity to Fund
- Rural, Small Town Setting with Minimal Public Infrastructure
- Fully-Developed Community with Extensive Public Infrastructure
- Community Development Time line to Full Development

Whereas it would be great to change our collective ways as a society in setting priorities, *wishful thinking is not a strategy*. Nor is relying on the notion that outside revenue sources will suddenly become a more reliable means of funding local initiatives. In the end, rethinking how LGUs work with landowners and developers to find more viable ways to leverage the local private economy is the only reasonable way forward if greater success is to be realized. This is only likely to occur under a much more collaborative win-win context in which all parties have the incentive and vested interest to participate.

**A Partnership of Many is Useful, But is Not Enough**

In the end, the economic wherewithal to realize desired public values will likely include at some level “a partnership of many” players that each bring resources to the table. This is especially the case in the area of preserving open space, where LGUs, MN DNR, USFW, MPCA, land trusts, local conservation groups, and so forth can pool resources in select situations as opportunities present themselves. To be certain, every one of these opportunities should be exploited to their fullest potential.

That said, if history is our guide, even the most robust partnership approach will fall well short of the resources needed to realize desired public values. As such, the core responsibility of developing new strategies to further its cause falls back on the shoulders of the LGU.
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2

Redefining LGU Role: A New Posture for Managing Development

A Steadfast Commitment to a New Mind-set is Required

In embracing a two-track strategy, its effectiveness and ultimate success requires a steadfast commitment to using the traditional track primarily as leverage for the collaborative track. Inherently, this requires a shift in an LGU’s mind-set and approach to leadership in order to stay committed to doing things differently and not falling back into comfortable, albeit less successful, patterns. This transition can be enhanced by focusing on key mind-set factors that differentiate the collaborative versus traditional development tracks at the implementation level, as figure 8 illustrates.

Although this mind-set shift may seem intuitive, the structured nature of the traditional development track often acts counter to it. Further, the diagram underscores the fundamental question that LGU staff and officials on various councils, boards, and commissions must ask of themselves every time a development proposal is being considered: Are we making the right developmental judgement in each individual case as to whether or not the common vision and values of the community are being realized? This is a major departure from asking the question: Are the rules being adhered to?

In reality, decisions made today are those that will fully play themselves out in 10, 25, or even 50 years from now. The questions then become: Is the piece of the community puzzle that we’re putting into place today going to fit in the long term? And are we following a development approach that will ensure that desired future?
Collaboration is defined in the dictionary simply as “to work together.” What is not said is that certain principles must be adhered to in spirit and practice if a collaboration is to be successful. In this context, key principles include:

- Maintaining trust between stakeholders
- Providing clarity on desired outcomes
- Respecting the economic viability and marketability of land use decisions
- Being committed to win-win-win outcomes

The following considers each of these in greater detail.

**Maintaining Trust Between Stakeholders**

Collaboration is essentially about respectful give and take toward an end that reasonably satisfies everyone's goals. To be successful, the relationship between participants is fundamentally built on trust, which is defined in the dictionary as “firm reliance on the integrity, ability, or character of a person; confident belief; faith.” At some level, the entire business world is built on trusting relationships that are time tested to ensure that they remain productive.

For clarity, trust should not be confused with business acumen – which relates more to being good at what you do and getting the results you need out of a collaboration to be successful. The better one is at negotiating a desired end, the better the act of collaboration tends to work for them. Instead, trust is more about the integrity of the process, being forthright in one's dealings, and being honest about what's working and what is not. For a developer, clarity in expectations, integrity of the process, and following through on what was agreed upon is critical to them participating in a collaborative endeavor. Otherwise, just following the rules is a much safer and predictable route to getting their development into the ground.

If the trust bond is strong, a business relationship will flourish and win-win outcomes will result. After all, there is no reason for doing business if one side fails, not for long anyway. Conversely, if trust is broken, all of the collaborators are put at risk. A significant breach of trust can undo not only relationships, but an entire business enterprise (think Enron). For this reason, the importance of trust and integrity cannot be overstated under the collaborative context.

The same holds true when developers work with an LGU. The foundation for success is still based on trust between people, not institutions. Since a landowner or developer can always choose a traditional track to land development, the burden of building trust to follow a different track falls largely upon LGU staff. The best way for the collaborative approach to take root is for the LGU to take the first step by taking on the leadership role on behalf of the public good. A passive approach in this regard will not lead to a successful collaboration and will, in fact, likely result in the lack of interest by developers to follow a nontraditional approach.

The type of leadership that developers refer to when working with an LGU centers on providing a single-point person who can be relied upon from project inception through approval and actual development. This includes taking responsibility for managing the LGU team; working with staff and elected officials each step of the way on project issues and resolving conflicts; and making timely decisions that are adhered to as the project moves forward.
The last point is of critical importance in that everyone must be accountable for decisions made along the way. Consistency and timeliness of the decision process is vital in a developer’s mind and a prerequisite to a collaborative process. In instances where ambiguity or disagreement remain, the LGU must be forthright with the developer so that an informed decision can be made to either move forward or fall back into a traditional approach. From a developer’s perspective, lack of leadership and clarity on desired outcomes almost instantly undercuts trust and hence any expectation that they will be successful.

**Providing Clarity on Desired Outcomes**

Throughout the development process, both the LGU and developer must clearly and repeatedly define and clarify desired outcomes. On the LGU side, that includes an understanding of the public values that are desired down to the minutest of details. It is up to the LGU team to translate the vision and public values defined in various plans into a physical form that the developer can respond to. In addition, it is up to the LGU to decide internally which values are most important where disagreements arise among staff and/or elected officials, or when needed flexibility provided to the developer is in conflict with traditional development controls.

On the developers’ side, providing clarity and being forthright on the economic issues and project market forces are the most important. Throughout the process, the LGU will be relying on the developer to provide assurance that the project is viable and that the trade-offs and flexibility being given will yield discernible public values in return.

**Respecting the Economic Viability and Marketability of Land Use Decisions**

Economic viability is a key factor behind all private development initiatives. In the end, development is a business and as such responds to market forces and economic rationale. Through their regulatory role, LGUs certainly play an important part in directly and indirectly shaping the pro forma for a development. But in the end, the developer must have a marketable project or it will simply not be pursued. What LGUs have to recognize is that success in achieving their own vision is contingent upon the economic viability and marketability of a development.

Marketability and market forces essentially refer to what residential buyers will pay for when they actually purchase a property. Understandably, developers will not stray far from what they know to be marketable given the downside risk of missing the marketplace at a given point in time. The less sophisticated a developer is, the more likely they will be to doing what they know will sell – which most often results in a cookie-cutter type development outcome. So to get them to budge from the normal, safe route, the LGU will have to be smart about the use of incentives to end up with a better outcome.

In a recent survey, when developers were asked to rank residential customer’s purchasing factors, the most important ones include cost of home, location based on type or character of neighborhood, quality of schools, and location based on affordability. Figure 9 on the next page illustrates these findings.


To determine where natural open space fits in the overall scheme of things, developers were asked to what extent buyers value NATURAL open space over other types of open space (e.g., golf courses, open fields, agricultural land, etc.). Over half (52%) rated it a 3 on a scale of 1-5; with the mean score being 3.12. So, while collectively the public may highly value natural open space, an individual actually purchasing a property may see it is as moderately important relative to other factors, as listed.

As the survey results suggest, developers respond to what people actually buy. Although developers often test new ideas to gain a competitive edge, most often they react to the marketplace, making judgements based on experience of what will sell. Given the fickle nature of market forces, hitting the market right at any point in time alone presents considerable risk. So expecting a developer to take on additional risk by adding on amenities that buyers may or may not be willing to pay for simply goes counter to rational thinking.

**Figure 9 – Factors Influencing Residential Customers’ Purchasing Decisions**

Source: 2007 Developers Survey conducted by Schoenbauer Consulting LLC and Brauer & Associates, Ltd. under a Bush Foundation Grant.

<table>
<thead>
<tr>
<th>Factor</th>
<th>Mean Score</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>First Tier Factors</strong></td>
<td></td>
</tr>
<tr>
<td>Cost of home</td>
<td>4.42</td>
</tr>
<tr>
<td>Location based on type or character of neighborhood</td>
<td>4.25</td>
</tr>
<tr>
<td>Location based on affordability</td>
<td>4.08</td>
</tr>
<tr>
<td>Quality of schools</td>
<td>4.08</td>
</tr>
<tr>
<td>Type of house (character style etc.)</td>
<td>3.85</td>
</tr>
<tr>
<td>Property taxes</td>
<td>3.69</td>
</tr>
<tr>
<td>Drive time to work</td>
<td>3.64</td>
</tr>
<tr>
<td>Nearby neighborhood parks</td>
<td>3.63</td>
</tr>
<tr>
<td>Access to nearby trails</td>
<td>3.53</td>
</tr>
<tr>
<td>Nearby natural open space</td>
<td>3.46</td>
</tr>
<tr>
<td>Drive time to retail other services etc.</td>
<td>3.45</td>
</tr>
<tr>
<td>Lot size (how house fits on property)</td>
<td>3.40</td>
</tr>
<tr>
<td>Sense of privacy</td>
<td>3.32</td>
</tr>
<tr>
<td>Directly abutting natural open space</td>
<td>3.37</td>
</tr>
<tr>
<td>Directly abutting neighborhood parks</td>
<td>3.00</td>
</tr>
<tr>
<td>Directly adjacent to trails</td>
<td>2.77</td>
</tr>
<tr>
<td>Lot size (larger lots being better)</td>
<td>2.66</td>
</tr>
<tr>
<td>Nearby public athletic facilities</td>
<td>2.66</td>
</tr>
<tr>
<td>Access to public transportation</td>
<td>2.48</td>
</tr>
<tr>
<td>Stewardship program for natural open space areas*</td>
<td>2.27</td>
</tr>
<tr>
<td>Management of stormwater to improve water quality</td>
<td>2.20</td>
</tr>
</tbody>
</table>

* Refers to restoration of natural systems removal of buckthorn etc.
What is often misconstrued on the public side is the notion that development is very lucrative, which at times it can be. Most commonly, however, the business is very competitive, with typical profit margins more in the 5-15% range – which is in fact on par with many other types of businesses. As such, developers will not stray far from what they know will sell because to do otherwise is too risky to the bottom line. Further, the notion that an LGU can use their regulatory and approvals authority to “strong arm” a developer to “give more” at the expense of their profit margin is misguided and only reinforces the zero-sum game. Whether a small local developer or a national company, development is a for-profit venture with performance expectations. So once an LGU gets a certain reputation for being heavy handed, the developers will simply re-calibrate how they work with a community and become even more rigid. Hence, the LGUs own actions reinforce the zero-sum game and thus it should not be surprising when the only developers that work in the city play hard ball and deliver only the absolute minimum public values called for under local controls.

Whereas public values such as parks, open spaces, and trails are typically of considerable spoken importance to a residential buyer, they are often not the top priorities in an actual buying decision. That’s not to say these amenities are not valued, which they clearly are in most cases. But at the actual point of purchase, a buyer may not be willing to spend thousands of extra dollars for those amenities when their budget is already stretched. As such, developers cannot (and will not) provide them if the economics fall short, even though they too know that the project would be better for the buyer and the community in terms of quality living environment. One of the biggest frustrations that developers cite is that these desired amenities may actually be achievable if an LGU would be prudently flexible and recognize that their own success is also contingent on the economic success of the project.

Being Committed to Win-Win-Win Outcomes

Fundamental to a successful collaborative process is a commitment to win-win-win outcomes for the LGU, developer, and regulatory agencies. Intuitively, this seems like common sense. However, in practice, traditional development approaches tend to actually foster zero-sum outcomes – i.e., one cannot win unless the other loses. Regulatory controls, by their nature, are punitive – do this or approval will not be given. Whereas ground rules are indeed needed to set the baseline for a minimally-acceptable public outcome, the very act of doing so sets up a contentious relationship between the LGU and developer.

In such a relationship, the developer often makes a business decision to play it “safe” and just follow the rules. In doing so, the best outcomes may never even be explored. And most often it is the public side that has the most to lose because the developer, as frustrated as they may be, will make economically-sound decisions about moving forward with a development proposal.

So in the end, it is the LGU and regulatory agencies that actually have much to gain by being more flexible and working collaboratively with developers. Further, LGUs must recognize that developers must in fact do better through a collaborative approach than simply producing a standard development.
Redefining the Development Process

Redefining LGU Role

Thinking differently about managing development is underpinned by the capabilities of LGUs. Lacking the capability to effectively collaborate will undermine the viability of the collaborative track. This is especially the case with LGU staff (and their consultants), who bear the core responsibility for guiding the planning process, managing political interests, informing and educating citizens, and ultimately crafting a strong vision for the community.

Of equal importance is staff’s capacity to translate the vision into actual physical outcomes that accurately reflect public values. This requires the right attitude, training, experience, innate capability, and understanding of the techniques that are necessary to negotiate complex outcomes. It also requires key staff to internalize and act upon the core principles behind taking a new approach to managing development, as defined on page 16.

FIGURE 10 – REACHING OPTIMAL DEVELOPMENT OUTCOME THRESHOLD

Note that this graphically illustrates the notion of gain for each party. However, within those gains lies many compromises and give and take on one item to get flexibility on another.

