

## STREAMLINING THE DEVELOPMENT APPROVAL PROCESS

Background paper for American Planning Association's *Growing Smart* Project, Phase III

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Over the years numerous task forces and commissions have investigated how land development costs might be minimized by streamlining and better coordinating development standards and the approval process for new homes. Several of the reports that have resulted from these efforts are listed in the References section of this paper.

Yet in spite of these many efforts to document problems and offer solutions, the development approval process remains a long, contorted path in most jurisdictions today. In many areas of the country, development approvals have gone from taking a few months to two years or more to obtain. (See attached flow chart of the typical development approval process from the National Association of Home Builder's 1995 publication *The Truth About Regulations and The Cost of Housing*.) As the 1991 Kemp Commission report "*Not in My Back Yard*": *Removing Barriers to Affordable Housing* noted, "In most places, permits and reviews are not logical point-to-point processes, but layers of single-issue reviews, each with decisions made without regard for costs or delays. The result is overlapping jurisdictions with redundant and duplicative regulations."

*Growing Smart* can play an influential role in elevating the importance of this issue. State legislatures have a great deal of influence over local governments both through delegation of authority and through their ability to use funding, technical assistance, and other carrots and sticks to encourage local governments to act in the public's best interests. States themselves are also increasingly involved in the permit pipeline, and there is a critical need for them to do more to coordinate state permit requirements for development with those stemming from the local and federal levels.

There is clearly a leadership role for states in encouraging greater streamlining, particularly because of its effects on housing affordability. Builders and developers of all types of housing, and more importantly potential homeowners, are all affected by the increasingly high costs of developing land for home construction. Builders and developers must pay interest each month on the money they borrow to buy land, hold it until approvals are obtained, and eventually build homes on the land. According to the *Land-Use Regulation Handbook* (National Institute of Building Sciences, 1990), one study conducted in the early 1980s found that every month of delay in the approval process added 1 to 2 percent to the final price of a home.

The direct and indirect costs that stem from the delay and uncertainty associated with lengthy and complex approval procedures; numerous and often conflicting resource protection standards; and fees assessed on development are true costs that add to the

consumer's price of a home. These additional costs have the potential to affect not just eventual product cost, but even project feasibility. The proportion of total costs that processing delays and uncertainty add is even greater for more affordably priced housing, fundamentally affecting who can afford to purchase a home.

At a broader level, such impacts on housing affordability have social equity implications. As the National Council of States on Building Codes and Standards (NCSBCS) notes in its March, 1994, report *Making Housing Affordable: Breaking Down Regulatory Barriers; A Self-Assessment Guide for States*, "Regulatory barriers that unnecessarily raise the cost of housing or limit the supply of affordable housing have pernicious effects on our society, especially on those who do not have the wealth to live wherever they want . . . . Where you live—where you are able to live—provides you not only with access to jobs but also access to quality of education."

In addition, time is money even for the public sector. Multiple, overlapping, uncoordinated approval processes increase government's administrative costs. As the NCSBCS report adds, a state's own housing programs are affected by an approval process that bogs down, increasingly limiting what each subsidy dollar is able to achieve.

While everyone would like to see a single model development ordinance that could be recommended by states and used in every municipality, there is simply no single approach or document that will work in every situation. A particular danger of model ordinances is the temptation to borrow them wholesale without modifying them to make them appropriate for the particular jurisdiction. That said, many of the studies and reports that have looked at streamlining the development approval process have reached similar conclusions and recommended similar strategies.

This paper offers a comprehensive compilation of the ideas raised in the various reports. Most of the reports focused more on development standards than the approval process. Only a few contain a comprehensive list of issues relating to the approval process, including, notably, APA's 1980 publication, *Streamlining Land Use Regulation: A Guidebook for Local Governments* and the *Land-Use Regulations Handbook* (National Institute of Building Sciences, 1990). The paper also draws on the experience of planning staff in the National Association of Home Builders' Land Development Services Department, which reviews and comments on 50 to 75 ordinances each year. This list may be useful to those working to achieve more effective, efficient, and less costly approval processes.

