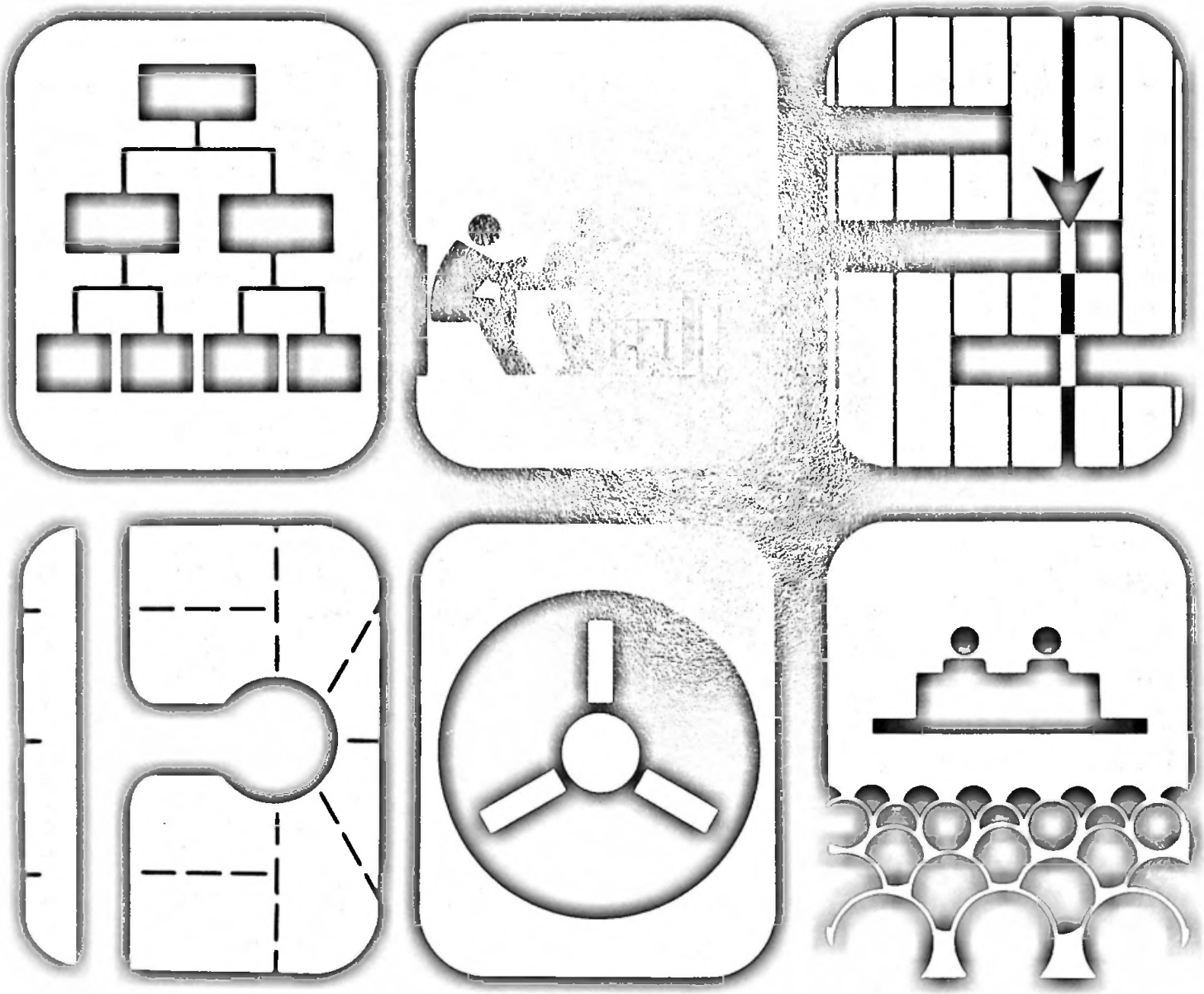
Prepared for the U.S. Department of Housing and Urban Development
Office of Policy Development and Research

Streamlining Land Use Regulation

A Guidebook for Local Governments

John Vranicar
Welford Sanders
David Mosena



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Foreword

Affordable housing is a concern of many Americans. It is also an important priority for this administration—so much so that HUD has established a Joint Venture for Affordable Housing to encourage all levels of government to reduce the cost of housing by eliminating unnecessary regulations. Streamlining land use regulation, the subject of this report, is an important component of the affordable housing effort, since costly delay and uncertainty have often accompanied the zoning, subdivision, and environmental permit process.