Defined through the application of traditional development controls and regulatory requirements

Point of maximum collective success

Threshold Outcome

In the win-win-win context, each party has to be willing to negotiate to reach the optimal threshold. If any party over-reaches, the project falls apart and any gains made over a traditional development approach are lost for everyone. It is the risk of missed opportunity to outperform a traditional approach that tends to keep all parties committed to finding the optimal threshold where they can all be more successful.

Tradition Approach Outcome

The importance of understanding where the threshold is and not over reaching cannot be overstated because in doing so the viability of the project is undercut. This is where trust comes into play in that each party must be willing to state clearly its intention, negotiate in good-faith, and, essentially, not play games given the downside of not being successful.

LGU Capabilities Supports Strategy
Taking action on these principles requires a team that can think differently about an LGU’s role in the development process: Going from that of a regulatory authority to one that takes on a leadership role in shaping the final built form of a community.

**Developers’ Perspectives on Working with LGUs**

In the same survey cited earlier, one of the more striking results was the gap between how important developers rated various factors relative to how satisfied they are with LGUs on these same factors. A significant gap exists across a host of factors. Figure 11 illustrates these survey results.

**Figure 11 – The Gap Between Importance and Satisfaction When Working with and LGU**

Source: 2007 Developers Survey conducted by Schoenbauer Consulting LLC and Brauer & Associates, Ltd. under a Bush Foundation Grant.
The above gaps explain, at least in part, why developers feel their working relationships with LGUs often lack a sense of collaboration and are frequently contentious. (A useful rule of thumb is to consider gaps of approximately 1 or greater to be an opportunity for significant improvement. Therefore, all of the above areas warrant considerable attention if the relationship between developers and LGUs is to be improved and more productive.)

When asked to provide suggestions to improve the process/relationship with LGUs, developers suggest:

- LGUs need to better understand the marketplace and need more education on managing development; classes should be required for LGU staff, councils and commissions
- Don’t over regulate; and be consistent with regulations
- Work more collaboratively; and actively build more trust between developers and LGUs
- Have a clear vision; clear plan
- Need for more open communication among all parties; remove internal silos that impede collaboration

When asked to provide examples of effective working relationships, developers said LGUs need to:

- Be open and honest in communications; up front
- Provide strong leadership
- Understand market forces
- Be consistent, thorough, knowledgeable
- Focus on solutions vs. issues/barriers
- Collaborate
- Be responsive
- Be attentive to details
- Be flexible

Irrespective of whether or not a person on the LGU side agrees with the developers’ perspective is not really the main point to be taken away from the survey. Instead, the developers are providing LGU staff and elected officials with their perspectives, which ultimately plays out in economic terms: When these gaps are perceived to persist, developers expect the process to be more cumbersome, approval time frames long, and nit-picking excessive – all of which increase project risk. As such, they are likely to be more inflexible and pragmatic in working with an LGU, resulting in outcomes that are “by the book,” often lack creativity, and only meet absolute minimal requirements. Of equal importance, developers suggest, is that the additional project costs due to extra work, time delays, and carrying costs has no real private or public value. This results in resources being used up in unproductive process, instead of providing tangible outcomes that might have public value, such as additional trails, open space, stewardship endowment funds, etc.

In helping close these gaps, LGUs are better positioned to collaborate and remove barriers to the developer that can often be translated into outcomes not otherwise achievable. For these reasons, it is clearly in the LGU’s self interest to reduce these gaps in order to better serve the public interest.
Planners’ Perspectives on Working with Developers

In August 2007, a survey, which was closely patterned after the survey sent to developers in April 2007, was sent out to LGU planners. As with the developers’ survey, the planners’ survey was administered online. It was sent out to the Minnesota Chapter of the American Planning Association’s (MnAPA) listserv. A total of 187 people responded.

Overall, planners place a greater emphasis on plans, policies and process as the basis for effective working relationships with developers, as compared to issues such as attitude, understanding of the market, and setting appropriate fees.

There is a concern among planners that they may not be providing some plans, policies, processes, and coordination among staff and elected/appointed officials that are necessary to achieve effective working relationships with developers.

Planners were asked how important a series of 17 factors are in promoting effective working relationships between planners and developers. The following factors were deemed most important:

- Ability to provide clear & consistent direction to developers (4.63)*
- Council & planning commission understanding of their role in the development process (4.60)
- Consistency of ordinances (e.g. zoning & subdivision regulations) with Comp Plan (4.59)
- Clear and consistent regulatory requirements (4.57)
- Well-defined comprehensive plan (4.51)

Less important factors included:

- Reasonableness of LGU’s development fees/charges (3.60)
- LGU’s understanding of market forces (3.91)
- Receptive attitude of the developer toward the LGU (4.00)
- Receptive attitude of LGU toward development (4.08)

* On scale of 1-5, where 1 equals not at all important and 5 equals extremely important. It is important to note that none of the factors were rated as unimportant.

In addition to rating the importance of each of 17 factors, planners were asked to rate how effective their LGU is in accomplishing these factors. Figure 12 illustrates the importance and effectiveness ratings on each of the factors rated, along with the gap between the importance and effectiveness ratings.
**FIGURE 12 – THE GAP BETWEEN IMPORTANCE AND EFFECTIVENESS OF LGU**

Source: 2007 Planners Survey conducted by Carissa Schively Slotterback, Assistant Professor, Urban and Regional Planning Program at the University of Minnesota.

<table>
<thead>
<tr>
<th>Factor</th>
<th>Importance Rating</th>
<th>Effectiveness Rating</th>
<th>Mean Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability to provide clear and consistent direction on design/development expectations to developers</td>
<td>4.63</td>
<td>3.58</td>
<td></td>
</tr>
<tr>
<td>Council &amp; planning commission understanding of their role in the development process</td>
<td>4.60</td>
<td>3.64</td>
<td></td>
</tr>
<tr>
<td>Consistency of ordinances (e.g. zoning and subdivision regulations) with comprehensive plan</td>
<td>4.59</td>
<td>3.57</td>
<td></td>
</tr>
<tr>
<td>Clear and consistent regulatory requirements</td>
<td>4.57</td>
<td>3.56</td>
<td></td>
</tr>
<tr>
<td>Well-defined comprehensive plan</td>
<td></td>
<td>3.72</td>
<td>0.79</td>
</tr>
<tr>
<td>Well-defined community vision</td>
<td></td>
<td>4.46</td>
<td></td>
</tr>
<tr>
<td>Alignment/consistency in expectations among staff in other departments in LGU</td>
<td>4.44</td>
<td>3.39</td>
<td></td>
</tr>
<tr>
<td>LGU staff leadership on key development decisions</td>
<td>4.40</td>
<td>3.79</td>
<td>0.61</td>
</tr>
<tr>
<td>Alignment between staff and council/commissions/regarding how to manage development process</td>
<td>4.33</td>
<td>3.54</td>
<td>0.79</td>
</tr>
<tr>
<td>Staff capacity &amp; experience in working with developers</td>
<td>4.24</td>
<td>3.96</td>
<td>0.28</td>
</tr>
<tr>
<td>Trust &amp; willingness of developers to work with LGU</td>
<td>4.21</td>
<td>3.32</td>
<td>0.89</td>
</tr>
<tr>
<td>Trust &amp; willingness of LGU to work with developers</td>
<td>4.19</td>
<td>3.46</td>
<td>0.73</td>
</tr>
<tr>
<td>Effective coordination between the LGU &amp; other regulatory agencies</td>
<td>4.11</td>
<td>3.49</td>
<td>0.62</td>
</tr>
<tr>
<td>Receptive attitude of the LGU toward the development</td>
<td>4.08</td>
<td>3.73</td>
<td>0.35</td>
</tr>
<tr>
<td>Receptive attitude of the developer toward the LGU</td>
<td>4.00</td>
<td>3.49</td>
<td>0.51</td>
</tr>
<tr>
<td>LGU’s understanding of market focus</td>
<td>3.91</td>
<td>3.34</td>
<td>0.57</td>
</tr>
<tr>
<td>Reasonableness of LGU’s development fees/charges</td>
<td>3.78</td>
<td>3.6</td>
<td>(0.18)</td>
</tr>
</tbody>
</table>
In addition to rating their own effectiveness, planners were asked to evaluate developers’ understanding of key aspects of planning and development. Planners see a need for developers to improve their understanding of key aspects of the planning and development process as indicated by the following ratings:

- Role of the council and commission in the development process (3.57)*
- Role of planning staff in the development process (3.57)
- Purpose and content of zoning and subdivision regulations (3.43)
- Role of other LGU staff in the planning process (3.1)
- Purpose of public involvement in the development process (3.0)
- Purpose and content of Comp Plan (2.81)

* On a scale of 1-5, where 1 equals no understanding and 5 equals very high level of understanding.

Planners were asked for suggestions to improve the process and relationship for working with developers. The following comments are representative of what they said:

“After completing a project, take the time to talk to a developer and ask what things could have been done differently. Educate ourselves on development costs. Have regular work sessions with the elected and appointed officials to educate them on the role they play and the process.”

“A suggestion I would have for improving the process and relationship while working with developers is to let the developer know about all the possible concerns committees, and councils may have with their project. By providing the developer with a "heads up" of what the city is looking for you allow the developer to project their budget and reduce future roadblocks for their project.”

**Comparisons Between Developers’ and Planners’ Perspectives**

Planners and developers perspectives were similar on the following topics:

- What residential buyers value – developers and planners agreed the following factors were the most important factors in residential customers’ purchasing decisions:
  - Cost of home
  - Location based on type or character of neighborhood
  - Quality of schools
  - Location based on affordability
- The value of PUDs – they agreed if used as intended, they provide a means for developers and LGUs to work together. However, they also agreed that in practice PUDs are not used effectively to achieve win-win outcomes.
- Natural open space – to determine where natural open space fits in to the overall scheme of things, developers and planners were asked to what extent buyers value NATURAL open space over other types of open space (e.g., golf courses, open fields, agricultural land, etc.). On a scale of 1-5; developers’ mean score was 3.12; planners’ 3.16. So, while collectively the public may value natural open space, an individual purchasing a property may see it as moderately important relative to other factors.
Planners and developers perspectives were *dissimilar* on the following topics.

Developers see a much greater gap between how things are today and how important they are than do planners. The gap ratings (the difference between satisfaction/effectiveness ratings and importance) ranged from .92 – 2.26 for developers and (.18) – 1.05 for planners. What this means is that developers see a need for significant improvement across the board; whereas planners see the need for improvements, but to a much lesser degree. This difference in how developers and planners see things is an issue. As is stated elsewhere in this handbook, planners need to examine the gap between their perceived effectiveness and how important an item is in order to have the flexibility to use the collaborative -track model successfully. Figure 13 illustrates the areas where the gap is greatest between developers and planners.*

**Figure 13 – The Gap Between LGU and Developers Perspectives**

*Note: Developers rated their satisfaction with LGUs on various factors, whereas planner rated their own effectiveness on various factors. While these are different measures, they are useful to compare as both satisfaction and effectiveness tell a story about the current state.

<table>
<thead>
<tr>
<th>Factor</th>
<th>LGU Mean Score</th>
<th>Developer Mean Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability to provide clear and consistent direction on design/development expectations to developers</td>
<td>Importance Rating: 4.63 3.39 2.35 1.96 1.94 2.04</td>
<td></td>
</tr>
<tr>
<td>Alignment between staff and councils/commissions regarding managing the private development process</td>
<td>Importance Rating: 0.73 gap 0.39 gap 0.76 gap 0.73 gap 0.67 gap 0.00 gap</td>
<td></td>
</tr>
<tr>
<td>Trust &amp; willingness of LGU to work with developers</td>
<td>Importance Rating: 4.79 3.46 2.49 2.06 2.06 2.42</td>
<td></td>
</tr>
<tr>
<td>LGU’s understanding of market focus</td>
<td>Importance Rating: 0.57 gap 0.37 gap 0.76 gap 0.73 gap 0.67 gap 0.00 gap</td>
<td></td>
</tr>
<tr>
<td>Reasonableness of LGU’s development fees/charges</td>
<td>Importance Rating: 3.79 3.16 2.02 2.25 2.25 gap</td>
<td></td>
</tr>
</tbody>
</table>

As one can see, developers see a large gap between how satisfied they are with reasonableness of fees and charges; whereas planners rate the effectiveness of their LGU on this factor as higher than its important. This is just one issue that needs to be resolved in order to enhance the working relationship between developers and planners, and hence, improve development outcomes.

Developers and planners were asked about cost and risk factors associated with development. Developers rated their level of **confidence** in LGU understanding of the cost and risk factors associated with development. Planners were asked to rate their own level of **understanding** about these same factors. As in the last figure, while these are slightly different measures, they are extremely useful in understanding the difference between the two parties’ perspectives. Figure 14 illustrates this comparison.
While planners acknowledge a need to enhance their understanding of various cost and risk factors, developers have spoken loudly regarding their lack of confidence in LGU understanding of these factors.

In conclusion, *in comparing survey results, the gap ratings tell the story.* Developers see a larger gap between how important a factor is relative to their level of satisfaction than do planners. Developers’ gap ratings ranged from .92 – 2.26. What does this mean? A useful rule of thumb is to consider gaps of approximately 1 or greater to be an opportunity for meaningful improvement. Clearly, if the relationship between developers and LGUs is to improve, there is much work to be done.

