

## Developer-Built Schools: A Growing Trend?

A high priority for many home buyers is the close proximity of good schools, but in housing developments and master-planned communities, developers can seldom guarantee prospective buyers a school that will open simultaneously with occupancy. School districts trying to keep up with population growth have a different set of challenges: Optimal sites are difficult to find, schools must comply with strict and complex regulations for site approval and construction, and funding can be a lengthy process while construction costs skyrocket. Some districts are turning to developer-built schools.

The idea makes a lot of sense. Developers get a school built to open concurrent with occupancy, and schools get a quality product with less stress on staff and resources. At least, that is the idea, and it has been done successfully. However, there are failures as well, in part because the process and its implementation haven't yet been figured out. The closer you examine the details, the more apparent it becomes that **developer-built schools require the integration of two very different processes and the cooperation of parties who have, for the most part, dissimilar priorities and constraints.**



### POTENTIAL ADVANTAGES

For developers, the key advantage is simple—the school gets built on a schedule defined by the developer. The instant the school is open, homes become infinitely more appealing to buyers. “A homebuyer that comes to a community that already has a school in place will buy a home there over buying in a community that just has a sign up reading ‘school site,’ with no information on when the school will be built,” says Leon Swails, Chief Operating Officer for Lewis Planned Communities. “The greatest advantage is that the school is in the right place at the right time.” The developer also has more control over the design and location of the school and can build a structure that integrates well with the overall aesthetics of the surrounding development.

The advantage to school districts may be that the developer provides the resources and handles much of the construction process. This reduces the strain on district staff and other resources, and can altogether eliminate the time and cost of the competitive bid process for subcontractors. In addition, districts can potentially find a willing partner in high-quality construction in developers who have a vested interest in pleasing residents. In some cases, joint-use opportunities arise where a school can share space with community resources such as a library or city park.

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### UNDERSTANDING THE PROCESS

However, the first consideration for both parties is whether they have sufficient reciprocal knowledge to negotiate the process competently. Has the developer ever actually built a school? Are they willing to negotiate all the issues with the school district? Do they understand the levels of complexity involved in state compliance, and are they willing to navigate that labyrinth, from site assessment to worker's wages to funding?

"At the end of the day, it costs a great deal more for a developer to build a school than it does to simply pay school fees," asserts Swails. "There is a mistaken notion that somehow we are building the school for less, or gaining an economic advantage. We see the opposite of that—we have to build using prevailing wage, and we pay more for a second set of supervision on the project representing the school district to avoid any significant changes in the project down the line."

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—Mike Vail

For districts—who are already skeptical about partnering with developers—it is crucial to understand the process of real estate development and construction. No matter how much of the process the developer takes on, in the eyes of the state the district is ultimately responsible. So the district must be able to document that all stages of the process are handled properly.

"There is a level of sophistication regarding building construction and development, so district officials may not know what they are getting when they view the plans," observes Dr. Betty Hanson, Vice President of California Financial Services, who represents districts in the school funding and building process. "If a district official is not comfortable dealing at this level with a developer, then a trusted outside party should be brought on board to observe and advise the process on the district side."

### THE IMPORTANCE OF PLANNING AHEAD

Many of the unforeseen problems with developer-built schools appear with the close-out process. For instance, developer-built schools are frequently constructed under a lease/leaseback process, where the school district owns the property, leases it to the developer, and then the developer leases it back as a constructed facility. This can be an advantage, but "district officials should take care to ensure that the process does not jeopardize the school's ability to get state funding. This means full compliance with leaseback and competitive bidding regulations," advises Dr. Hanson. However, even if the district does get funding, what about the state audit three to four years after the school is constructed? If something is disallowed, the money may need to be paid back. How does the district prevent this with any degree of certainty?