- ❑ **Initial Assessment:** The first step in any streamlining reform effort should be to take stock of how long various approvals actually take in a community, something of a "look in the mirror" exercise to help identify where the approval process bogs down.
- ❑ **Presumption of Approval:** This is perhaps the single most important concept that has been raised about the way in which the development approval process performs. Overall, there should be a presumption that approval will be granted if development standards are met. Applicants should not be forced routinely into case-by-case

reviews such as the special exception, conditional use, or planned unit development process. Case-by-case reviews should be an option, but not the norm, and should be aimed at enhancing flexibility and quality, not stymieing it.

- ❑ **Central permit information desk/One-stop permitting:** All requirements and permits for land development should be initiated from a single central location. This eliminates needless backtracking to various municipal or county offices. Staff must be adequately trained to be familiar with all requirements and to answer questions. They should also be trained to see their role as facilitators in the approval process, not adversaries.
- ❑ **Cross-training of staff** reduces specialization and thus enhances staff understanding of how various development standards and issues relate to each other. This improves coordination and helps expedite the approval process. It also increases the number of employees who are able to staff the central permit information desk.
- ❑ **Define key terms and use simple, direct language:** Vague or legalistic language is often difficult to interpret, particularly by lay planning commissioners with little experience or familiarity with land use issues. Terms and requirements should be as clear and specific as possible, with criteria provided as a guide to implementing more flexible standards. Clear cross-references should be made to sections and standards that relate to each other. Quick-reference tables should be used wherever possible. These steps will benefit both the applicant and those who must administer and enforce the ordinance.
- ❑ **Ordinance approval process checklists and flow charts:** Ordinances should spell out where to submit applications, which agency has the final approval authority, and the approval sequence for various types of applications. The authority and responsibilities of each agency and governmental body involved in the process should also be clearly explained. Too often, individual stages of the process are described, but not the process start to finish and how long it will typically take. Some communities have published process and permit flow charts as separate brochures or guidebooks to the ordinance that can be distributed at a central permit information desk.
- ❑ **Clearly state submittal requirements and require appropriate level of detail** in applications. As HUD suggests in its 1982 publication, *How Local Regulatory Improvement Can Help*, “Do not require detailed design until the basic concept is agreed upon.” Distinguish between preliminary and final plan submissions. Clearly set out when construction can begin. Practice varies across the country as to whether construction of improvements may begin after preliminary plan approval, or final plan approval, and many ordinances do not make this key action point clear.
- ❑ **Specify time frames/limits for reviews and approvals to ensure timely decisions are made:** Vague and lengthy review processes and a lack of response from municipal staff add delays that contribute unnecessarily to the cost of housing.

Ordinances should specify when decisions will be made, such as 30 or 45 days after a public hearing on the project. Decisions should not be indefinitely postponed, or tabled from hearing to hearing. Ideally, the ordinance should also state that if decisions by the relevant agency are not made within the specified time limit, the application is presumed approved.