A distinct advantage of the collaborative track is that it focuses on solutions to barriers as part of the development process. In doing so, all involved can more easily recognize the cause and effect of their actions and the importance of one factor over that of another in the eyes of those involved on the opposite side of the table. Through greater understanding of others’ perspectives lies the prospect of successful outcomes tailored to the individual nuances of each site.
AN ORGANIZATION BUILT ON INTEGRITY AND CONSISTENCY

Success in a collaborative track is built on a foundation of institutional integrity and consistency. As is true in the business world, LGUs get a reputation in development circles that once established is hard to change, at least until the staff or political leaders change. Whereas a given LGU’s own belief might be that they are “tough on developers,” that in fact may play out differently in the eyes of developers. Again, developers are in the business of adjusting their strategy around the circumstances presented to them and still making a profit. So, for example, if a community has a reputation of beating down the developer on unit counts, they will simple present a first plan that includes more units than they expect to be approved. Whereas the LGU may in fact feel good about forcing the developers hand, this very act is counter to building trust in the marketplace and improving relationships with developers in support of a more collaborative approach. Lacking that, the opportunity to go beyond a traditional, minimum outcome development track is reduced.

Importantly, strong-arming is not to be confused with being good at negotiations. The former is done in a punitive way, the latter is done under the context of win-win outcomes. To be sure, good developers know the difference, and it most assuredly affects their willingness to collaborate and take risks that require good faith trade-offs which could come back to haunt them in the end.

Building organizational integrity and trust in developers to partake in a collaborative track is a process, not a declaration made at a point in time. It is a strategy that has to be crafted, positioned, confirmed (through action) in the political arena, and unwaveringly consistent. Developers will not take excessive risks until this “new found” collaborative spirit proves to have staying power. Any lapse has almost immediate impact in the marketplace and repairing damage to lost reputation requires an LGU to work that much harder to regain the previous level of trust.

THE ROLE OF LEADERSHIP

As defined earlier, trust is built around the integrity of the process, being forthright in one’s dealings, and being honest about what’s working and what is not. For a developer, clarity in expectations, integrity of the process, and following through on what was agreed upon is critical to them being interested in collaboration. This requires leadership at the staff and political level. If the foundation for success is based on trust between people, that person has to have a consistent organizational face. At the staff level, the developer must believe that the person they are dealing with can make decisions, resolve issues, and present a consistent expectation on outcomes and trade-offs. This includes everything from defining acceptable trade-offs needed to preserve open space to deciding what road width is acceptable to reduce runoff and size of the built footprint. It also includes standing behind and defending agreed upon collaborative outcomes in the political arena.
An effective leader is also tasked with being truthful in evaluating outcomes and making the adjustment necessary to get better at collaboration – whether that relates to internal processes or team capability and the skills of staff. Often, poor collaborative outcomes are written off on the public-side as the developer “taking advantage” of the situation – which frankly is their job – and thus only a rules-based approach is workable. In reality, it might be an issue of staff capability and process, with the public side not possessing the business skills necessary to attain desired outcomes while keeping the developer interested.

For a developer, a key role of leadership is making timely decisions that are adhered to as the project moves forward. This is of critical importance in that everyone must be held accountable for agreements and decisions made along the way. Consistency and timeliness of the decision process is vital in a developer’s mind and a baseline requirement of a collaborative process. In instances where ambiguity or disagreement remain, the LGU must be forthright with the developer in a timely manner so that an informed decision can be made to either move forward or fall back into a traditional approach. From a developer’s perspective, lack of leadership and clarity on desired outcomes almost instantly undercuts trust and hence the expectation that they will be successful following a collaborative track.

The leadership role also carries with it the responsibility to actively foster an attitude and persona of integrity and consistency. The leaders must also hold themselves accountable to the standard which they set. This requires frequent testing in the political arena and with developers. In the political arena, periodic workshops with elected officials have considerable merit to make sure staff perceptions are in alignment with political reality. With developers, periodic roundtable discussions provide a venue to discuss improving the collaborative process.

**LGU Team Capabilities**

Success or failure of the collaborative track on the public side largely rests with the capabilities of the LGU team, which is a combination of staff and consultants. The right attitude, training, experience, capability, and understanding of the techniques necessary to negotiate complex outcomes are all required attributes to be successful. If the cross-section of skills are not in place either by staff or consultants, a collaborative development track is unlikely to lead to much success – and, unfortunately, reinforce the reliance on traditional approaches.

Fundamental to building a competent LGU team is an understanding of the different role that it plays in the collaborative development process – one of proactive leaders leveraging the LGU’s position to pave the way to a preferred future versus rigidly interpreting the application of local regulations. This change of expectation should not be taken lightly. To further illustrate this point, figure 15 on the next page illustrates the mind-set change needed at the staff and consultant level relative to a few common development variables.
Figure 15 – Mind-set Change Needed Relative to Common Development Variables

<table>
<thead>
<tr>
<th>Planning Variable</th>
<th>Traditional Development Mind-set</th>
<th>Collaborative Development Mind-set</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Development maximizes use of upland areas consistent local codes and ordinances. Wetlands, required buffers, and dedicated parks are only lands set aside within a development for the public realm and ecological protection.</td>
<td>Great emphasis placed on making land use decisions consistent with principles set forth in the comprehensive plan, such as integration of built form with natural features, parks, greenways, and trails being primary goals.</td>
</tr>
<tr>
<td>Lot Sizes and Placement</td>
<td>Lot sizes established by local codes and ordinances and strictly adhered to.</td>
<td>Greater flexibility with lot sizes and reliance on clustering to increase the extent of public open space, greenways, parks and trails. Clustering also used to reduce the extent and cost of built infrastructure.</td>
</tr>
<tr>
<td>Housing Mix and Densities</td>
<td>Housing mix and densities tightly controlled through guided land use and zoning. Limited flexibility within a development area.</td>
<td>Greater flexibility to encourage a more compact urban form, greater diversity of housing, and increased extent of open space available while maintaining or increasing overall densities. Using design strategies to promote human scale development fostering social, economic, and ecological integration.</td>
</tr>
<tr>
<td>Street Design</td>
<td>Strict standards for street widths and lengths. Cul-de-sac commonly used. Curb and gutter required on all roads.</td>
<td>Greater flexibility of street design, with narrower road widths and shorter lengths encouraged to reduce impervious surface area and land consumed by built structures. This also encourages a more compact urban form. Minimize use of cul-de-sac to reduce impervious surface and create more open space. Consider alternatives to curb and gutter to reduce extent of stormwater conveyance via roads.</td>
</tr>
<tr>
<td>Stormwater Management</td>
<td>Typically conveyed through storm sewers and drainage ponds. Heavy reliance on built structures and the use of created ponds for stormwater detention.</td>
<td>Greater emphasis on water quality and quantity by integrating stormwater management with natural systems to reduce stormwater flow rates, transportation of contaminants to downstream locations, and minimize extent of storm sewer. Use natural infiltration techniques to manage stormwater on-site. This includes runoff from houses, driveways, roads, etc.</td>
</tr>
<tr>
<td>Right-of-Way and Setbacks</td>
<td>Set right-of-way widths to accommodate wide roads, cadre of utilities, and snow removal. Setbacks defined by local codes and ordinances.</td>
<td>Reduce widths to only as required to accommodate narrower street width, sidewalks, and drainage swales. Put utilities in road. Greater flexibility with setback widths and requirements to reduce overall footprint of built structures and gain more cumulative open space.</td>
</tr>
<tr>
<td>Open Space and Buffers</td>
<td>Aside from park dedication and trail corridors, open space is often in outlots and deeper residential lots. Open space management is left up to property owner. Buffers adjacent to high quality natural resources not extensively considered beyond regulatory requirements. Most emphasis is on wetland preservation for water quality.</td>
<td>Maximum emphasis is placed on creating public open space for ecological and aesthetic purposes. Planning around natural features is considered a fundamental aspect of development design. Ecological concerns include wetland and upland areas. Buffers around high quality natural resources integrated into plan through incentives. Responsibility for management more clearly defined, with a variety of options being considered.</td>
</tr>
<tr>
<td>Codes and Ordinances/Use of Incentives</td>
<td>Codes and ordinances-driven with little variation from other cities. Generally strictly adhered to, with very limited use of variances.</td>
<td>Provide a variety of incentives, ranging from more flexibility with codes and ordinances to density incentives for open space preservation.</td>
</tr>
</tbody>
</table>

Although this listing is not exhaustive, it does underscore the change in thinking that must occur at the LGU staff and consultant level. Hiring practices must be shaped around employing individuals with the capability to fulfill a different role than would typically be the case. This is true of consultants as well, in which their value is judged as much by their flexibility and imagination on solving technical issues as by interpretation of codes and ordinances.
LGU Providing a Unified Position

One of the frustrations developers often express is being put in the position of brokering internal differences of opinion held by LGU staff and/or consultants on any number of issues. This is further exacerbated when a lengthy review process involving various boards, commissions, and council meetings is required to decide on basic issues such as street width, lot sizes, or manhole covers. In many cases, it is not even which outcome that matters to the developer, it is getting to an answer so that they can adjust accordingly and move forward.

Under a collaborative track, it is important for the LGU to provide a unified front in which it takes on the responsibility of deciding internally which values, development standards, and so forth are to take precedence in a given situation. This can result in reducing developer angst, and thus be an incentive to participate in an alternative approach. This is the type of non-financial incentive available to an LGU to further its cause and leveraging position, as figure 16 illustrates.

Figure 16 – Unified LGU Front To Resolve Development Issues

Under a traditional approach, developers often find themselves having to broker issues at the staff level on the way to getting to an outcome that will get a favorable staff-level recommendation. This imposes considerable up-front costs and time, especially when there is a difference of opinion at the staff level.

Under a collaborative approach, developer works through a staff team leader, who brokers issues internally at the staff level and then presents that in a unified voice to the developer. This unified voice is carried through into the recommendation. This can greater reduce up-front costs and time.
STRENGTHENING LEVERAGING POSITION THROUGH REGULATORY COORDINATION

STAYING ON THE PUBLIC SIDE

Under a collaborative track, the public side participants must be disciplined to paying attention to the public values being sought and letting the developer side deal with market issues. The LGU cannot put itself in the position of being responsible for marketplace decisions that a developer makes with any development.

This is especially important when presenting a proposal for approval. LGU participants should feel quite comfortable standing by the developer when defending the public values that come out of a project and the rationale for approval based on those merits. But, it is not the LGU role to discern the economic viability of the project in the marketplace. That is distinctly the developer’s responsibility and the LGU should not stray across that line. The same holds true of actual lot layouts, in which it is the developer’s responsibility to provide a layout that is marketable while factoring in LGU desires.

The same principles for a two-track strategy defined for LGUs are equally applicable to other regulatory authorities. In fact, a coordinated two-track strategy enhances the prospect for much higher public values from development than would otherwise be the case if each agency simply applied its rules in an administrative vacuum. Further, a two-track strategy can be effective at two levels, each playing off the other to provide a fully-coordinated posture under the collaborative track. Figure 17 illustrates how an inter-agency strategy can be consistent with the LGU development model defined on page 3.

FIGURE 17 – INTER-AGENCY COordinated TWO-TRACK STRATEGY

Key Partners:
- LGU
- Metropolitan Council

Key Partners (Example*):
- LGU
- Watershed District
- Soil & Water Conservation District
- MN DNR
- U.S. Army Corps of Engineers

* The notion of a coordinated interagency plan is also viable for other aspects of development, such as engineering, transportation, fire, police, etc.

Under this track, the rules and regulations of all agencies are coordinated to ensure that an acceptable minimal set of public values are achieved. (Essentially, how agencies currently function today.)
As noted in the last figure, it can be a distinct advantage in pursing its vision for an LGU to take a more active role in coordinating the interagency approvals process for a given development. First, the desired outcomes related to preservation of open space and related ecological concerns can be better understood and shaped when agencies are working together as a coordinated team prior to the developer getting too far along in the development process. By telling the developer up-front what is most valued ecologically, they will have a much greater prospect of delivering a proposal that is closer to hitting the mark the first time, rather than the back and forth nature of a traditional development process. And once the plan is formally submitted, the agencies themselves will intimately understand the rationale for any trade-offs made and how their own rules and regulations are best applied. Under this scenario, the spirit versus the letter of the rules become more prominently considered, opening up the possibility for more imaginative and valuable outcomes to emerge. By working together in a coordinated fashion, the expertise of agency staff and consultants is used to derive more valuable public-side outcomes, which is the point of the regulatory process to begin with.

From a developer’s perspective, clarity on related issues and having the agencies themselves weigh in on what is the best outcome removes much uncertainty from the process. This alone can be a huge incentive to the developer to participate in a collaborative track, assuming that the outcomes are economically viable.

**Examples of Regulatory Coordination**

A couple of examples of this approach put into practice may be of value. In Lino Lakes, the city and assorted agencies are working together to create a natural resources management plan on a city-wide basis. Once completed, the plan will be used as the basis for decisions on pertinent issues as development occurs. This will provide the agencies and developers with a much clearer picture of desired outcomes at the onset of a development process. This is in distinct contrast to the more usual course in which the developer enters a project with little insight as to what will best satisfy each of the agencies.

