

Advisory Committee on Regulatory Permitting

July 6, 2004

Topic:

Project Permit Process

Topic Lead:

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Problem/Opportunity statement:

Over time, our permitting process has become increasingly complicated. Every level of government employs permitting processes that affect land development and land use. Getting projects built can be difficult because of the complexity of the multi-layer, multi permit process. There is a demonstrated need to reduce paperwork, eliminate duplication, and increase certainty while still protecting and serving public interests.

Although the workgroup agreed that the complete system/process could use review, it was determined that our focus would be on recommendations that could possibly have the greatest impact in the shortest period of time.

Statement of principles for rules streamlining

1. Rules need to be clear and objective. Applicants need to be able to readily access and easily understand the criteria and standards that apply to their project.
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2. Adequate staff trained and directed to assist in the application process.
3. Concurrent permit processes among jurisdictions based on coordinated data requirements.
4. Wherever possible reduce or eliminate the multiplicity of reviews involved in a project.
5. Agency staff assistance to small business.
6. Planning is a tool for achieving policy objectives. It is not a goal in and of itself, and is secondary to those policy objectives.

Situational Analysis

Individuals directly involved with the following projects briefly described their experience with the permitting process:

- Novellus siting Tualatin – Doug Rux
- Sumotomo recruitment – Tom Gallagher
- Airport industrial lands in Corvallis – Ken Gibb
- Mill Creek in Salem – Vicki Hardin Woods

Lessons Learned from the four case studies are summarized below:

1. Support of projects by the local jurisdiction is very important. A strong public/private partnership is even better.
2. Opposition by interest groups and tepid support from the local jurisdiction can be hazardous or lethal to a project.
3. Technical skills and adequacy of staffing at the local level is important. Many smaller jurisdictions lack capacity at the local level.
4. Type and degree of opposition is extremely important. Early public outreach can reduce local opposition, especially opposition based on unreal fears.
5. The ability for an applicant to pay to hire skilled specialists that can supplement or assist short-handed agency staff and fund the infrastructure improvements necessary to meet permit requirements can be a very important tool.
6. A local project development team that meets on a consistent basis with the permitting bodies can solve problems in a timely manner and move the process forward with the least delays.
7. Unnecessary or redundant process glitches, can cause significant delays or even stop a 'good' project. Wetlands, access management, rail crossings, and urban growth boundary expansions currently top the list of processes delay projects.
8. Notification periods for hearings on project comprehensive plan amendments can delay a timely process.
9. Permits can generally be granted with reasonable speed. Permit appeals, rather the permit process, is what delays projects and chills an applicant's interest in a site.
10. Incentives from other jurisdictions can woo applicants to another site, and in some cases other states.
11. Preparing the site (approvals and permits) in advance of a recruitment can significantly shorten the permitting process.
12. Coordinated assistance from the Governor's Economic Revitalization Team (GERT), the Oregon Economic and Community Development Department (OECDD) and the other Economic Development Team (ERT) agencies can be very valuable.
13. Pre-application conferences are a valuable tool to coordinate agencies, identify issues and clarify process questions.

List of Potential Solutions

Project Permit Process

July 6, 2004

1. Local/State permitting teams are needed to coordinate a concurrent permitting process for specific projects (The Industrial Lands Task Force also recommended doing this in their report - http://www.gert.oregon.gov/Gov/ERT/pdf/industrial_lands_taskforce_report.pdf Agencies could simplify the application process by reducing the number of applicable rules and standardizing requirements such as, a standardized application, or by providing flexibility in rules that reduce the need for duplicate processes (local/state) on the same issue.
2. Supporting OECDD's industrial site certification program will prepare additional sites for development, which will shorten the permitting process. OECDD could provide additional assistance through staff -project ombudsman- to assist the applicant or local jurisdictions.
3. Allow prospective employers to help local jurisdictions get through the permitting process for a large facility by contributing funding to hiring local staff.
4. Create a pool of funds at the state level that would be available to local jurisdictions that lack staffing capacity to hire temporary staff to help with siting of a company. These funds could provide local permit assistance teams to work directly with applicants and local jurisdictions to speed up the process.
5. Allow agencies to 'certify' consulting firms that have expertise in processing permits in that agency, or use "receipts authority" to hire assistance to process timely applications.
6. Develop a website to help businesses get through the environmental permitting process (example: <http://www.ecy.wa.gov/programs/sea/pac/index.html>). Maintain a concise list of all development permits and contacts that is easily accessible and up to-date. Develop assistance (models, checklist, etc.) to help local governments pre-plan their development sites so to be "site ready" when an application occurs.
7. Right now wetlands can be regulated at the local, state and federal level. Consider the following changes to current law:
 - Reduce scope of local permitting authority over wetland development activities already regulated by the state.
 - Create authority in state removal-fill law for the issuance of General Permits.
 - Create funding for the establishment of Wetland or multi-benefit Mitigation Banks.
 - Create program and funding for state contribution to on-site or off-site compensatory mitigation when project meets certain economic development criteria.
 - Establish a modest fee for the review and approval of wetland delineation reports in order to fund more timely review/approval by Department of State Lands.Consider the following changes to existing wetland permitting programs (no law change needed):
 - Obtain and expand the State Programmatic General Permit with the Corps of Engineers so that DSL can issue some Corps permits without duplicative processing.
 - DSL should expand its General Authorizations to include activities covered by Corps Nationwide permits (e.g. Site Preparation or Utility Construction).

Project Permit Process

July 6, 2004

- DSL should accommodate on-line permit application.
8. Consider vesting of development rights based on a planned unit development or acknowledged master plan that could allow a multi-phased project to move forward as single project.
 9. Simplification of agency rules or regulations that could be better tailored to allow flexibility for desired project impacts. Consider amending state statutes so that site review process for employment sector projects becomes a local administrative process and not a land use decision requiring public notice. This could allow a faster application, notification and appeal process.
 10. Public input at the permit level should be encouraged but restricted to the conditions of the permit and merits of the application. Consider redirecting criteria and standing for appeals to appropriately balance public input and economic development objectives.
 11. Direct a review of how the parcel size and capacity of the available land supply and the permitting process affect the market place perspective. (Economic development committee?)
 12. Support a review of the relevancy of the land use planning goals, and allow local governments flexibility in prioritizing land use goals for economic development purposes.