



Regulatory Streamlining Initiative

Office of Regulatory Streamlining, Department of Consumer and Business Services

DATE: September 21, 2004

TO: Economic Revitalization Team Directors

FROM: Patrick Allen, Manager
Office of Regulatory Streamlining

SUBJECT: Pre-application Conferences

Background

The first work group of the Advisory Committee on Regulatory Permitting recommended improved use of pre-application conferences for “large” projects. This recommendation envisioned such conferences doing a better job of incorporating state agencies into local processes. Each subsequent working group (transportation and water) has echoed this recommendation to some degree.

In July, the ERT directors asked that a group be convened to further develop what a response to such a recommendation would look like. Earlier this month, representatives from the Cities of Tualatin and Portland, Hood River County, OECD, DSL, ERT, and Advisory Committee member Steve Pfeiffer convened to provide a response.

Current Models

Many jurisdictions make use of some sort of pre-application conference, but quality is uneven. Similarly, for certain significant projects state agencies (often, but not exclusively under the auspices of the regional GERT team) come together to coordinate state and local permitting issues. Two local models were explored in some detail.

Tualatin does a two-step pre-app process. In the first step, for selected properties, an extensive written report is prepared identifying all relevant regulatory issues. This report covers everything from wetlands present on the site to transportation SDCs to required neighborhood association meetings. The report is tailored to the facts in the case, and appropriate contact information is provided. Subsequent pre-app meetings do not generate any additional written materials (or any materials at all if the property in question does not already have such a profile).



Portland charges a not in-significant fee for a pre-app conference that results in a written report similar to the Tualatin document, but done for a specific use as well as a specific property. Since local government discretion is used (the need to apply, for example, for a particular permit), the pre-app conferences are noticed and subject to public comment and appeals. This is an interpretation of statute not widely used, but which is likely accurate.

Both jurisdictions attempt to gather information and input from other providers or governments, often to mixed success. Both commented that it is more common than they would like for a state agency to fail to respond to a request for input to the pre-app process, only to show up later (sometimes as late as the public hearing) with material, potentially deal-killing requirements or fees.

Definition

To best frame work steps needed to implement a pre-app recommendation, we agreed on the need to frame a working definition of what a pre-app conference or process is. We agreed that, ideally, it is a one-time, one-place opportunity for an applicant to identify all costs, requirements, actions required to obtain authorization for a project.

Recommendations/Observations

Achieving such a system will require the following sorts of activities:

1. *Better local permitting roadmaps.* Applicants state that the ability to find out from a local government what steps need to be taken to move forward with a development varies widely across the state. Further, while there is some tracking to size of the jurisdiction, poor ability to articulate the local development review process is not limited to small communities. Similarly, the ability of local jurisdictions to provide applicants with good information about state regulatory requirements is uneven. Here, size may be inversely proportional to the problem in that large jurisdictions are more likely to have more difficulty learning who they need to contact in an agency for information. State government can be most helpful here by providing technical assistance to jurisdictions that want to improve access to and transparency of their permitting processes.
2. *Improved state agency participation.* State agencies need to make a commitment to participate in this process. Their participation needs to be consistent, timely and accurate. This task involves resource allocation: either agencies will need more resources to provide universal response, or there will need to be a size threshold where such a service “guaranty” would kick in. In a related issue, local governments would benefit from a comprehensive, up-to-date and continuously maintained contact directory for appropriate staff.

3. *Better state agency/issue coordination.* We spent the least amount of time discussing this issue. The bottom line, from the perspective of local governments and developers is that while we have made great strides in this area through the GERT/CST process, we continue to need to focus on avoiding disconnects between state agencies.

4. *Connect pre-app content to the subsequent development review process.* This problem is particularly liable to arise when the pre-app process involves one part of an organization (typically management or field staff), and the actual development review is done by another part (typically technical staff). Imagine hearing “I don’t care what so-and-so told you, you can’t do it this way.” To address this problem, either appropriate technical staff needs to be involved throughout, or there needs to be tighter coordination within an agency to make sure the information provided to an applicant can be made to stick in the review process.

Further Information

In a related project, the Office of Regulatory Streamlining has been working with local government, state agencies and others to develop pre-app review templates. These templates are nearly ready for public consumption, and are similar in nature to the Portland model discussed above. The purpose of this project deals more with the everyday projects, as opposed to the “large” projects called out in this recommendation, but the information will be useful, particularly in dealing with the first set of actions above regarding local roadmaps.