Taking this coordinated approach to the project level, in Lino Lakes it is increasingly common for city staff to assemble a roundtable-type discussion with various agencies *proactively* to gain a detailed understanding of what is desired on a given site as it comes up for development. *By reducing their time and expense burden, the developer is much more inclined to try to accommodate their desired ends. This is one of numerous reasons the city is increasingly successful using the two-track strategy.* Figure 18 on the next page graphically illustrates the progression of the city’s proactive process for achieving desired public values from a select piece of property.
Another good example of regulatory coordination is in Scott County. In this case, the Vermilion River Watershed Joint Powers Organization complements it traditional rules for stormwater management with an alternative rule that gives them more approval flexibility if a request to do so is made through the LGU. In turn, this will dovetail into Scott County’s two-track process, thus reinforcing the developer’s incentive to participate in the collaborative track.

Fostering a Proactive Relationship with Landowners and Developers

Under traditional approaches to development, LGUs are positioned (by their own processes) to basically lay out the rules and then react to development proposals that come through the door. Once a developer has set a course (and spent money on consulting fees, surveys, purchase agreements, etc.), the LGU is already one step behind the opportunity to influence outcomes outside of the regulatory framework. After a developer has spent tens of thousands of dollars preparing a plan, they become reluctant to change course because there is little assurance that their investments thus far can be easily recovered. This is especially the case when their historic relationship with an LGU has been the zero-sum, minimal outcome fostered by traditional development requirements.

By having the collaborative track available, an LGU can position itself to take a more proactive posture with landowners and developers as they contemplate land use decisions. Whereas the LGU still maintains their regulatory backbone through the traditional development track, that does not have to get in the way of proactive collaboration to further the public’s cause.

Further, and of equal importance, the collaborative track can be structured to provide the venue for an LGU to actively pursue land use development opportunities that are consistent with its vision before the landowner or developer have even considered taking any action themselves. This is an especially important point under a willing seller context, in which the use of eminent domain is rarely, if ever, used for open space preservation or park purposes.
By positioning in good faith early on with landowners of interest, a collaborative dialogue can be started well before a decision has to be made -- perhaps years in advance. In doing so, the LGU has a greater opportunity to build trust, define mutually beneficial strategies, seek partners, and help craft an economic proposal tailored to the unique circumstances of each site.

An example of a common situation helps make this point. In many rural, but developing areas, protecting open space is a perplexing problem: Although the land is undeveloped, the capacity of an LGU to acquire it is often lacking. This is further complicated by the individual decisions that a property owner might make about selling their property. Further, adherence to the traditional land use controls (density) often results in a fragmentation of the countryside as land is sold off.

So when a property owner has shown interest in working with an LGU to preserve some of their property, the alternative track can provide the collaborative avenue needed for the LGU to take an active part in shaping a solution that serves everyone's interest. Lacking a timely pot of public dollars to acquire a given property directly, this might include the LGU taking an active role in promoting a certain amount of development above their own density standards in order to generate enough of a private economy to help pay for the public values being sought.

For these reasons, it is in the LGU’s staff and local officials best interest to be clear about the vision for the community and get to know landowners, developers, realtors, etc. as a part of their core responsibility. In building trust early, the likelihood of missed opportunities diminishes.

As defined in this handbook, the process of collaboration is purposefully straightforward and consistent irrespective of where a community is in its development cycle. Keeping the process as simple as possible allows the focus to be on finding balanced outcomes.

The context, however, in which that process is undertaken varies considerably from situation to situation. The development cycle context is quite important because it shapes the vision and values that a community has for itself at a particular point in time, which will assuredly evolve as the resident and landowner makeup changes. Public-side stakeholders, along with their values and understandable desire to protect their lifestyle, shape the context. Developers respond to that context through the type of developments they provide.

Understanding the values and personal interests of all stakeholders is critical to building trust, which underpins people’s willingness to work together for mutual benefit. Empathy for another’s circumstance is vital to the art of finding approaches and solutions that are acceptable to those that might have opposing views. This is extended to understanding perceived threats or barriers that each stakeholder brings to the table. Figure 19 on the next page illustrates key stakeholders across time as a community works through its development cycle.
Redefining the Development Process

Figure 19 – Key Stakeholders and Their Values Across Time

<table>
<thead>
<tr>
<th>Time Line</th>
<th>Key Stakeholders</th>
<th>Values/Personal Interests</th>
<th>Threats/Barriers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rural, Small Town Character/ Limited Growth Pressure</td>
<td>• Rural residents • Larger acreage landowners • Traditional elected officials • Smaller developers • Limited LGU staff</td>
<td>• Privacy • Living in the countryside • Small-town living • Preserve rural character and sense of open space • Property rights • Limited public services - parks, trails, greenways, etc.</td>
<td>• Encroachment of suburban development patterns/too much density • Loss of open space/rural character • Political interference • Threats to economic value of property</td>
</tr>
<tr>
<td>Emerging Suburban Community/ Growth Pressure Starting</td>
<td>• Increasing balance between old and new residents • Larger acreage landowners concerned about property value • Mix of old and new elected officials • Smaller developers giving way to larger ones • LGU staff changes</td>
<td>• Greater disconnect between values of old and new residents • Cheaper living a big draw to new residents • Small-town living still important • Greater concern emerging about preserving rural character and sense of open space before it is too late • Growing desire for more public services - parks, trails, greenways, etc.</td>
<td>• More concern about encroachment of suburban development patterns/too much density • Loss of open space/rural character becoming real • Land use issues becoming more political, with opposing views on everything • Threats to economic value of property getting more contentious • Rising property taxes</td>
</tr>
<tr>
<td>Rapidly Growing Suburban Community/ Heavy Development Pressure</td>
<td>• Rural residents being replaced in real numbers by new comers • Larger acreage landowners becoming more development focused • Elected officials more and more represent new comers • Mostly larger scale developers • More LGU staff</td>
<td>• Trying to hold onto small-town living • Preserving rural character and sense of open space becoming dominant issues • Protect property rights giving way to limiting development</td>
<td>• Total loss of open space/rural character is dominant concern • Rising property taxes • Congestion on roads</td>
</tr>
</tbody>
</table>

Understandably, the strategy used to realize desired public values must evolve over time to stay in sync with where a community is in its development cycle. Figure 20 illustrates the type of adjustments that might be needed as a community matures over time.

Figure 20 – Adjusting Strategy to Remain in Sync with a Community’s Development Cycle

A footnote to this is that at a county level, the LGU might find themselves using multiple strategies to accommodate varying circumstances between the rural countryside and the suburbanizing fringe.

As the above table defines, the strategy and tools employed shift across time as stakeholders change and the political dynamic evolves. At any point along the time line, personal values and perceived threats and barriers are very real issues that must be accommodated in good faith if a community is to be successful in managing development.
Importantly, values and threats are often masked in different ways during the public debate on how to deal with development pressures or setting aside land for open space, greenways, and parks. People are not always candid about perceived threats to their personal lifestyle and financial situation. Inevitably, this carries over into the political arena as well, where elected officials understandably react to constituent interests. Because of this, they can be reluctant to tighten up controls or change the way they think because it is either counter to their own core beliefs or those that elect them. A classic example of this is large lot development, where the conventional thinking is that this approach will limit density and thus preserve rural character and lifestyle choices.

Whereas elected official’s opinions (or their replacements opinions) will likely evolve over time as resident values change, that often comes at the expense of opportunities lost in the process. This is due to the fact that the reaction time to adjusting strategy, especially traditional development controls, often lags behind the point in time it is most needed to protect the things that the community will value in the future – such as preserved open space. Much of this has to do with the lack of confidence that the change process will truly respect their personal values and appropriately accommodate perceived threats and barriers of stakeholders.

Unfortunately, building trust in the change process can be a tricky endeavor under the zero-sum context fostered by the traditional development control approach. Nobody wants to give anything up until they know how it might affect them later, which in turn slows down the process of enacting prudent land use control mechanisms today that won’t be fully appreciated for perhaps many years to come.

For these reasons, one of the values of a two-track strategy is that new ideas and approaches can be “tested” in a less threatening way to stakeholders under the premise of collaboration. If such an approach proves successful on a project-by-project basis, it paves the way for thinking differently about managing development. Through this process, the changing nature of threats and barriers that often impede updating traditional land use controls can be more directly addressed and ultimately removed when outcomes prove successful in addressing stakeholder’s self-interests. In turn, these successes improve the prospects of reshaping or updating traditional development controls when they are seen as less threatening.

By respecting the context in which land use decisions are made, along with building the confidence between stakeholders that a collaborative approach can be successful, the prospects for more forward thinking when making land use decisions is greatly enhanced. As is the prospects for reducing the potential for lost opportunity as defined on page 12.

The main reason the collaborative process is a better avenue for managing the change process is the need to arrive at win-win-win outcomes. This plays to distinct advantage in the public arena because successful outcomes tend to more completely satisfy political interests across the political spectrum, as figure 21 illustrates.
Redefining the Development Process

**Figure 21 – Satisfying the Political Spectrum Through Collaboration**

Under a collaborative approach, the development outcome must be win-win-win for the project to be accepted by all parties. In doing so, the development proposal inherently satisfies a broader political spectrum because all the collaborators stand together in support of the proposal. This reshapes the political debate from one of resolving contention to one of applauding collaboration. This, in turn, enhances the political confidence in the LGU’s capability to manage development in a more proactive, effective, respectful, and timely manner.

As the figure illustrates, if the development proposal satisfies the developer, LGU staff (as representing local public values), and regulatory interests, the broader political spectrum is satisfied as well. When LGU staff and regulatory agencies stand together with the developer as collaborators in support of a proposal, it positions elected and appointed leaders in a very favorable decision making role. By reshaping the political debate from one of resolving contention to one of applauding collaboration, *the LGU’s focus can shift from one of regulatory oversight to that of a proactive leader creatively shaping the final built form of the community.* This is one of the true advantages of the collaborative process over the zero-sum approach fostered by the traditional development process.

**Filling the Political Void**

Irrespective of the effort that would go into finding win-win-win outcomes, inevitably some political interests cannot be accommodated because they are simply out of sync with reality. In these cases, not even a well-crafted collaborative process will change minds.

That said, the collaborative process can be used as an avenue for changing political will when doing so is in the best interest of a politician serving their own or constituents’ interests. Whatever the situation, if a void in the status quo is created, filling it with an acceptable alternative solution is absolutely critical in providing a bridge from one perspective to another. In doing so, elected officials gain confidence that the two-track strategy will not leave them high and dry on issues they may have campaigned on.

**Cost-Benefit of LGU Resource Allocations**

Under a traditional development track, defending regulatory controls with extensive backup information and data is often justified. Likewise, requiring developers to provide pertinent information on impacts to natural resources, ecological systems, public utilities, etc. is also justifiable and important to the evaluation process. Further, new natural resource mapping tools and systems add much value to informing the planning process. When used constructively, the cost-benefit to the LGU can be easily justified.
There is, however, a word of caution worth stating as well: At some point, the cost-benefit of acquiring new information or investing more resources in enhancing an LGU’s leveraging position results in diminishing returns. In other words, the resources would be better used elsewhere relative to the value of the information. Figure 22 illustrates this point.

A good example of this relates to natural resource information, both the need for it and the way it is used. To be sure, there is much value in MLCCS and other ecological evaluations in determining the quality and function of such systems. This type of information is invaluable to natural resource specialists on both sides of the table in making recommendations about protecting one piece of property over that of another, for example.

At some point, however, getting more detailed resource evaluations adds little value if it does not influence the decision process in a meaningful way. This is especially the case under the collaborative track, in which the basis for win-win-win outcomes is leveraged negotiation. Under such a scenario, the developer is less concerned about what the LGU wants per se and more concerned about the trade-offs the LGU is willing to make to get it. As such, extra effort on the LGU’s part to bolster their case will have relatively little value if they end up simply negotiating a deal through a series of unrelated trade-offs.

An example of this is preserving a greenway corridor through private property. Under a traditional approach, the LGU often goes to extensive lengths in planning and ordinance writing to position itself to set aside land via regulated means. Under such an approach, reams of information and justifications may in fact be necessary (at considerable cost) to establish a defensible position that can stand the scrutiny of the political process and perhaps courts.

Under a collaborative approach, however, an LGU can instead approach setting aside land for a greenway through the use of incentives (e.g., extra density, relief on fees/charges, etc.). Under this scenario, the LGU may be better off spending its resources on reshaping its approach to incentives and improving the negotiating skills of its staff rather than adding additional regulatory layers for a developer to respond to, often contentiously.
Redefining the Development Process

The key point to take away from this discussion is that adopting a two-track strategy will in all likelihood shift the paradigm on how local resources are best used to optimally position an LGU in the development process. This pertains to the use of staff and consultants time.

**COLLABORATIVE TRACK RELATIVE TO PUD PROCESS**

In numerous cases, LGUs have Planned Unit Development Ordinances (PUDs) in place that allow for alternatives to traditional development outcomes. In this respect, the two approaches have much in common.

That said, the two-track strategy is really about *proactively* leveraging traditional development controls to entice higher levels of collaborations between LGUs, developers, and regulatory agencies to achieve better outcomes for all. Whereas the PUD process is a tool, the two-track strategy is a more of a mind-set shift in how LGUs manage development to achieve their vision and values.

