



Capacity Building Issue Brief Implementation

When your organization received technical assistance (TA) or a grant from the federal Partnership for Sustainable Communities through EPA or HUD, it became eligible to participate in capacity building services. These services will help you gain access to technical experts and additional resources to support the successful implementation of your grant. Reconnecting America is leading the team that will focus on the implementation of planning activities. Other team members are Strategic Economics, the Center for Neighborhood Technology, Enterprise Community Partners, the Center for Creative Land Recycling and Kim Burnett Consulting. Team Implementation will be providing a range of targeted, collective and one-on-one activities, best practices, case studies and resources to support all Sustainable Communities grantees with implementation efforts. The following issue brief is the fourth in the implementation series.

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Redeveloping Brownfield Sites

Introduction

Brownfields are former industrial or commercial properties where their future reuse is affected by real or perceived environmental contamination. At the heart of the brownfield challenge was the 1980 passage of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) and its state equivalent laws holding past, present, and future property owners liable for the full cost of cleanup, regardless of whether they actually caused or contributed to the contamination. While this liability scheme has proven highly successful in many ways—forcing responsible parties to acknowledge and pay for their pollution—a major side effect has been that real estate transactions involving any contaminated or even perceived to be contaminated sites virtually ground to a halt.

In 1995, in response to this redevelopment challenge, the U.S. EPA created the brownfield program to delineate those sites that are slightly or lightly contaminated from the larger and more complex Superfund sites, and encourage their cleanup and redevelopment. The EPA defines a brownfield as “a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.” This definition frames the brownfield issue as a real estate problem; real or perceived contamination impeding reuse. Cleaning up a brownfield often results in the removal of a potential threat to human health or the environment. However, the EPA and the states recognized that since the problem is grounded in the market forces of real estate development, so too must the solutions focus on tipping the balance of those market forces in favor of reuse. This brief outlines the brownfield challenges, discusses the available financial, technical assistance, and regulatory tools, and provides case studies from successful brownfield communities.

To minimize liability exposure, project delays, and overall cost, communities must proceed carefully in planning, structuring, and managing the revitalization of environmentally impaired properties. Today, environmental risks associated with redevelopment are becoming more quantifiable and manageable, and there are many examples of successful developments on former brownfield sites. This is in part due to the maturation of the regulatory community and the associated increased comfort level of the lending community.

Brownfield redevelopment results in tax base growth, job creation, neighborhood revitalization, and environmental protection. Different states have established regulatory and financial programs that, combined with federal resources, have cleaned up thousands of sites, generating tens of thousands of jobs. Communities like Milwaukee, Emeryville, and Pennsylvania's Lehigh Valley have demonstrated how partnerships, financial tools, and complementary regulatory environments facilitate brownfield redevelopment.

Understanding the Nature of the Contamination: How Big is the Problem?

Approaching a brownfield redevelopment project requires a focused strategy to understand property conditions. Environmental due diligence identifies liabilities that may not be evident to the untrained purchaser, but can be economically significant. The investigative process has evolved into a methodical series of steps that can culminate in a variety of industry accepted reports. An early understanding of the nature and extent of the contamination is the first step in brownfield redevelopment.

Sometimes perception is the largest obstacle to redevelopment. Often there exists a prevailing local story that a property is dangerously contaminated which can seriously compromise community support for redevelopment. However, many case studies have shown that once a thorough environmental assessment is completed it can often show little or no contamination.

The Town of Truckee is a rustic community in the Sierra Nevada mountains just west of Lake Tahoe. Adjacent to the town's very quaint and historic downtown a 40-acre railyard lay vacant. While the railyard site was the obvious place for future growth, the long standing and prevailing myth that the site was dangerously contaminated was a significant obstacle to its redevelopment. The town's first step was to visit the state and local regulatory agencies and gather all the existing environmental documents for the site. Even though, in addition to the railyard activities, a timber mill had operated on the site at one point in its history, based on the public records searches, the town was able to dispel the prevailing myth that

Bethlehem Steel, Pennsylvania

The Brownfield Approach

From the mid-1800s Lehigh Valley was home base for Bethlehem Steel one of the largest shipbuilding and steel manufacturing companies in the world. During its heyday, it was the most powerful symbol of American industrial manufacturing leadership. Bethlehem Steel's demise is often cited as one of the most prominent examples of the U.S. economy's shift away from industrial manufacturing.

The 1600 acre site is now a national model for coordination between federal, state, and local agencies. This collaboration led to federal and state liability relief for new developers, a site-wide environmental investigation and assessment that led to an overall soil and groundwater management plan minimizing development uncertainty.

The site of the company's former main plant is now home to an arts and entertainment district called SteelStacks. The site is currently home to a contemporary performing arts center, called the ArtsQuest Center, and the Sands Casino Resort.