Local officials have other important reasons for pursuing regulatory efficiency: community controversies may be reduced; public officials may be able to spend more time on major policy issues; and administrative costs may be lowered. Older cities seeking to attract development may use regulatory streamlining to gain a competitive edge.

We are very pleased that the American Planning Association has reissued this study of ways to cut red tape in local land use procedures. The report—originally funded and published by HUD's Office of Policy Development and Research—describes actual, local government experience with 30 tested techniques and identifies experienced local people who can provide further information.

Samuel R. Pierce, Jr.
Secretary of Housing and
Urban Development

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This guidebook is a pooling of the collective wisdom of planning practitioners and developers from across the country. It could not have been written without generous contributions of time and ideas from countless individuals. More than 200 planning agencies supplied information through postcards, letters, telephone interviews, and written samples of local procedures. Approximately 120 planners, developers, public officials, and others in the study sites took time from their busy schedules to be interviewed. Their experience and opinions make up in large part the substance of this guidebook, and the authors gratefully acknowledge their cooperation.

An advisory panel of planners, developers, consultants, and public officials gave freely of their time in reviewing two drafts of this manual. Their criticisms and suggestions have strengthened this guidebook significantly. Panel members were: Frederick H. Bair, Jr., Bair Abernathy and Associates, Auburndale, Florida; Benjamin Lake, President, Olin American Incorporated, Pleasant Hill, California; Hugh McKinley, City Manager, Glendale, California; Allan Milledge, Attorney, Milledge and Hermelee, Miami, Florida; Mary C. Neuhauser, Councilwoman, Iowa City, Iowa; Karen Rahm, Manager, King County Planning Department, Seattle, Washington; Richard Randall, Vice-President, William Lyon Company, Santa Clara, California; and Joseph Vitt, Director, Kansas City Development Department, Kansas City, Missouri.

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Red tape in land development regulation can be cut. There are many simple, efficient, and cost-effective ways to administer zoning, subdivision, environmental, and site-development ordinances in both older, built-up cities and rapidly growing suburbs. This manual reports on successful streamlining techniques, examines their pros and cons, and offers practical advice for planning officials on assessing the performance of their own regulatory systems.

Why should the local regulatory process be simplified? There is a growing consensus in the Nation that housing costs are pushing homeownership beyond the reach of the majority of Americans. The major cost components of housing are land, labor, materials, financing, and utilities. But the adminstration of land development regulations can add to the costs of developing new housing by creating delay and uncertainty while interest charges and carrying costs mount up.

In their efforts to protect the environment and create better communities, have local regulators gone too far? Many critics claim that is the case. It is time, they say, to redress the imbalance between the benefits of protection, on the one hand, and its costs and economic impacts, on the other. The Task Force on Housing Costs, sponsored by the U.S. Department of Housing and Urban Development, stated as a principle of regulation:

Government should. . . develop and administer review processes efficiently, fairly, and in a manner which encourages rather than discourages the development of less expensive housing by private enterprise.[1]

To help local governments achieve this objective, HUD commissioned the research project that has produced this guidebook. The study was conducted by the APA research staff, with the assistance of the Urban Land Institute. The authors have benefited from the views of analysts who have studied regulatory issues in recent years. Additional information was collected from public planning agencies and private developers throughout the country. Case studies were conducted in seven communities: Baltimore, Maryland; Kane County, Illinois; Lane County, Oregon; Phoenix, Arizona; and three California communities: San Jose, Santa Clara County, and Sacramento County. Readers who would like more information on why these places were chosen will find brief profiles in the Appendices, along with more details on the research methodology.