In addition, seeing the two as not being the same has value in that the reputation of the PUD process leaves much to be desired. When the two surveys referenced in this handbook asked planners and developers their perspectives on the value of the PUD process, each agreed that *if used as intended* it provides a means for developers and LGUs to work together flexibly to achieve win-win outcomes. However, each also agreed by a wide margin that *in practice*, the PUD process is not effectively used to achieve win-win outcomes.

When asked about this in individual interviews, planners and developers alike cited that the most common reason for this was that the process was used by both sides under the zero-sum rules of the traditional development approach. In doing so, the likelihood of finding value in the process is greatly diminished.

**CHANGE OF MIND-SET THROUGH APPLICATION**

For many, changing a mind-set best happens through practical application in which a vision and public values are translated into a working example as part of the overall comprehensive planning process. In this way, participants can see first hand the difference between traditional and collaborative track outcomes in achieved desired public values. Figure 23 illustrates this point.

*Figure 23 – Integrating Working Example into Comprehensive Planning Process*

*After the vision takes shape, a working example can be used to illustrate the difference between values achieved under a traditional versus collaborative development track. This approach builds confidence in residents and political leaders that the collaborative approach is indeed the best way forward.*

*By being able to approve a high public value development proposal at the same time the comp plan is being adopted greatly enhances LGUs confidence in the two-track strategy.*
3 LEEVERAGING: USING TRADITIONAL DEVELOPMENT TRACK TO POSITION THE COLLABORATIVE TRACK

As the model on page 7 defines, a well-defined community vision and set of clearly defined public values are essential to setting the stage for proactively managing development to achieve desired ends. As judged by a growing body of research, the evidence is quite compelling that preserving natural open spaces and providing parks and interconnected, high value trails are core values that residents across the region have about their community.

To be in sync with this sentiment, comprehensive plans need to be built on a foundation in which these values are its essential underpinnings. As figure 24 illustrates, the use of a building block process that starts with natural resources and ends with the overlaying of the built environment is central to reshaping the way in which development is thought about and ultimately designed.

**Figure 24 – Building Blocks for Public Values-Based Approach to Development**

In its basic form, there are three fundamental building blocks common to all comprehensive planning processes in which preserving natural open spaces along with providing parks and interconnected, high value trails are core values that residents have about their community.

As illustrated, natural resources and ecological systems form the basic underpinning of a system or development plan. Understanding the potential impacts to the local ecology and discovering ways to avoid or minimize impacts to these valuable resources is the first step in the planning process.

The next building block is defining cultural amenities, including parks, trails, and interconnected greenways. This ensures that public open space needs are considered as essential components of a high-quality living environment. It also ensures that these components of the community infrastructure are planned to be in harmony with the ecological setting and a latticework of interconnected and contiguous park settings where the line between preserved natural areas, parks, trails, greenways, and the built environment becomes purposefully blurred.

The third building block relates to the built environment. This is purposefully considered last to ensure that the built form responds to the innate character of the land, rather than changing its form to suit the convenience of building structures.
Redefining the Development Process

With a comprehensive plan built on this foundation, the stage is then set for crafting implementation strategies that take this same approach down to the actual site development level. This most often requires a fundamental reshaping of the way in which the development process itself works: Going from one in which natural open spaces, parks, and trails are fit into a development plan to one in which the development plan is fit into the natural open spaces, parks, and trails plan. Although this may seem intuitive, the majority of traditional development processes in place today function in opposition to this way of thinking. Figure 25 illustrates this point by contrasting two development proposals for the same property.

Figure 25 – Contrasting Development Proposals for Same Property  Source: City of Lino Lakes and Brauer & Associates, Ltd.

Traditional Development Plan

In this example, the city team took a leadership role in defining the desired outcomes for the developer to react to. Through a good-faith negotiated process, an optimal threshold was reached that allowed the city, developer, and assorted regulatory agencies to find an agreeable solution. Lacking this alternative approach, the city would have inevitably approved the traditional plan, which would have fallen well short of achieving the outcomes that the city’s comprehensive plan strived for as defined through an extensive public process.
**Core Principles and Values Define Comp Plan**

The importance of using the comprehensive plan as a means to set the stage for the two track development strategy cannot be overstated. This is especially the case when working under a collaborative development track, in which the wording and directness of the principles defining public values being sought by a community takes on great importance. This is because they are used more directly as the means to define the desired public ends than is the case under a traditional track. (Under a traditional development track, the principles defined under comprehensive plans are translated into regulatory language. Therefore, their exact wording becomes less important in the development process because the developer and LGU staff are reacting more to the regulations, and less directly to the comprehensive plan. Incidentally, this is often a core complaint of developers, where they see the regulations being inconsistent with the principles of the comprehensive plan.)

By focusing directly on principles of the comprehensive plan under a collaborative track, the attention of the developer and LGU staff can be placed more squarely on what really matters to the community, versus the more perfunctory application of a strict requirements and numerical calculations. Figure 26 illustrates this point.

**Figure 26 – Focusing on Principles and Values in Judging Outcomes**

A classic example of this is a wetland setback, in which the regulation calls for a numeric-based setback from the edge of a wetland. Under a regulatory approach, there are limited ways to translate the principle of preserving wetland values into an implementable form. Under a collaborative process, the principle itself becomes the focus, in which professionals on both sides of the table work toward realizing the ecological value in an economically-viable fashion. In moments of impasse or uncertainty, the regulation is always available for reference. However, it is the principle-driven ecological outcome that is truly being sought, not the actual number of feet between a structure and wetland.

**Baseline Principles to Build On**

To add context to this discussion, figure 27 on next the page provides some baseline principles that are commonly included in comprehensive plans to foster high-value developments in sync with a community’s vision. Although not an exhaustive list, these principles serve as a foundation for thinking about the issues of judging development outcomes against what really matters.
<table>
<thead>
<tr>
<th>Principle Statement</th>
<th>Discussion</th>
</tr>
</thead>
</table>
| Create a Sense of Place/Community | • Creates strong connection and attachment to a place and time that is memorable and secure  
• Foster mutual responsibility for community living interdependence, humanity, social good, and preserving nature |
| Nurture a Healthy and Active Lifestyle | • Create a living environment that provides for human needs and values – from social connections to human connection with the natural environment |
| Foster Economic/Cultural Diversity | • Foster cultural diversity by providing a complementary mix of housing options |
| Provide Convenient and Efficient Multi-Modal Transportation System | • Enhance transit alternatives to personal automobiles – ranging from convenient mass transit options to interconnected walkways and trails |
| Encourage Energy and Resource Conservation | • Enhance energy efficiency in homes; reduce use of resources though efficient planning layouts (i.e., roads) and relying more on natural over built systems (i.e., storm sewers) |
| Advocate Aesthetic Design and High Quality Construction | • Promote architectural design standards that create an appealing visual image that is in sync with the vision for the community |
| Ensure Economic Viability and Marketability | • Ensure that developments offer sound economic opportunities that encourage developers to create developments that are consistent with the community vision and values within the context of market forces |
| Integrate Natural Resources with Development | • Minimize landform changes to protect natural features  
• Integrate natural resources as aesthetic and functional elements of the development  
• Enhance quality of life by providing human access and connection to the natural environment  
• Provide seamless integration of natural resource areas with parks and greenways. |
| Maximize Environmental Engineering Opportunities | • Apply environmentally-friendly stormwater management and water quality approaches to reduce reliance on man-made systems  
• Emphasize high water quality and control of downstream quantities by integrating stormwater management with natural systems to reduce stormwater flow rates and transportation of contaminants to downstream locations; use open channels, bioretention areas, filter strips, and natural infiltration to manage stormwater  
• Minimize soil disturbance and erosion during construction by employing best management practices for erosion and sedimentation control |
| Restore Disturbed Ecological Systems | • Restore degraded ecological systems where feasible by integrating them into the overall ecological plan  
• Reconnect currently fragmented natural resource remnants with higher quality systems |
| Provide Buffering | • Integrate ecological buffers into development plan to protect critical ecological systems from developmental impacts |
| Ensure Ecological Management and Monitoring | • Prepare and implement restoration, management, monitoring, and stewardship plan as part of development planning process; plan should be in sync with city-wide plan  
• Clearly define responsibilities for implementation and monitoring of plan  
• Prepare covenants for development area, including handbook for best management practices for homeowners and general legal requirements for homeowners and homeowner associations |
| Provide High Quality Interlinking Trail System | • Provide an interlinking system of high value trails throughout the city that connect with regional and county trails  
• Provide reasonable trail access to the natural resource amenities within the community without unduly compromising their integrity and natural qualities  
• Provide an appropriate level of universal accessibility to trails throughout the system |
| Provide High Quality Local Parks | • Provide a comprehensive system of parks throughout the city that directly connect to the larger greenway and trail system to create a latticework of publicly-accessible and seamless spaces  
• Provide an appropriate level of universal accessibility to parks throughout the system |
| Enhance Ecological Education | • Clearly define the role of homeowners and individuals in preserving the natural environment  
• Establish legally-binding responsibilities of homeowners in preserving the natural environment (i.e., not dumping yard debris and contaminants on public open space, not encroaching yards and structures into ecologically-sensitive areas, etc.) |
| Encourage the Use of Native Landscaping | • Encourage the use of native plant materials around homes, businesses, and in yards to foster the seamless connection to the natural environment |
Before getting into discussions about the collaborative track (which is the focus of this section), it is important to acknowledge that the traditional development track still has merit as a tool for managing development under the right circumstances. An example of this is when a particular development is straightforward and no real value is gained through a higher level of collaboration. Another is when a developer simply has no interest or disposition to do anything but the usual approach. Further, in being enthused about the prospects of the collaborative process, one cannot be naïve to the fact that sometimes it may not work given the circumstances or players involved. In times when an impasse is reached, a balanced, collaborative outcome may simply not be achievable.

Whatever the development situation, the value of using one track versus another should be purposefully considered based on which one offers the best prospect for best achieving the public values an LGU is seeking. If the traditional track achieves those ends most effectively, its use may indeed be justified. Conversely, if any additional gains in public values can be achieved under a collaborative track, then its use is the right decision.

Given the many different circumstances that an LGU may face, traditional development controls remain important not only for leveraging under the collaborative track, but also as the fallback position if that track is not well-suited to a given circumstance or fails to produce acceptable results. For these reasons, it is in an LGU’s best interest to have a well-crafted comprehensive plan and set of traditional controls in place to rely upon following either track in its attempt to best serve the public good.

**Mind-Set Must be Consistent with Chosen Track**

Once the choice on which development track to follow is made, then it is of utmost importance for both the LGU and developer to adjust their mind-sets around that track, as figure 28 illustrates.
LEVERAGING POSITIONS
SET THE STAGE FOR
COLLABORATIVE TRACK

One of the most important aspects of the collaborative track is its focus on win-win-win outcomes arrived at through good-faith negotiations relevant to a given development. To be sure, both the LGU and developer will leverage their positions as the stage is set for the collaborative track. As figure 29 illustrates, the LGU does this via a backdrop of traditional development controls and incentive packages and the developer via market forces and property rights.

**Figure 29 – Establishing Leveraging Positions**

Once leveraging positions are established at the onset of a project, the process shifts to collaborative give and take focusing on outcomes. The “rules” per se imposed on the collaborative track must be limited, non-punitive, and more incentive based than formula driven to the extent possible to avoid undercutting working relationships. The use of incentives also becomes much more of the focus as enticements for the developer. The process *must* strictly adhere to the principles for successful collaborations as defined on page 16, which are worth reiterating here:

- Maintaining trust between stakeholders
- Providing clarity on desired outcomes
- Respecting the economic viability and marketability of land use decisions
- Being committed to win-win-win outcomes

Although this lack of structured rules and requirements takes some getting used to, once mastered, the collaborative track can be very productive to all parties. Further, if the principles for a successful collaborative track are internalized and adhered to, the prospect for the collaborative track outperforming the traditional track on any given development project is quite promising.

As the last figure illustrates, if the collaborative track is followed, the LGU must approach achieving its desired public values through a flexible working relationship with the developer, with incentives in their various forms being the primary negotiating tool. Although this may seem a bit open-ended at first, in reality the collaborative track tends to “self-police” in that all parties recognize that working together is the only way to a better outcome for each of them than is otherwise possible following the traditional track.
As illustrated in figure 30, traditional development controls are an important part of establishing an LGU’s leveraging position, along with the use of incentives as considered later in this section. The following defines the key aspects of positioning traditional controls as a backdrop for the collaborative track.

**Traditional Controls: A Balancing Act**

As defined by the model on page 7, the key strategy behind the two-track approach is leveraging an LGU’s regulatory capacity to entice developers into a collaborative track. The initial positioning of the LGU in this process relies upon a well-written comprehensive plan along with well-crafted traditional development controls. Together, these set the baseline for the minimum acceptable public outcome, which in essence defines the threshold that balances the desire for economic development relative to the vision and public values a community strives to provide. The extent to which an LGU is willing to use incentives as leverage also needs to be considered as the traditional controls package is crafted. Again, in the context of the two-track model, traditional development controls are used as a means to an end, not an end unto themselves. Figure 30 illustrates this balancing act and how it sets the stage for the collaborative track.