- ❑ **Pre-application conferences:** Pre-application conferences are one of the most effective tools in expediting the development approval process. Encouraging developers to meet informally with planning staff to present concept or sketch plans for a project can help address issues and requirements before expensive technical and engineering work has been conducted. Some communities require this conference, while others make it voluntary; but in no case should a formal approval of such sketch plans—even by staff—be required.
- ❑ **Interdepartmental review committees with designated coordinator/ombudsman:** A single point of contact and appointed review coordinator, such as the Planning Director, helps coordinate reviews by multiple agencies and work out discrepancies in the comments received from those agencies. To be successful, the coordinator must have the authority to make final decisions when discrepancies occur.
- ❑ **Permit expediting/tracking:** Computerized tracking systems provide the ability to tell an applicant the status of their application and to more readily identify coordination problems between agencies.
- ❑ **Concurrent, not additive or sequential, reviews whenever possible:** Simultaneous reviews allow different steps in an application to be reviewed together as a package or at least during the same time frame, reducing the time involved in sequential reviews. A typical example would be to allow the preliminary plan and rezoning applications for a planned unit development to be handled together.
- ❑ **Create a hierarchy or rank projects:** Small and non-controversial projects or particularly desirable projects (such as affordable housing) can be “fast-tracked” as administrative rather than as legislative approvals by allowing the Planning Director to review and approve them. In this way, the level of attention is commensurate with the level of impacts of the project, with valuable public and private resources devoted only to the review of projects that have a greater impact on the community. Alternatively, or in addition, the number of requirements that apply to those projects can be reduced.
- ❑ **Allow more decisions to be handled administratively** by planning staff, such as issues that are mostly technical, minor changes to submittals, and minor subdivision approvals.
- ❑ **Eliminate multiple public hearings:** Often, a developer must present the same information at public hearings before several different commissions or boards. This is not only duplicative, but time-consuming and inefficient. In addition, the public

does not need multiple opportunities to comment on a proposed project. A single hearing held by the Planning Commission or equivalent body can provide public perspective that can be evaluated along with other relevant criteria in deciding whether to approve or deny an application. Most developers now hold meetings with neighborhood residents as a matter of routine to solicit public input on a project proposal early on, to minimize the costs associated with redesign plans and specifications.

- ❑ **Self-certification of plans and/or inspections by engineers:** Some communities have had success with setting up programs to train and certify registered consulting engineers, who then sign off on development plans and/or constructed improvements as being in compliance with local ordinance requirements. This reduces the burden on municipal staff and enhances the efficiency of the inspection and approval process.
- ❑ **Specify time frame for inspection of constructed improvements and release of performance bonds or guarantees:** The terms and conditions for accepting improvements constructed and financed by the developer, who must often post financial guarantees that ensure their construction, should be clearly described. The ordinance should state who conducts such inspections and the time frame for inspections and subsequent full or partial release of performance guarantees.
- ❑ **Combine inspections:** Although this suggestion appears in reports more often in the context of building inspections, it is also relevant to inspection of required site improvements.
- ❑ **Allow sufficient time frame between approvals with the possibility of extensions:** Some ordinances provide that preliminary approvals are only valid for a specific time period, typically a year, and that if construction has not yet begun or if final plans have not yet been submitted, the preliminary approval will no longer be valid. This time frame is increasingly out of step with the pace and complexity of most development projects. The best approach is to base the initial life of the preliminary approval on a realistic time period based on the size and complexity of the project. At a minimum, ordinances should allow developers to apply for extensions for additional periods of at least a year. Developers should not have to resubmit their entire project for approval.
- ❑ **Update/reevaluate ordinances on a regular basis:** Many communities add new requirements to ordinances over the years without ever going back to evaluate whether these are consistent with existing requirements. Requirements should also be evaluated periodically to ensure they reflect current demographic needs as well as current development concerns and practices. Enabling legislation should include “sunset” provisions that require communities to conduct such reevaluations or face having their ordinances expire.
- ❑ **Simplify and reduce the number of zoning districts:** Consolidation of zoning districts allows a greater range of uses and densities in each zone and reduces the

need for and number of rezonings. It also builds more flexibility into the development process to accommodate new uses that were not envisioned at the time districts were created.

- ❑ **Allow and encourage innovative techniques:** Techniques that encourage more efficient and desirable land development should be encouraged through efficient approval procedures. Many communities profess to encourage these options but then subject applicants to lengthier reviews and uncertain standards. Cluster development and planned unit development should be allowed as conditional uses or as overlays to existing zoning districts rather than handled as rezonings. Alternative lot arrangements, particularly for small lots, should be allowed. Density bonuses, cluster as a “by right” use, and expedited permit approvals can be used as incentives, rather than merely allowed.

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