

Why Are Mixed-Use Developments Going Condo?

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Have you ever wondered why so many mixed-use developments are being structured as "master condominiums"? The answer is simple: developers can save money by doing their deals this way.

Simply defined, a condominium is a method of owning property in which the property is divided into *units*, which are owned by individuals / individual entities, and *common elements*, which are owned by an association. Historically, the condominium form of ownership has been used in "for sale" multi-family housing. However, condominiums can also be used to structure the ownership of the major components of mixed-use developments. For example, hotel, office, apartment, and retail components of a mixed-use development (and, for that matter, any other uses) can each be condominium units in a master condominium project.

Money saving advantages of the mixed-use condo structure impact costs even in the early stages of the development process. Local governments regulate land use differently depending on whether the property is owned by one or "more than one" property owner. If a hotel is built next to an office on a piece of property and a single owner owns both components, local governments do not typically require special firewalls or other structural separations between the two properties, if they are a "single development." With the condominium structure, requirements for expensive firewalls between separate properties abutting one another on a common property line disappear. However, if a physically identical development has a property line drawn between the hotel and office uses so they can be separately owned, local governments usually impose all sorts of structural dividers and required firewalls between the

two properties. As illogical as this may seem, these requirements in a large mixed-use development (which result solely from drawing property lines on a plat) can increase construction costs to the tune of millions of dollars.

Another advantage of the condominium structure is that it mimics the single ownership of real estate from a zoning and land use perspective. Under the Georgia Condominium Act, local governments are prohibited from imposing requirements on individual units within a condominium that would not otherwise exist on the parcel if owned by a single property owner. For example, if there are no setback requirements between a hotel and office building on a single parcel owned by a single owner, the local government cannot then impose a setback requirement if the parcel is a condominium with two condominium units: a hotel unit owned by a hotel owner and an office unit owned by a separate office owner. However, if the parcel is subdivided into two separately owned parcels and not part of a condominium, the local government has the right to impose the setback requirement. Utilizing a condominium structure cannot only result in huge construction savings; it can in some cases allow developers to achieve higher yields in density on their projects.

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