**Figure 30 – Traditional Development Controls Set the Threshold For the Collaborative Track**

- **Traditional Development Track (Outcomes Driven by Application of Regulatory Controls)**
  - Very Tight Controls
  - Optimal Level of Traditional Development Controls and Incentives Package
  - Traditional development controls are most useful and effective when they provide enough leverage to entice developers into a collaborative track, yet not so tight as to be undermine market forces and economic realities. Incentive packages are best reserved for use only under the collaborative track to avoid undercutting the effectiveness of traditional controls as leverage.
  - No Development/ Economic Activity

- **Collaborative Development Track (Outcomes Driven by Collaboration and Incentives)**
  - Working Threshold is Established by Leveraging Traditional Development Controls
  - The higher the working threshold, the more leverage afforded to the LGU as a starting point for collaboration. However, pushing it too high can result in a lack of interest by developers to collaborate.
  - Threshold So Low That Developer has Little Reason to Collaborate

- **Threshold Pushed too High to Entice Developer into Collaborative Process**
  - No Controls
  - Traditional development controls represent a balance between the interests of local stakeholders, which evolve and shift as a community moves through its cycle of development.
  - Unchecked Development/High Risk of Opportunity Lost
As the figure illustrates, the role that traditional development controls play in translating a vision and set of values into practical application is quite important. Not only in terms of what is stated, but also in terms of defining where on the spectrum a community wants to be in balancing its interests. For example, in the developers survey it was found that local controls clearly affect developers posturing when it comes to determining the value of land, as figure 31 illustrates.

**Figure 31 – Ranking Costs Associated With Development**


<table>
<thead>
<tr>
<th>Factor</th>
<th>1 Not At All Important</th>
<th>3 Somewhat Important</th>
<th>5 Extremely Important</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local zoning – density limits</td>
<td></td>
<td>4.53</td>
<td></td>
</tr>
<tr>
<td>Local development controls</td>
<td></td>
<td>4.18</td>
<td></td>
</tr>
<tr>
<td>Local fees and charges</td>
<td></td>
<td>3.88</td>
<td></td>
</tr>
</tbody>
</table>

From a leveraging standpoint, the LGU has considerable regulatory authority to establish traditional development control thresholds as a means to help set the stage for the collaborative track.

**“Optimizing” Defined**

Once the community, elected officials, and staff have a solid understanding of, and confidence in, the two-track strategy, then traditional controls can be fine-tuned to optimize the LGU’s leveraging position. In this context, “optimize” refers to crafting a package of controls that, when applied either directly (traditional track) or indirectly (collaborative track), are no more excessive than necessary to achieve desired results. If success is being achieved with a certain set of traditional controls (along with incentives under the collaborative track), the controls are probably set at their optimal level. As such, there is no reason for further enhancements. Conversely, if desired results are not being realized, then fine-tuning is required.

Importantly, fine-tuning an LGU’s position under the collaborative track relates to the use of traditional controls and incentive packages to gain favor in the negotiating process. Whereas developers clearly prefer an incentive-based approach, an optimal level of traditional controls is still essential to an LGU’s leveraging position. As a footnote, one of the advantages of the collaborative track is that its focus on the use of incentives can sometimes reduce the need for increasingly stringent traditional controls. For example, if an LGU is having success in negotiating setting aside open space in exchange for some incentive, there is less need to spend the time and resources on strengthening a traditional open space preservation ordinance. The qualifier to this is that at times the traditional track will be used for reasons previously defined. As such, both traditional controls and incentive packages will play a role in optimizing an LGU’s position to manage development whatever the circumstances.
CAUSE AND AFFECT OF TRADITIONAL CONTROLS

Understanding the cause and affect that a given traditional control will have on outcomes when used as written and when used as leverage in the collaborative track is also quite important and must be purposefully considered as the ordinance is written. For example, requiring that lots be of a particular size (e.g., 15,000 square feet) under a traditional ordinance effectively limits the number of units that can be placed on a given property. In turn, the developer’s pro forma reflects this expectation, which, in part, establishes the economic baseline for the project. If used as written, this control will indeed limit the density of housing within a given community, which might be a desired public value. However, it offers no assurance that open space and rural character will be preserved in the process. In fact, it often works against those very values by forcing developers to use up every square foot of upland to make the project profitable. This is a classic example of a well-intended traditional control actually working against the value it was intended to achieve.

In contrast, using this exactly written traditional control as leverage and in concert with incentives under the collaborative track can be of significant value. With more flexibility, lot size and density may be reasonably negotiated from this set point if a greater public value is achieved in the process – such as protecting more open space. In this application, the traditional control is effective not because it was used as written, but because it was used as a means to help establish the economic baseline for the project and a starting point for incentive-based outcomes. This is of critical importance to the developer to make sure that any outcome negotiated under the collaborative track is economically advantageous. Lacking that assurance, the developer has no incentive to do anything other than a traditional development.

RESPECTING THE DEVELOPMENT THRESHOLD

As defined on pages 20 and 47, every situation has a threshold that, if exceeded, will result in failure of the collaborative effort. If the LGU does not understand and respect thresholds associated with developers’ rights and economic concerns, there is no chance for a successful collaboration. Conversely, if developers do not respect what the LGU is trying to accomplish, there is no chance that they will have an opportunity to outperform their traditional development pro forma.

With this balancing act as an underpinning, LGUs should, in good faith to the public they serve, seek to optimize their leveraging position by crafting traditional controls and incentive packages to advantage in setting the stage for the collaborative process. In taking this approach, the cause and effect of tightening traditional controls must be understood relative to its application under a collaborative track.

For example, adding a surface water management fee to the traditional development controls may be legitimate as a means for the community to cover the public costs of dealing with stormwater runoff. However, the real desire is to manage stormwater on-site through natural infiltration means, not convey it elsewhere. Under the collaborative track, a pro-rated reduction of this fee can be written into the fee basis based on how well the developer uses natural infiltration to manage water on site.
In doing so, the city uses the fee-based incentive as a means to achieve the desired public value, while in return the developer has a way of reducing development costs that have been accounted for in their initial pro forma.

Lacking this fee-based control to begin with, the LGU would not be in a strong position to offer an incentive to accomplish the public’s interest of making sure stormwater runoff from new developments is well managed. Figure 32 illustrates how this and other traditional development controls were used, in part, to increase the public values associated with a large development.

**Figure 32 – Optimizing Leveraging of Traditional Development Controls**

In this development proposal, the City team negotiated smaller lots and reduced stormwater management fees (in concert with a host of other incentives and trade-offs) in return for: more open space, buffering of a high quality wetland, managing stormwater on-site using natural infiltration; providing extensive network of trails; and long term stewardship of natural areas. All of the open space will be set aside in a conservation easement.

The City's negotiating position was enhanced because of the traditional development controls, along with standard fees and charges, it has in place. The City team has also taken a pro-active role in the approvals process, further reducing the burden on the developer to prove that the project is in the best interest of the city.

Source: Master Plan was prepared by Hart Howerton, Inc. 2006

**Traditional Development Controls Best Practices**

Over time, it would be advantageous for LGUs to collaborate and develop a “best practices” package covering the full spectrum of ordinances that can be used to strengthen traditional development controls and leveraging position.
This approach would have multiple benefits, including: 1) ensuring LGUs are using the best ordinance for the purpose; 2) saving considerable resources in creating local ordinances from scratch; and 3) providing a high level of consistency between LGUs. In the mean time, figure 33 highlights the value and justification of select types of natural resources protection ordinances, along with a recommended example of improved ordinances worth considering.

**Figure 33 – Value and Justification of Various Types of Natural Resources Protection Ordinances (1 of 2)**

Source: CR Planning, Inc. (jcoleman@crplanning.com)

<table>
<thead>
<tr>
<th>Type of Ordinance</th>
<th>Opportunities for improving natural resource protection</th>
<th>Ecological justification for improvements</th>
<th>Examples of improved Traditional ordinances</th>
</tr>
</thead>
</table>
| Floodplain        | • Limit structures in flood fringe area to the same degree as in the floodway  
                   • At least restrict dwellings in flood fringe  
                   • Restrict filling that is often done to raise land to a height that allows structures  
                   • Update flood plain maps to account for boundary changes caused by development in surrounding upland  
                   • Require a cumulative impact analysis that accounts for the impact of surrounding existing and planned development  
                   • Prohibit rebuilding of structures in floodway  
                   | • Water quality protection  
                   • Minimize increases in flood volume and velocity  
                   • Erosion control  
                   • Minimize flood damage to improvements  
                   | • Minnetonka Floodplain Ordinance in Chapter 4, Section 300.24 of Minnetonka City Codes – http://www.amlegal.com/nxt/gateway.dll/Minnesota/minneton/cityofminnetonkaminnesotacodeofordinance?f=templates$fn=default.$3.0$vid=amlegal:minnetonka_mn$anc  
                   |                                                                                       |
| Wetland Protection| • Require native vegetation buffers  
                   • Use information such as a local functions and values assessment or the DNR regional-scale wetland complex model to prioritize wetlands and customize buffer sizes  
                   • Improve enforcement by monitoring buffers and encroachment  
                   • Create an education program for landowners on the benefits of buffers and how to maintain buffers  
                   | • Buffering wetlands from development protects key functions: water quality protection, stormwater infiltration, habitat, and open space  
                   • Migratory waterfowl and other animals depend on wetlands  
                   | • Minnetonka Wetland Ordinance in Chapter 4, Section 300.23 of Minnetonka City Codes – http://www.amlegal.com/nxt/gateway.dll/Minnesota/minneton/cityofminnetonkaminnesotacodeofordinance?f=templates$fn=default.$3.0$vid=amlegal:minnetonka_mn$anc  
                   |                                                                                       |
| Shoreland         | • Establish greater minimum lot sizes and setbacks and smaller impervious coverage limits than the minimums in the old state sample ordinance  
                   • Require conservation design for all shoreland development  
                   • Eliminate bonuses for commercial/resort/PUD development  
                   | • Reduce pollutant loading to lakes and rivers  
                   • Retaining vegetative cover and limiting impervious cover protects water quality  
                   • Natural vegetation provides critical shoreland habitat  
                   • Trees shade and cool water, which is important for some fish species  
                   | • MnDNRs alternative shoreland regulations – http://www.dnr.state.mn.us/waters/watermgmt_section/shoreland/shoreland_rules_update.html  
                   • Vermillion Watershed District shoreland management guide – http://www.dnr.state.mn.us/shorelandmgmt/vermillionriver/index.html  
                   |                                                                                       |
| Tree Protection    | • Require preservation of existing trees, not just replacement  
                   • Establish consequences for removal of trees prior to development  
                   • Trees must be protected during development to avoid soil compaction and chemistry changes which can harm and kill trees  
                   • Develop expertise within the city to work with developer and contractors  
                   • Require multiple site inspections to ensure trees are protected during construction  
                   | • Stormwater management  
                   • Protection of woodland habitat  
                   • Summer cooling  
                   • Community character  
                   | • City of Savage Tree Preservation Ordinance – http://www.ci.savage.mn.us/images/docs/tree_preservation.pdf  
                   • Minnetonka Tree Ordinance Update Draft – http://www.eminnetonka.com/community_development/planning/ordinance_updates/tree_ordinance_draft.pdf  
                   |                                                                                       |
| Slopes and Bluffs  | • Increase bluff toe and top setbacks  
                   • Allow only minimal grading and removal of vegetation  
                   • Inspect during grading to ensure toe of bluff is not compromised  
                   • Do not allow retaining walls at toe of bluff  
                   • Make sure your definition of a bluff is clear  
                   | • Maintaining vegetation on slopes minimizes erosion, protecting water quality  
                   • Some rare micro-climate habitats are found on bluffs  
                   • Maintain scenic beauty  
                   • Manage stormwater quality and quantity  
                   | • City of Chanhassen bluff protection ordinance – http://www.ci.chanhassen.mn.us/inside/ord445.pdf  
                   |                                                                                       |
Redefining the Development Process

**Figure 33 – Value and Justification of Various Types of Natural Resources Protection Ordinances (2 of 2) Source: CR Planning (jcoleman@crplanning.com)**

