

Two Types of Developers

by

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Western North Carolina is touted as a great place to live – a relaxed living style, lots of natural resources, great mountain vistas, and many other desirable amenities.

Unfortunately, for all our community “leaders” who exalt our area as a great place to live, housing is scarce and developers have seized on this as an opportunity to make lots of money.

While some developers are local, most are from elsewhere and more likely out-of-state. Regardless of where developers are from, their main goal is to make money, and this greed can lead to tragedy for a community, town, city or county.

Generally speaking there are two basic types of developers.

1. Those who want to develop land in a socially and environmentally responsible manner; and
2. Those who don't care about the social and/or environmental impact on how they develop land other than the requirements of building codes and other regulations.

At this point, you may start wondering what is the difference between developers and home builders? Comerio Homes in Kansas City puts it this way:

Developer

- Buys the raw land
- Hires engineers, surveyors and landscape architects to design the streets, landscaping and common areas
- Decides on the amenities, IE pool, clubhouse, walking trails, price point of homes that will be built
- Ultimately sells home sites to home builders

Home Builder

- Buys home sites from developer
- Designs home floor plans / features
- Builds the home
- Ultimately sells the home to a home buyer

While this is a simplistic description between the two, it can also be more complicated and involved as discussed by Lew Sichelman of the Chicago Tribune (<https://www.chicagotribune.com/news/ct-xpm-2005-01-23-0501230499-story.html>).

According to New Homes & Ideas, North Carolina is “home to 9 of 10 top national builders.” When half of the builders were contacted, they responded that part of their business was land acquisition. In other words, these home builders are also acting as developers.

But it does not take being a nationwide home builder to also be a developer. Many smaller developers will acquire land and then contract grading and preparation companies followed by home building contractors.

Let’s take a look at what is happening in Henderson County, located in Western North Carolina. Since 2000 this county has undergone massive home building as developer after developer has looked at the county as a “gold mine.” Without doing their due diligence, the county commissioners have virtually approved every building project that has been placed before them. Sure, they rejected some proposals based on county zoning regulations but when the developer adjusted those discrepancies, the revised proposals were usually approved.

So what is meant by due diligence?

Simply put cities, counties, and states must conduct return on investment (ROI) and cost-benefit studies. In other words, they must determine:

- What are the social and economic benefits that a new development brings?
- How much revenue will the new development capture?
- What is the impact of a new development on:
 - Natural resources
 - Law enforcement and crime prevention
 - Emergency services
 - Education
 - Medical and Healthcare facilities and personnel
 - Social services
 - Road maintenance
 - Traffic congestion
 - Water and sewage utilities
 - Power and gas utilities
 - Requirements for additional commercial support

- Air, water, and land pollution
- Increased city/county/state support personnel
- Long-term economic impact vs short-term growth
- Economic and social impact conversion of farmland and forests to urban development
- What are the policy implications resulting from approving a new development?
- What will be the “global” impact of the new development?
- Etcetera.

Unfortunately city, county, and state governments leave these questions for the developers to answer. This is not “due diligence.” While developers need to answer these questions government leadership needs to also answer them and then compare the answers. Remember, developers typically want to maximize their profit and keep expenses to a minimum. Thus, with many low income and mid-level homes, a major goal is to build to meet the minimum building standards.

While these studies should be required in order to avoid malfeasance, they represent only part of the solution for building quality communities. They also help to avoid unintended consequences that typically result in increase taxes along with environmental, social and economic detriments.

The other part of the solution lies with the requirements encompassed in local and state development and building codes, regulations, and standards (collectively codes). In most locales these codes fall into three interrelated groups:

- Land development codes
- Zoning codes or ordinances
- Building codes

The codes within each group are meant to guide developers and builders in carrying out their business. They are also used by government to help plan for the future needs of an area. Unfortunately, specific codes in each group are out-of-date. Let’s look at an example from each group.

Land development

Back in the 1980s, Charlotte, NC was a medium size city with a population of about 314,447 people. Today, its population exceeds 880,000 people, and what were considered nearby towns (88 towns –Pineville, Monroe, Matthew, Huntersville, etc) have become bedroom communities for Charlotte. Massive commercial and home development has connected these towns to Charlotte, and collectively having a

population estimated at 2,288,543. Prior to the 1980s, Charlotte's climate was similar to other cities and towns in the Piedmont region of North Carolina. With all the development that has taken place, Charlotte and its surrounding communities now has its own microclimate that is considerably different from other areas of the Piedmont region.

Miami, Tampa, and Atlanta are other areas in the southeast having their own microclimate. Meteorologists have identified the major causes for these microclimates are population increases, and increased air and water pollution exacerbated by an increased use of concrete and asphalt.

Zoning

In most cases real estate zoning has two major goals.

- To ensure orderly, attractive, and economically sound development within a community.
- To protect property values by keeping incompatible or unsuitable uses away from your property.