Development-induced environmental issues may be another potential pitfall. Some practices acceptable for property development may conflict with Department of Toxic Substances Control requirements, resulting in a variety of problems. Certain contaminants, such as legally applied pesticides, may be exempt from cleanup activities for projects not slated for schools. Grading activities that spread non-school exempt contamination prior to a thorough site assessment, or the introduction of "clean" fill material that fails school risk assessment criteria, can be costly mistakes.



Another example of close-out difficulties is the issue of warranties. If a developer installs equipment, appliances, etc., the developer holds the warranty. Can those warranties be transferred to the district, and if so, how?

A fourth issue that must be addressed from the beginning is that districts need consistency between their facilities, mostly for maintenance arrangements. This might apply to any number of items or systems, depending on what the developer has agreed to provide. For instance, if HVAC systems, kitchen appliances, or even the kinds of nuts and bolts used are inconsistent with other schools in the district, it can be a maintenance nightmare. And what about classroom and playground equipment?

## COOPERATION IS FUNDAMENTAL

It seems apparent that an absolutely essential component in developer-built schools is planning and cooperation. This must involve both parties and they must share appropriate information from the beginning and throughout the process. Otherwise, there is little point in pursuing it. "Developer-built schools are an additional option for growing school districts," said Mike Vail, Senior Advisor at The Planning Center, who has been involved in planning and constructing public school classrooms for 23 years. "In some situations, this approach can work very well. But it's not a magic bullet. Districts must be careful that they understand exactly what they are getting from the developer. Does the school meet the district's standards for materials and finishes? Has it been designed to deliver the district's educational program? These are some of the questions that should be answered before a district moves forward." Dr. Hanson concurs: "From a district perspective, there should be specific objectives in mind from the outset to justify the school construction by a developer."

It may help that some developers are beginning to see themselves more as community builders. That means offering residents not just housing, but community amenities like recreation, proximity to commercial uses, employment opportunities, and schools. Lewis currently has a school under construction in their Preserve at Chino project, a 9,700-unit community where Lewis owns 7,300 of the units. Their commitment is for two schools in that community, with overall plans to build seven or eight in various communities over the next ten years. "We place a great deal of emphasis on walkable communities, and so having a school within walking distance is especially important," Swails argues. "We can plan that location from day one and have the school ready to go from a community's start. When you have a school located within walking distance of residences, it is a real asset."



## CONCLUSION

It might be premature to call developer-built schools a growing trend, but they are becoming more common and there is a growing curiosity and awareness about the option. So far, it has mostly been smaller districts with resource and staffing constraints—and hit with sudden population growth—that have taken advantage of this option. As more people succeed, however, the process will be refined, and it may offer advantages to larger districts as well. Ultimately, each project's specific needs will determine whether or not a developer-built school is appropriate. As Dr. Hanson states, "The potential exists for a developer-built school to save the district time and money, but those benefits must be maximized. If the district's goals can't be served by a school built by a developer, then there is no point."

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The inspiration for this CENTERVIEWS was a panel discussion held at the April 2006 San Bernardino/Riverside Counties School Facility Planners Meeting. Mike Vail, Senior Advisor to The Planning Center, served as moderator and was joined by the following panelists: Kent Van Gelder, California Department of Education; Betty Hanson, California Financial Services; John Nichols, HMC Architects; Terry Tao, Atkinson Andelson Lola Ruud & Romo; Duwayne Brooks, Murdoch Walrath & Holmes; Leon Swails, Lewis Planned Communities. We would like to extend our thanks to all participants and to Linda Sweaney, San Bernardino County Office of Education, for hosting this successful event.

A second panel discussion was conducted September 12, 2006, at the San Diego County Office of Education.

We would like to further explore this topic in future CENTERVIEWS and we are interested in your feedback. If you have had an experience with developer-built schools, we would love to hear from you.

Questions related to this CENTERVIEWS may be directed to: Dwayne Mears, AICP at 714.966.9220 or [dmears@planningcenter.com](mailto:dmears@planningcenter.com)



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