Another 500 acres was purchased in 2007 by Majestic Realty for a new industrial park that will generate thousands of new family-supporting jobs. Ground broke this month on a new centralized distribution center for the worldwide shipment of Crayola products. Crayola, the maker of world famous crayons, consolidating their current warehouses, plan to operate the new center beginning in spring 2013.

Majestic cited the coordination of state and federal regulations, and support from the local community, as the single biggest reason they invested in the Bethlehem Steel site.

the site was seriously contaminated. The site is now under entitlement for a residential and retail mixed use project that includes a new City Hall and a critical creek restoration project for fish habitat.

The type and extent of the contamination is another significant redevelopment driver. Hydrocarbons from former gas stations or high levels of lead in the soil from historic atmospheric deposition (when lead was used heavily in gasoline) are relatively easy to address and remove during a cleanup or site construction. Other more persistent contaminants (like dry cleaning solvents) present a more serious challenge because they do not easily biodegrade and because they move quickly through the soil and can contaminate groundwater. A significant redevelopment challenge can arise when persistent contaminants have reached groundwater. This is when having a good plan in place is the best strategy for keeping the environmental challenges from stalling out your redevelopment plans.

The Value of a Plan

Understanding the type and extent of the contaminants of concern on your site is the first step in putting your plan together. As in the case of Truckee, early reviews of all existing environmental documents were a major factor in moving the project forward. The planning begins with a review of all existing

City of Emeryville, California

Area-wide Planning—the Smart Plan

The City of Emeryville was created by industrialists in the late 1800's who wanted to avoid the taxes and regulations of Oakland and Berkeley. The city was home to paint manufacturers, heavy equipment makers, and scrap yards. Emeryville has transformed itself from an industrial and manufacturing community to one featuring mixed-used commercial and residential uses.

The City strategically used U.S. EPA brownfield grants to characterize and assess their environmental concerns on an area-wide basis. This led to their area-wide plan approach to groundwater and soil issues, enabling the state regulators to shift their attention to the most contaminated sites and allowed the City to assume regulatory authority for low-risk sites. This was accomplished via completion of a MOA by which the City essentially gained authority to process environmental sign-off for soil and groundwater investigation and cleanup.

Interested parties were provided with simple "look-up" tables for cleanup numbers and pre-approved procedures for mitigation of soil problems.

environmental documents, proceeds to testing of the soil and groundwater, and ultimately culminates in a cleanup plan that often is tied to the intended use of the property. Often cleanup requirements are more stringent for a residential development than for a commercial or retail development.

Area-wide planning can help realize both efficiencies and economies of scale, and attract private sector investment and stretch your public sector investments. Site assessment and cleanup is more efficient and cost effective when clusters of sites are targeted. For example, soil sampling and trenching across multiple sites saves time and resources.

A significant benefit of area-wide planning is that it provides the development community with information about existing conditions, planned public investments, community intentions and subsidies available for particular projects—all of which strongly encourage private investment.

By looking beyond the boundaries of individual sites, area-wide planning is an opportunity to examine a community's assets and needs. This comprehensive assessment makes it possible to prioritize public investments and identify other investments (transportation infrastructure, affordable housing, or educational services) and achieve a community's vision beyond brownfield cleanup.

Engaging the Stakeholder Community—Including Your Regulator

Whether it's for a single property or an area-wide plan, effective environmental planning is based on transparent and meaningful community participation.

Consultation with established community networks, the regulatory community, and important stakeholders at the beginning of the planning process ensures that proposed redevelopment plans will be consistent with community desires.

State and federal hazardous waste statutes are administered by a number of different regulatory agencies. It is important to understand the various regulatory bodies and their levels of involvement in brownfield redevelopment projects. It is equally imperative to establish a strong working relationship with your regulator and maintain open communication throughout the redevelopment process. Cleaning up all historically-contaminated sites to background concentrations or levels suitable to all uses is often not technically or economically feasible. As a result, cleanup strategies are increasingly designed to employ sustainable, long-term solutions that are protective of human health and the environment. Effectively communicating the environmental planning and cleanup strategies will be key to your redevelopment success.

Engaged community members can become valuable leaders for the revitalization efforts, and can help limit unexpected opposition to projects when they are full community partners in development plans. Because neighborhoods plagued with many brownfield properties often suffer from other economic challenges, area-wide planning can become an important method of restoring the social fabric as well as the built environment. Meaningful community engagement is not simple. Real engagement requires an investment of resources to support community leaders as they drive the planning process. In many instances, public resources can be used to hire technical experts who can provide the community with information they need to participate in the planning process on equal footing with real estate and planning professionals.

Engaging community members, local businesses, community-based organizations, and other stakeholders is well worth the investment and can yield both tangible and intangible returns as neighbors, business owners, and community groups learn about and personally invest in redevelopment plans.