Most communities and counties have established zoning regulations. However planning boards and county commissioners often override zoning regulations in favor of the developers. These actions are often disguised as variances.

So what good are zoning regulations? There are several issues with zoning regulations. The first has already been mentioned – they can be overridden in the guise of variances.

Zoning areas often overlap each other or are further subcategorized. For example a residential zone can be broken into subcategories with differing restrictions. In some areas, a person's property may also fall into different zones.

Aside from what can or cannot be built in a particular zone, other regulations may apply. For example there may be environmental regulations. For example, a large tract of land may include a wetlands area. Typically people believe that these areas are protected but a developer can develop such areas, as long as the developer creates another comparable wetlands area elsewhere. The problem is that seldom is there any follow-up on the so-called "newly developed" wetlands the developer is required to create. There is also the question of how can man create a wetlands that nature took centuries to create?

Zoning is a complex set of regulations that developers face but try to get around if possible. It is up to the city, county and state leaders to adhere to the regulations and stop issuing variances. The leaders need to follow the land use plans that are developed with public input.

Building codes

While most cities and counties follow national building codes, we need to remember that the developer's goal is to make money. With exception of high-end estate developments, many (probably most) developers will meet only the minimum requirements of the local building codes. For example the building code for a 9' x9' room, the minimum size floor joist required is a 2 x 6. Using a 2 x 8 would make a firmer and better support.

SUMMARY

Up until 1977 strip mining was regulated by a myriad of state laws lacking fiscal support and enforcement. Jimmy Carter signed into law the Surface Mining Control and Reclamation Act of 1977 (SMCRA), establishing a supposed uniform federal standard for strip mining. SMCRA focus was on the environment and reclamation of abandoned mining sites as well as for coal mining, employment and the economic well-being of coalfields. But the distinguishing characteristic of SMCRA was giving states primary authority over coal oversight and permitting, thus in many respects it was an empty promise with little regulation.

Using the Clean Water Act and executive orders, Obama put an end to strip mining in 24 states. In 2022, the expansion of the Western Rosebud Mining strip mine was challenged and declared illegal. The basis for the court decision was that the massive expansion would negatively impact water resources, the Yellowstone River, and the climate.

In a 20 acre development in Henderson County, North Carolina, the developer stripped the land of over 300 mature hardwood and pine trees, and moved tons of hillside soil to create two roadways in two separate parts of the development. The development also has a "blue line stream" running through it, a dry creek, more than a half dozen spring heads, and a designated wetlands area.

Originally the development was subdivided into 7 lots. When the development changed hands the new developer requested that the site be rezoned from R2 to R1-C for a proposed 33 houses. Fortunately, while the Planning Board approved the request (8:0), the County Commissioners denied it. Following the denial the developer resubmitted the request for twenty (20) lots. Many of the lots are just over a half acre in size.

There has been no attempt by the developer to save any trees on the 20 acres. In meeting the minimum county requirements, the developer will replace the 300+ trees with only 50 trees. This is not environmentally sound, nor is the addition of asphalt for a new road, driveways, and roofs. It is unclear how the dry creek, which fills with water after heavy rains, and the spring heads will be mitigated with houses built on top of them.

SUMMARY

Clearly development and building codes and regulations are out-of-date across the country as development takes place causing

- increased pressure on already stressed natural resources, and
- changing weather patterns with emerging micro-climates.

City, county and state governments need to update their codes to be more forward looking. Impact studies by local, regional, and state environmental and economic agencies must be required before approving any development exceeding 10 acres.

Developers must be prohibited from stripping an area of its natural resources without being required to replace the removed resources. Failure to comply with development and building codes should include both financial fines and imprisonment. Currently noncompliance of the codes generally result either no action being taken other than a slap on the wrist or a fine. Noncompliance is not just a failure to follow the law but is also a form of theft where the community is negatively affected.

On a final note, every level of government needs to revise its thinking that a developer is not the same as a homeowner. In other words, the concept of “it is my property and I can do with it as I want,” does not apply to developers.

In addition, when it comes to approving development projects, the various government entities, needs to **STOP** thinking in terms of bringing in additional revenue and **START** thinking about how approving land development projects impact not just their locality but also the impact on other localities economically, environmentally and socially.

RESOURCES

Land Use Changes: Economic, Social, and Environmental Impacts

<https://www.choicesmagazine.org/magazine/article.php?article=49>

Economic, social, and environmental sustainability in development theory and urban planning practice

<https://www.amherst.edu/system/files/media/0972/fulltext.pdf>

Relationship between environmental impact and development

<https://www.hellovaia.com/explanations/social-studies/global-development/environmental-impacts-of-development/>

Green Building

<https://archive.epa.gov/greenbuilding/web/html/about.html>

The 'green' buildings are leading the way to more sustainable and efficient urban planning

<https://www.iberdrola.com/sustainability/sustainable-green-buildings>