This guidebook assumes the reader has a working familiarity with how local land use regulations operate. No model or ideal regulatory system is prescribed. Readers may choose the methods they think will work best in their local settings. This manual traces the regulatory process only to the point of final plat or site design approval. This is not to suggest that the subsequent steps involving construction and occupancy permits and site inspections do not need streamlining too. The specific intent, however, is to assist planners, whose involvement in projects typically ends when zoning and subdivision approvals are granted. Further, the knotty political problems of lay review, which are dealt with here, are seldom a problem after final plat approval, since most subsequent permits are issued administratively.

Readers should not assume that the amount of space devoted to describing a technique indicates its potential value. If techniques are in common use or have been thoroughly described in readily available books or periodicals, relatively little attention is given them, though ample references are provided for additional reading. The guidebook has been organized as follows:

Chapter 1 develops a perspective for local action by:

- explaining why streamlining is generating so much interest among local governments

- describing a "typical" local review process, as a point of departure

• highlighting some of the major trends that have complicated local regulation since the 1920's

• examining how inefficiencies in the regulatory system affect the homebuilding industry and the production and cost of new housing

• defining the limitations as well as the potential of regulatory reform.

Chapters 2, 3 and 4 break the regulatory process into its elements, listing typical problems encountered in each phase and describing techniques to solve them. The three phases are (1) pre-application, (2) technical staff review, and (3) lay, or public official, review.

Chapter 5 moves from procedures to question how the rules themselves, as detailed in zoning and subdivision regulations, can affect the predictability, accountability, and efficiency of decisionmaking. Techniques discussed here address the issue of freedom of decision by local official versus precise, rigid rules.

Chapter 6 offers advice on getting started in regulatory reform and describes ways in which some communities have evaluated their review procedures and put streamlining measures into action.

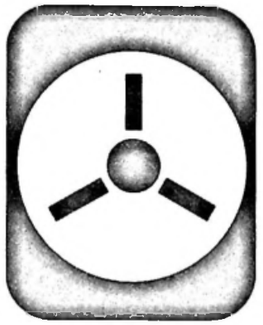
In the Appendix are:

A. A list of local communities that have indicated willingness to share their experience in streamlining with others

B. Profiles of the seven communities chosen as case studies

C. Research methodology

D. Bibliography



Why Streamline?

Since the 1920's, local land use regulation has come in for its share of criticism, It will no doubt continue to do so. For once, however, there is an issue on which public officials, planning staffs, developers and citizens can all agree: the regulatory process has become too complicated. More and more communities are assigning a high priority to streamlining approval procedures. These reforms often have come about at the urging of local homebuilders and developers, but simplifying the system can benefit all participants.

Communities that have streamlined their regulatory systems list the following motives:

• **To contain rising administrative costs.** The movement to limit government spending through property tax ceilings, such as California's Proposition 13, coupled with the general push for belt-tightening, has brought pressure on cities and counties to become more efficient. To some degree, reduced budgets are being offset by higher processing fees. But many administrators are finding that streamlining is a necessary step for staying within budgets.

• **To control one of the factors that increase the price of new housing.** Regulatory simplification cuts costs incurred by delay and uncertainty in the review process.

• **To save time for public officials.** Streamlining can reduce the volume of minor projects they must routinely review, allowing more time for comprehensive planning and policymaking.

• **To encourage the kind of development the community wants.** If delay and risk act as powerful deterrents to a developer, the reverse is also true. Streamlining can give a community a competitive edge over others in the market area in attracting investment or reinvestment. It can also make it more attractive to develop on infill land or use innovative site designs such as cluster housing.

• **To establish better working relationships between applicants and reviewers.** This includes small, one-time permit applicants as well as large-scale subdividers.

• **To structure citizen participation.** Streamlining can make public input more constructive, responsible, and timely. It can also make it easier for the public to understand the regulatory process.

• **To make the regulatory system more accountable.** Simplifying the system can reduce opportunities for back-room agreements, or outright corruption.

• **To assure fairness and due process.** Procedures that guarantee due process and protect the rights of *all* participants improve the basic fairness of land use regulation.

There are limits, of course, to how far simplification can go, but there are probably *no* limits to how complicated the regulatory process can become. Since most bureaucracies tend to slide into inefficiency, permitting procedures probably need reform at regular intervals, if only to keep them in good running order.