<table>
<thead>
<tr>
<th>Type of Ordinance</th>
<th>Opportunities for improving natural resource protection</th>
<th>Ecological justification for improvements</th>
<th>Examples of improved Traditional ordinances</th>
</tr>
</thead>
<tbody>
<tr>
<td>Natural Resource Overlay</td>
<td>• Protect multiple resources in a single geographic area&lt;br&gt;• Resource protection works with underlying zoning districts&lt;br&gt;• Allows flexibility within a subdivision – restricts location of structures, does not limit allowed number or size of structures</td>
<td>• See other categories</td>
<td>• City of Chanhassen Bluff Creek Overlay District – <a href="http://landuse.law.pace.edu/landuse/documents/laws/reg5/MN-ORD-Chanhassen-BluffCreekDistrict.doc">http://landuse.law.pace.edu/landuse/documents/laws/reg5/MN-ORD-Chanhassen-BluffCreekDistrict.doc</a>&lt;br&gt;• DNR Natural Resource District Checklist – <a href="http://files.dnr.state.mn.us/assistance/nrplanning/community/nrchecklists/districtord_overlay.pdf">http://files.dnr.state.mn.us/assistance/nrplanning/community/nrchecklists/districtord_overlay.pdf</a></td>
</tr>
<tr>
<td>Park Dedication</td>
<td>• Connect park dedication requirements directly to parks and trails plans&lt;br&gt;• Do not accept dedication of land that does not meet a public goal for parks or trails</td>
<td>• Provide habitat and open space&lt;br&gt;• Provide recreation opportunities&lt;br&gt;• Provide nodes or connections in greenway corridors</td>
<td></td>
</tr>
<tr>
<td>Conserv. Development</td>
<td>• Directly connect development design requirements to articulated community goals&lt;br&gt;• Require conservation development in areas where resource protection is desired</td>
<td>• Protect open space and habitat&lt;br&gt;• Water quality protection&lt;br&gt;• Stormwater management</td>
<td>• Minnesota Model Sustainable Development Ordinances <a href="http://server.admin.state.mn.us/resource.html?Id=1927">http://server.admin.state.mn.us/resource.html?Id=1927</a></td>
</tr>
<tr>
<td>Planned Unit Development</td>
<td>• Turn your PUD ordinance into a conservation development ordinance&lt;br&gt;• Require protection of natural resources in PUD design</td>
<td>• Same as conservation development</td>
<td></td>
</tr>
<tr>
<td>Stormwater Management</td>
<td>• Connect performance standards to a stormwater management plans&lt;br&gt;• Allow low-impact development techniques&lt;br&gt;• Limit impervious surface coverage</td>
<td>• Stormwater is a significant source of non-point water pollution&lt;br&gt;• Stormwater carries sediments, lawn fertilizers, petroleum products and chemicals which damage our lakes, rivers, and streams.</td>
<td>• MPCA model stormwater management ordinance <a href="http://www.pca.state.mn.us/publications/wq-strm2-16a.pdf">http://www.pca.state.mn.us/publications/wq-strm2-16a.pdf</a></td>
</tr>
</tbody>
</table>

**Optimizing Incentive Packages**

As previously suggested, the use of incentives is inherent in the collaborative process. Whereas a well-written comprehensive plan and well-crafted traditional development controls help set the stage for the collaborative process, it is the artful use of incentives that is the most effective to entice landowners and developers to do something different than a traditional approach. Understandably, most incentives are ultimately judged in economic terms in one form or another.

What must be recognized is that having a landowner or developer “do better” economically or otherwise through collaboration versus following a traditional approach is *not* a compromise to the public’s best interest. In fact, quite the opposite is true. They *must* do better or there is no reason for them to participate. In fact, win-win versus zero-sum context is underpinned by this fundamental principle, with the reality being that both sides must do better than if a traditional approach was taken. Incentives, therefore, cannot be looked at as giveaways. Instead, they are essential to achieving higher value outcomes.
Redefining the Development Process

Limiting Regulatory Mind-Set Carry-Over into Collaborative Track

One of the common temptations is to carry over the regulatory mind-set into the collaborative track in the form of excessive formula-driven incentives and ordinances. An example of this is an Open Space/Rural Preservation Ordinance that prescribes automatic density credits if a developer meets certain requirements. The most common of these is automatic additional density if a development is clustered, or if a certain landscape feature or percentage of open space is preserved, and so forth.

The downside to this approach is that the automatic nature of any density credits encourages the developer to make certain assumptions about overall yield and thus re-calibrate their pro forma accordingly. Likewise, making these assumptions can artificially ratchet up land prices, further eroding the developer’s negotiating latitude. In turn, these types of re-calibrations can act to undercut the leveraging position that the LGU was setting up with its traditional controls and other incentives. Figure 34 illustrates this important point.

**Figure 34 – Avoiding Erosion of Leveraging Position with Automatic Density Incentives**

The following illustrates how automatic density incentives under a collaborative track can erode leveraging position before the process even starts.

Further, the act of providing automatic density credits may at times be counter to public opinion in terms of increased levels of development in rural areas. In these cases, rural residents may stand up against the whole idea of an Open Space/Rural Preservation Ordinance based solely on the automatic nature of density credits.
Given the possible downsides, a better strategy is to establish the collaborative track with very limited use of automatic density incentives whenever possible, and then trust the collaborative process as described in this handbook to achieve outcomes that exceed those of a traditional approach. Although the use of automatic density credits cannot be totally discounted, doing so should be done with a clear understanding of how it impacts the LGU’s leveraging position.

Note that the use of certain types of structured credits other than density may have merit on a case-by-case basis. For example, the surface water management fee-based incentive considered on page 49 represents a situation in which an LGU can specify a specific formula for fee reduction if certain criteria are met. Whatever the situation, a clear understanding of how an incentive enhances or detracts from an LGU’s leveraging position is important.

**THE ARTFUL USE OF INCENTIVES COUPLED WITH VARIOUS TOOLS TO ENHANCE PUBLIC VALUES**

In most growing communities, the desire to preserve open space and rural character is a centerpiece of their comprehensive plans. Once these plans are adopted, however, the reality of paying for them comes into focus. Closing the economic gap to make implementation of a local comprehensive plan affordable is of foremost importance. Unfortunately, this is virtually impossible using traditional funding sources alone no matter how much they are reconfigured and prioritized. This is where, under a collaborative approach, the artful use of incentives and various tools to enhance public values come into play, as the following example illustrates.

In any given community, land values are set by location, local zoning/density, availability of urban services, and market forces. For some portion of the upland land to be set aside as permanent open space, an LGU has to come up with some way to pay for it. Under a traditional approach, buying it outright is the prevailing option. Unfortunately, the capacity of the LGU to do that at the point in time where it is available is often lacking—either due to limited tax base or an unwillingness of residents to ante up. After all, the value of making the investment today will not be noticeable to most for perhaps decades. They like the idea, but just don’t want to pay for it themselves. Even when counties or communities pass open space funding programs, the dollars available enable the LGU to directly purchase a relatively small percentage of the desired open space. Given this reality, leveraging local tools and incentive packages is the only avenue that really exists. Figure 35 illustrates this point.
Leveraging Local Tools and Incentive Packages to Achieve Desired Public Values

Even if direct public funding was used to cover the economic gap, the total public cost would be far less than directly purchasing the property under a traditional funding approach. Using other incentive tools would further reduce direct public funding, although with some inherent other trade-offs, such as less open space.

The overall economic gap includes the break even value plus any incentive needed to entice the landowner/developer into a collaborative track. Without some incentive, there is no reason for them to collaborate.

The economic gap that remains can be covered by a variety of means, including direct public funding (including outside public partners), extra density, future development rights on some portion of the property, transfer of development rights, and a host of other incentives cobbled together.

With land set aside as open space as part of clustering approach, the need for direct public funding of land acquisition is markedly reduced through a relatively simple transaction.

Market-Driven Per Lot Land Value if Developed Under Allowable Density (Also Direct Purchase Price)

Incentive-Based Funding Approach

Break even Economic Gap

Overall Economic Gap

Without any incentive, the LGU would have to pay market value for land it would like to set aside as open space.

Even if direct public funding was used to cover the economic gap, the total public cost would be far less than directly purchasing the property under a traditional funding approach. Using other incentive tools would further reduce direct public funding, although with some inherent other trade-offs, such as less open space.

The economic gap that remains can be covered by a variety of means, including direct public funding (including outside public partners), extra density, future development rights on some portion of the property, transfer of development rights, and a host of other incentives cobbled together.

With land set aside as open space as part of clustering approach, the need for direct public funding of land acquisition is markedly reduced through a relatively simple transaction.

In considering incentives, providing extra density is the first one that often comes to mind. Albeit this is an important one, there are many other forms of incentives that can be packaged together to fill the economic gap. These can come in the form of cash inputs (e.g., outside partner providing funding through grant programs) or development cost reductions (e.g., fees might be pro-rated back to the developer, the approvals process may be more streamlined, roadways might be narrowed, storm sewer eliminated by using natural infiltration, shared parking allowed, more flexibility on lot sizes, and so forth).
As the last figure illustrates, first using local development tools as a means to reset the economic baseline is the more prudent approach to effectively reducing direct public costs for achieving values such as open space preservation. Even in situations where public dollars are more available, it is still in the public’s best interest to leverage its use to attain the highest possible public good for every dollar spent, as figure 36 illustrates.

**Figure 36 – Cost-Benefit of Open Space Protection Strategies**

As the graphic illustrates, gifted or donated land offers the highest cost-benefit to an LGU. However, this cannot be relied upon as the primary tool for setting aside open space since most decisions on land uses will be driven by economics. Second to this, conservation easements offer the greatest cost-benefit under the assumption that perpetual easements are negotiated with a landowner or developer during the development process. Stringent attention to the details of the conservation easement is also critical to ensuring long-term protection of the resource.

One of the strengths of the collaborative development process is that it leverages the economies of the development itself (through incentives) to fund desirable public values, such as conservation easements. In other words, this approach works toward the greatest level of open space protection (and other public values) with the least amount of direct LGU capitalization. Figure 37 illustrates how this approach can play out in an actual situation.
There are a variety of tools that an LGU can use in creating an incentive package tailored to a specific circumstance. Although many of these have been around for decades, their use has been haphazard at times because they do not fit conveniently into the scripted traditional development track. Conversely, the collaborative track provides a more convenient venue for mixing and matching tools and incentives to fit a given circumstance. Common tools used for this purpose include, but are not necessarily limited to, the following:

- **Direct Purchase/Fee Simple Acquisition:** Relates to purchasing the property when the parcel meets the long-term preservation objectives of the community and the parcel can be integrated into the larger parks, open space, and trail system. Priority is typically given to larger parcels. With limited fiscal resources, direct purchase is typically considered only after other protection methods have proven to be unsuccessful.

- **Clustering:** Allows developers to cluster development on smaller lots to allow for the provision of conservation easements and greenways.
• **Conservation Easement:** Restricts development of land while permitting the landowner to retain ownership of the property. It is filed in the public records of the property and binds current and future property owners. The landowner may sell or donate the easement to a conservation organization, but it is not required. Where the easement is donated to a qualified charitable organization, a tax benefit may occur to the owner.

• **Purchase or Transfer of Development Rights:** A city, land trust, or other developer purchases the development rights to a property, while the landowner continues to maintain ownership. Once the rights are purchased, the land can only be used for a specified purpose other than development. The land would typically be protected under a subsequent conservation easement or other protection program. Transfer of development rights refers to protecting the natural values of one property by transferring or selling the right to develop that property to other properties within the city under strict guidelines. Both of these approaches ensure that there is no economic harm to the landowner or developer and that the city retains its desired development density.

• **Overlay Zoning:** Refers to a type of resource protection zoning that is superimposed over traditional zoning to protect defined natural resource areas while still allowing the underlying use in an appropriate form. A flood plain zoning district is an example of this.

• **Bonus/Incentive Zoning:** Is similar to transferring development rights except that the landowner or developer rights are used by the developer on the same property rather than purchased by another developer for some other property. This could allow a developer to develop at a higher density than normally allowed if the developer sets aside land in a conservation easement or greenway.

• **Natural Resource Protection Zones:** Allows the city to impose a buffer along sensitive environmental areas. The buffer width varies depending on the situation, and can be fixed or flexible.

• **Land Trusts:** Property owners can donate their property or a conservation easement to a conservation program. A number of these programs exist at the local, state, and national level. However, because of participation requirements (particularly with regards to parcel size), land trusts are sometimes of limited use.

• **Deed Restrictions/Mutual Covenants:** Establish legally defined limits on the use of a property. They are put in place by the property owner or land developer and are carried forward by the owner or a legally established association. Typically, they need renewal after 30 years.

• **Stewardship Program:** Land management practices may be voluntarily undertaken by a landowner to preserve open space. In some instances, a landowner may “register” their property with a conservation organization, thereby entering into a non-binding agreement to follow good land management practices. A landowner may also enter into a management agreement with a conservation organization, specifying how land will be managed.
Reducing Developer Costs and Risks as Part of Leveraging

One of the main challenges facing developers is managing costs and various forms of risk. Each aspect of the development process includes a certain degree of both, all of which has to be factored into the developer’s pro forma. To add context, developers were asked in the aforementioned survey to allocate 100 points to a list of general cost categories associated with a typical development. Figure 38 illustrates the results.

As expected, major factors relate to land costs, direct construction costs, weather uncertainties, marketplace strength, and so forth. These factors an LGU cannot really play a role in alleviating through its direct actions. That said, there is still considerable value in an LGU understanding all of these factors relative to how they might affect the developer’s posturing in the negotiation process. The more one knows, the better positioned to understand the economic threshold the developer is working under.

As illustrated in the last figure, building and land costs amount to 79% of the total cost for a given development. Although a smaller percentage, the other costs still remain significant. This is especially the case on large projects worth tens of millions of dollars. Under a traditional development track, the developer expects and routinely absorbs these costs and associated risks as soft costs or overhead, even if they don’t provide much tangible value as part of the development end product.
On the surface, an LGU might not recognize any value in helping manage soft costs and developers’ risk. Under a traditional development approach, there may in fact not be much to be gained in doing so because the regulated outcome will likely be the same. So there is no real advantage to the LGU to spend time thinking about or acting on these issues if nothing tangible comes from it.