Monroe, Michigan

It Takes a Community

The Downriver Community Conference Partnership whose objective is to create a collaborative process for small cities to share financial and technical assistance and achieve their brownfield redevelopment objectives. Under a progression of U.S. EPA assessment and revolving loan grants, the Partnership created a redevelopment model that identifies, investigates, and evaluates the potential future land use of selected brownfield sites within the participating communities. The Partnership also provides for effective community outreach and involvement in the redevelopment process.

Like many brownfield communities, Monroe is reinventing itself from the legacy of lost manufacturing jobs. The VenTower project in the town of Monroe is a beneficiary of the Partnership. VenTower, a fabricator and supplier of industrial-scale wind turbine towers, began manufacturing operations in September 2011 on a once-idled landfill.

The project got underway at a time when financing was becoming increasingly difficult due to economic conditions, so securing all available grants and loans was essential to make the project happen. With the assistance of the Partnership, the project secured \$16.5 million in state and federal financial incentives for the project, including a combination of state brownfield grants and loans; an EPA brownfield loan; state brownfield tax credits; brownfield Tax Increment Financing; and a Small Business Administration Section 504 Loan.

Other project incentives included an Act 198 Industrial Facilities Tax (IFT) abatement, MEGA jobs credits, and an Alternative Energy Tax Credit.

The project's success is attributed to multiple parties working together in a public-private partnership that was committed to the project's success.

Where do I Find Available Technical Assistance and Funding?

For a number of reasons, it is difficult to secure either front-end or long-term financing for brownfield projects. Although financial institutions have become less nervous about lending on brownfield properties in the last decade, the possibility of high cleanup costs, long term liability, and loss of collateral are still significant considerations.

Milwaukee, Wisconsin

Innovative Funding

In the early 1900s, Milwaukee was known as the “Machine Shop of the World” and the Menomonee Valley was its engine. Farm machinery, rail cars, and electric motors were all made in the Valley.

By the 1990s, as manufacturing practices changed, the Valley was abandoned and left with contaminated land and vacant industrial buildings. In 1998, the City of Milwaukee prepared a land use plan and secured various innovative funds that is now a national model for economic development and environmental sustainability: 300 acres of brownfields redeveloped, 33 new companies, seven existing companies have expanded, and more than 4,700 family-supporting jobs have been created. Seven miles of trails have been constructed, and 45 acres of native plants installed, leading to improved wildlife habitat and water quality.

INNOVATIVE FINANCING TOOLS

- \$16 million Tax Increment District to remediate and build infrastructure
- New Market Tax Credit Program loans to industrial developers through the Milwaukee Economic Development Corporation
- \$24 million through 20 local, state, and federal grants: HUD, EPA, EDA, FHWA, State Stewardship funds, and State Departments of Commerce, Natural Resources, and Transportation
- Up front negotiation for management of dirty soil onsite—saving the project \$10 million
- Cooperative agreement with Wisconsin DOT for highway fill elevated the site and netted \$1.5 million
- State-of-the art stormwater treatment facility covers majority of the property so developers don't need their own basins; it cleans stormwater flows to the river and doubles as public park

Further, with the exception of larger financial institutions, most banks do not have the in-house expertise needed to properly weigh environmental risks. Absent a viable responsible party or private developer investments, initial funding for brownfield projects often come in the form of public sector grants, which play an important role in most brownfield projects. There are many federal and state funding and technical assistance programs that have emerged over the last decade.

The U.S. EPA provides varying levels of technical and financial assistance for brownfield redevelopment and sustainable development through their brownfield, smart growth, and sustainability offices. Several other federal partners complement these programs with funding that support economic development, job creation, housing, and alternative energy. A summary of these programs can be found here:

<http://cclr.org/news/publications>.

There are also a variety of state financing mechanisms that help supplement the remediation and redevelopment of brownfields. The U.S. EPA's website provides links to each state's brownfield program, links to state's financing programs, and state contacts that can provide leads to technical assistance:

http://www.epa.gov/brownfields/state_tribal/state_map.htm

The Center for Creative Land Recycling (CCLR or “see clear”) is also a great resource for technical assistance and additional links to funding and technical assistance (www.cclr.org).

Conclusion

Implementation of a sustainable future depends on the ability of older communities to attract private investment capital. Such investments cannot be mandated, but they can be stimulated through various types of incentives to overcome the business-as-usual attitude.

Federal, state, and local requirements place constraints on the assessment, cleanup, and redevelopment of sites containing real or perceived contamination. It is important for communities to

understand the range of legal risks and liabilities, the specific regulatory requirements, and the differing tools available for managing the risks in order to facilitate the cleanup and redevelopment process. It is highly beneficial to obtain appropriate legal advice and regulatory guidance early in the project planning process in order to develop an effective strategy for expediting the process, enhancing cost effectiveness, minimizing risks and bringing your community's vision to reality.

Additional Resources

Links at <http://www.cclr.org/resources/links>