The interest in simplifying local land use regulation reflects the larger trend in government at all levels to tunnel through the mountains of regulations that cover activities from occupational safety to air travel. Many local officials have already been confronted by an anti-regulatory "backlash." Often it is the local homebuilding industry that is most vocal. While the goals of the industry don't always coincide with those of the community, there is certainly enough shared interest to require administrators to listen to what developers and homebuilders are saying. Where criticisms are valid, it is in the public interest to make change.

The Regulatory "System": What It Is, and How It Got That Way

When planners from Mason City, Iowa, and San Bernardino County, California, sit down to compare notes, they both talk about the "local regulatory system," but they are coming from two different worlds. Variations between communities can be pronounced. For one thing, local attitudes regarding residential growth can range from encouraging to hostile. The regulatory "climate" is affected by a community's population, rate of expansion, physical environment, and fiscal capacity. Local procedures are molded by the enabling legislation and the philosophy of the courts in each State. And jurisdictions contend with differences in permitting activity at other levels of government as well.

Despite the obvious problems in describing the "typical" regulatory system, there are enough underlying similarities in local procedures to permit some generalizations. Most regulatory systems have these basic elements in common:

- Before formal submission of an application, the developer and the planning staff trade information, discuss the project, and make a tentative judgment on its merits. This can be thought of as the concept or *pre-application stage.*

- The developer submits a formal application, and the plans and drawings are reviewed by technical staff in one or more departments. Modifications are made to make the project comply with regulations and policies. Staff then make a recommendation to public officials. This stage is the *technical staff review.*

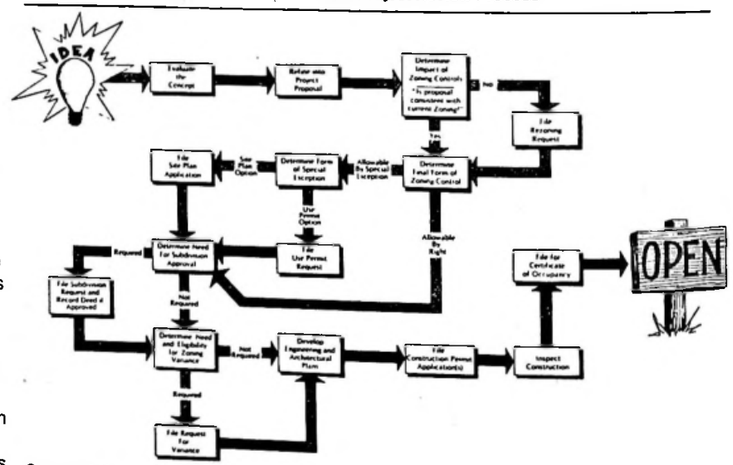
- The final stage is *lay, or public official, review.* The project plans are submitted for public comment, usually at a public hearing. Elected or appointed officials on planning commissions and governing bodies may impose additional conditions before ultimately voting to approve or deny the application.

"The regulatory system," as discussed in these pages, refers to the model represented in Figure 1. This diagram, taken from one of several excellent brochures issued by Arlington County, Virginia, follows a sequence of steps used in hundreds of communities around the country. Some local systems, of course, are more complicated than Arlington's. Where annexations are common, for example, another sub-routine must be grafted onto the flowchart. Or, for jurisdictions in States like Florida or California, an elaborate environmental impact review process must be superimposed. The chapters that follow elaborate upon the steps in the project approval process. Readers can use Figure 1 as a common frame of reference, making allowances for differences in their own regulatory systems.

Most local regulatory systems have been revised and amended over the past 50 years to better protect the community at large and (as is sometimes forgotten) the developer also. But in the process many systems have become more unwieldy.

Two trends stand out as having had the greatest effect on local regulations. One is the proliferation of regulatory agencies, regulations and procedures in the 1960's and 1970's. Public interest groups raised crucial issues regarding the effectiveness and accountability of the regulatory system. Local governments responded, in good faith, with a wide range of reforms including environmental impact review, increased opportunities for citizen comment, and the creation of new regulations to protect wetlands, groundwater, hillsides, historic sites, and wildlife. They were joined – sometimes prodded – by State and Federal agencies. By and large, the changes were beneficial and overdue. But in the rush to correct problems, new ones were created. In some cases where new regulations were hastily superimposed on existing ones, the results have been duplication, contradiction, and confusion over responsibilities. In other cases, laws intended to provide remedies for public interest groups and third parties have made the process vulnerable to takeover by narrow interests, rather than being responsive to the community as a whole.