Nonetheless, these risks and costs do in fact have real economic consequences that have to be accounted for in the pro forma. This is where the leveraging opportunity lies for the LGU under the collaborative track. As shown in figure 38 on the last page, an LGU has a direct influence on factors such as fees and charges, approval process, as so forth. If, through collaboration, these costs and risk factors can be reduced, those economic inputs can be reallocated for more productive use for the LGU and developer. In other words, there is an economic advantage for both parties to collaborate and work toward managing costs and risks in more productive ways, as figure 39 illustrates.

**Figure 39 – Economic Advantage of Managing Costs and Risk Factors**

<table>
<thead>
<tr>
<th>Traditional Development Track</th>
<th>Collaborative Development Track</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Value of Overhead and “Cost of Doing Business” Factors Accounted for in Pro Forma without Tangible Public or Private Value</td>
<td>Economic Value of Overhead and “Cost of Doing Business” Factors Leveraged to Achieve Desirable Public and Private Value</td>
</tr>
</tbody>
</table>

An example of an LGU helping manage soft costs and risks relates to the approvals process, which has long been one of the most frustrating aspects of the development process for developers. If, under a collaborative track, an LGU can speed up the process and reduce uncertainties, the developer’s soft costs can be markedly reduced, or at least made more predictable. This ranges from direct soft costs associated with consulting fees for preparing submittal packages to getting the product faster to the marketplace. In reducing these costs, the developer has additional economic flexibility over a traditional approach that can be used to advantage. Recognizing this, the LGU has created its own opportunity to negotiate higher public values, such as more open space, as part of this good-faith effort to reduce soft costs and risks. Realistically, the trade-off will not always be dollar-for-dollar in that the developer will need to receive some of the value from working differently. *Nonetheless, the LGU has much to gain from being creative in its role in managing soft costs and risks in the development process* – but those trade-offs must result in tangible outcomes that support the vision and public values of the community.

Regrettably, developers seem to have little confidence in LGU understanding of costs and risks factors associated with development, as highlighted in figure 40 on the next page.
One example of developers’ perspectives of LGU understanding of cost and risk factors relates to letters of credit. As part of the development approvals process, an LGU routinely requires a letter of credit to limit its exposure if a developer fails to perform. For example, an LGU might require a letter of credit equal to 150% of the value a development item, such as mass grading. To obtain a letter of credit to cover the LGU requirement, the developer needs to pledge collateral value to a bank further above the 150% value required by the LGU. So, if the true value of an item is $500,000, the developer has to provide a letter of credit to the LGU worth $750,000, which in turn might require $1,000,000 in collateral assets to be tied up by the developer with the bank. Tying up this level of assets for an extended period of time is a significant cost and risk to the developer.

Conversely, if an LGU allows a developer to provide the same level of protection through the use of a tool such as “disbursement agreements,” considerable cost savings can result since the developer does not have to carry the excess cost of borrowing money to cover the letter of credit. In turn, this frees up capital for more productive use. (A disbursement agreement is essentially an agreement between an LGU and a bank in which the latter will not release funds to the developer until the former approves development work.)

What this example underscores is that any disconnect between an LGU and developer on understanding cost and risk factors often result in a missed opportunity and extra soft costs that detract from project outcomes. The low confidence ratings as shown in figure 40 pose two important problems that must be addressed if the unproductive use of economic resources is to be reduced as part of the collaborative process. First, LGU staff and elected officials must become more astute at understanding these factors if they are to be more effective in negotiating additional public values that are economically-viable. It’s hard to negotiate if the value of what is being negotiated against is unknown.

### Figure 40 – LGU Understanding of Cost and Risk Factors Associated with Development

<table>
<thead>
<tr>
<th>Factor</th>
<th>Mean Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Costs for local development fees and charges</td>
<td>2.12</td>
</tr>
<tr>
<td>Cost for building the homes (house, driveway utility connections landscaped etc.)</td>
<td>2.04</td>
</tr>
<tr>
<td>Cost for plat approval process (including professional fees to prepare plans)</td>
<td>1.98</td>
</tr>
<tr>
<td>Cost for lot development (site preparation earthwork, utilities, weather factors etc.)</td>
<td>1.88</td>
</tr>
<tr>
<td>Post development costs (insurance warranties etc.)</td>
<td>1.92</td>
</tr>
<tr>
<td>Cost to acquire and carry land</td>
<td>1.40</td>
</tr>
<tr>
<td>Holding costs and market risks associated with sales schedule and assumptions about marketplace</td>
<td>1.29</td>
</tr>
</tbody>
</table>

Second, developers must make more of a good-faith effort in explaining these factors and impact on the pro forma from project to project. If for example, there is little that an LGU action can do to affect the cost or risk associated with a certain factor, then the developer needs to make that known so that time and resources are not spent trying to address it.

**Growth-Management Controls Affecting Pro Forma and Leveraging Position**

In addition to the expected cost and risk factors, the following also contribute to a developer’s pro forma in cases where growth management or other regulatory controls slowing the pace of development are in place:

- Extended development window, in which risk is greater when development time frame is spread out over multiple years
- Increased carrying costs due to extended financing window, longer build-out period and marketing time frame
- Lost economies of scale due to forced phased approach and re-mobilization costs for each phase

Here too, the economic value of these items has to be accounted for by the developer, often with no discernible value to the private or public side. As with other costs and risks, the LGU can leverage this opportunity by making reasonable exemptions in return for additional public values not otherwise achievable.

**Leveraging Approvals Process for Mutual Benefit**

Virtually all developers see the approvals process as being arduous and fraught with uncertainty up until the very point of approval. Under a traditional approach, the process is indeed necessary to allow each LGU department, board or commission, and city council adequate opportunity to make sure the regulatory aspects that they are responsible for are addressed. Where disagreement arises, the developer often has to negotiate between LGU departments to find resolution. In the end, this process is costly, slow, and uncertain for the developer in terms of their pro forma. Most often, the developer also finds themselves having to defend the merits of the project on their own each step of the way.

On the surface, this would seem of little concern to an LGU, and under a traditional development track it pretty much is. There is, however, one major downside: Developers will be much less likely to suggest new or imaginative ideas if they are in conflict with local regulations if it will cause additional delay and angst. As such, there is no incentive under a traditional track to do anything other than exactly meet the LGU’s minimal requirements. In doing so, the zero-sum game is strengthened by the process itself.

Conversely, the collaborative track provides a leveraging opportunity for an LGU by reducing each of these barriers through a more streamlined process and a willingness to stand with the developer through the process when the LGU’s best interest is being served. Figure 41 illustrates this point.
Developer responsible for carrying project through the approvals process with sequential submittals, each of which has to go through various boards, commissions, and councils for approval.

It is often a very much a reactionary process requiring a developer to come back more than one time during the various steps. Issues and desired outcomes often emerge in fits and starts at each level of the approval process. Disagreements between LGU participants take excessive time to resolve through process.

As the figure illustrates, with the LGU and developer working under a streamlined process, the process itself becomes an incentive for the developer to be more flexible and work with the LGU to realize desired public values in return for expediency and assuredness. With developers, the adage “time is money” certainly rings true, and an astute LGU can use that to advantage.

**Importance of a Strong Working Partnership Between LGU Boards, Commissions, Councils, and Staff**

One of the important aspects of the collaborative track is establishing a strong working partnership between an LGU’s boards, commissions, councils, and staff. For this partnership to work, the following is of critical importance:

- Recognition by each participant that this is a collaborative effort and that everybody must respect the opinions and perspectives of others and work toward a common vision.
- Internalizing the fundamental principles of the collaborative track model: That a successful development project can only emerge if a relative balance between ecology, culture, and economy is found.
- Recognition that the stakes are high in that decisions made today will be reflected in the built form of the community on into perpetuity.

**Figure 41 – Streamlining the Approvals Process through Collaborative Track**

- **Traditional Development Track**
  - Interpretation of Zoning Plan and Subdivision and Platting Ordinance
  - Land Use Application
  - Land Use Concept Submittal
  - Preliminary Plat Submittal
  - Final Plat Submittal

- **Collaborative Development Track**
  - Interpretation of Zoning Plan and Subdivision and Platting Ordinance
  - Collaborative Concept Planning and Design
  - Land Use Application
  - Land Use Concept Submittal
  - Preliminary Plat Submittal
  - Final Plat Submittal

Critical step added to process in which LGU and developer work collaboratively to develop a concept plan that is win-win. That plan is then taken to a concept review meeting with all boards, commissions, and councils for critique. If agreement is reached, the plan moves jointly forward into formal approvals process.

Once a win-win-win concept is reviewed, it moves through the formal approvals process, which is much more streamlined due to common belief that the project is in the best interest of the LGU, developer, and assorted regulatory agencies.

Up-front collaboration and agreement on key outcomes prior to formal approval process can save considerable time during the approvals process.
Clearly, if the LGU is to be successful in working with the development community under a collaborative track, then those representing public interests in varying capacities must find common ground and exhibit a common vision and set of values. It is only under these terms that the development community will find the patience and will to deviate from tried and true traditional development patterns and work with the LGU to embrace an alternative approach.

A basic underpinning to finding common ground is developing a high level of trust and respect between each of the public-side participants. The collective group must function as a team with specific roles to play and perspectives to bring to the table. With each role, however, comes the responsibility to recognize that personal perspectives can add to and shape the dialogue, but are secondary to the responsibility of finding common ground that results in successful relationships with developers and end in successful development projects.

As pointed out on page 4, changing established practices is a challenging but often necessary action on the road to greater success. In any change environment, taking action toward reshaping one’s mind-set can be a seemingly daunting task. This is especially the case when many years of time and resources have gone into enhancing the traditional development track as the sole means to improve results. To be sure, some of these efforts have significantly improved public-side performance in managing development. However, once the inherent limitations of traditional approaches are uncovered, no amount of additional effort will change the fundamental reality that a new strategy is needed if performance is to be further improved.

This handbook is designed to help frame the discussion and challenge the status quo. The first part of taking action is deliberately deciding that thinking differently and making changes to established practices is in fact needed to improve performance. As pointed out on page 4, asking the simple question, *Are we satisfied with the results of our past planning and implementation efforts?* goes a long way toward answering that question. If the answer is no, then the basis for change becomes undeniable. Once that mind-set leap is made, then taking action on change is a matter of process and leadership.

One of the key upsides of this particular change process is that fostering working relationships between LGUs and developers that strive for collaborative, win-win versus contentious, zero-sum outcomes tends to be a more enjoyable experience for everyone involved. This makes the change process both less daunting (i.e., everyone supports the other in getting through it for mutual gain) and more rewarding for participants (i.e., greater success is achieved than otherwise possible).
Suggested Action Steps

Suggested steps to introduce and implement the two-track development model defined in this handbook are intentionally straightforward and purposefully limited.

Step 1 – Introduce Planning Model to Local Boards and Commissions

The most opportune time for this to occur is when comp plans are being updated and issues of community vision and managing development are at the forefront of a community’s public debate. That said, the planning model can be (and has been) successfully introduced any time an LGU has experienced frustration with current approaches to managing development.

Inviting a consultant with documented experience with the two-track model to present the approach and show examples of its use in similar situations is the most common and recommended approach to reduce the burden on staff.

Step 2 – Apply Process in Actual Development Scenario

As defined on page 40, changing a mind-set best happens through practical application in which a vision and public values are translated into a working example as part of the overall comprehensive planning process. In this way, participants can see first hand the difference between traditional and collaborative track outcomes in achieving desired public values on a given property.

Step 3 – Formalize Two-Track Model by Adopting as a Local Development Management Tool

If successful under step 2, the last step is to formally adopt the process as a local development management tool. This can occur in a variety of forms, including a standalone ordinance, as a “rider” on PUD process, or through a growth management policy. (The LGU attorney can provide direction on the best means to accomplish this task.)

As part of the formalization process, existing local development controls along with incentive packages will likely have to be refined, as described in this handbook. Assistance from consultants and other LGUs is recommended to gain insights into best practices and to accelerate this process.

Consultant Role and Funding

To be sure, the services provided to LGUs by consultants must also evolve as part of the change process. As with most LGU staff, most consultants currently specialize in services that support traditional development approaches. For this reason, LGUs should be particular about selecting consultants that truly understand and embrace this strategy, and have a track record of implementing it. Further, the goal with working with any consultant is to strategically use their expertise, particularly in the following key areas:

• Speeding up the learning curve for staff and elected/appointed leaders and providing as-needed staff training
• Helping reposition the LGU with developers
• Refining and instituting the two-track model as a local management tool
• Informing/educating the community about the value of the collaborative track in achieving desired public values
• Providing professional guidance on actual development projects; this could range from guidance on specific planning and design outcomes to negotiating on behalf of the public’s best interest

One of the most important considerations when hiring consultants for this type of work is retaining only those that have a true desire to train staff in addition to providing the more typical professional services. Further, the role of consultants over time will typically transition from an active role in shaping strategy and implementation to a more limited and strategic role as subject matter expert, coach, and mentor on an as-needed basis. Said another way, consultants that are hired for this type of work should embrace the notion that part of their job is to gradually reduce an LGU’s dependence on the services they provide.

With respect to funding consultant services, it is most common for the LGU to cover the initial costs for general planning work as defined under the action steps on page 65 — either directly or through grants. At the project level, it is becoming increasingly common for developers to cover all or a portion of the costs for consultants working on the public’s behalf, similar to the way they pay for traffic or civil engineers working for an LGU.