Figure 1. **Typical Sequence of Steps in Local Project Review Process**



Source: Arlington County, Virginia. Pamphlet on local review process, September 1978.

(NOTE: This diagram traces the path of a project through the building permit process and the issuance of a certificate of occupancy. With few exceptions, this guidebook does not deal with procedures involving building or other construction permits, for reasons discussed in the Introduction.)

The other major factor is the increased exercise of discretion in decisionmaking, often in the context of negotiations between the developer and the community. This is a major departure from what had been envisioned in the 1924 Standard Zoning Enabling Act. Land use regulation was intended to be virtually self-determining through a set of predetermined standards, with few and minor exceptions. But from the outset, it became clear that more flexibility was needed. When such regulatory devices as conditional use permits and planned unit developments (PUD's) first made their appearance, both homebuilders and the public sector greeted them with enthusiasm. These options could encourage innovative site design, preservation of open space, environmentally sensitive development, and cheaper housing. If, at the same time, they entailed more uncertainty or possible delays, the developer entered the negotiating arena at his own risk. He could always fall back upon his use-by-right under the zoning ordinance, and avoid a more discretionary, uncertain approval process – at least in theory.

But in fact the "option" of negotiation has been increasingly *imposed* on the developer. This is due in part to the widespread practice of "wait and see" zoning: the placing of large amounts of vacant, developable land into large-lot districts (five or more acres, for example) or agricultural zones. Supporters argue that "holding zones" are one of the few really effective tools local governments have to preserve open space and regulate growth. Critics point to instances where the technique has been abused to prevent growth altogether. Whatever its merits as a land use control, "wait-and-see" usually means that if a developer wants to build on land so zoned, there is little choice but to request a zoning change if the project is to be economically feasible. Communities have learned the hard way that to approve a zoning change without some legal guarantee that the developer will actually build what he proposes amounts to issuing a blank check. Public officials have been quick to discover that through the rezoning device they have the equivalent of veto power over new development and can thus demand a great deal more than the modest stipulation that the applicant will build what he said he would.

"Wait-and-see" zoning, combined with other flexible techniques, is transforming the original concept of zoning from a system of preset prescriptive rules into one that is discretionary, conditional, and negotiated – a system of "performance permitting."

Other factors have further complicated the regulatory system:

- Land use regulations were not originally designed to limit growth, but rather to manage it. Yet today the main objective of some local systems is to slow or stop residential development. Where residents believe growth threatens their quality of life, complicated procedures can become part of a strategy to discourage homebuilding.

- Professionalization, both in the public and private sectors, has created a growing body of trained experts whose wide variety of skills serves to make land development and planning more complicated. As a corollary, the information used to evaluate proposals is more sophisticated, and the scope of policy issues considerably broader.

- Increasingly active citizen participation has helped make local decisionmaking more responsive and accountable but has also led to delays and greater risks for applicants.

- Court rulings regarding procedural due process have been giving more attention to the review process itself. More frequent use of the courts to appeal local decisions is making land use much more of a "lawyer's game" than it used to be.

- Planning commissioners, members of zoning boards, and elected officials often find themselves serving very different functions than their counterparts in the 1920's. The causes and effects of these changes are highlighted in Chapter 4.

The review process has been slowed down and made more expensive just at that point in our history when the post-World War II baby boom is generating the highest demand for new housing. The increased volume is certainly overloading the regulatory system, and the fact that housing starts ebb and flow with the economy exacerbates rather than relieves the problem. Even the most efficient planning departments are finding it hard to cope with the job they are being asked to do.

Effects on Homebuilding and Housing Costs

Complicated regulatory procedures mean delay and uncertainty for the developer. The additional costs thus incurred are almost always passed on to consumers in the form of higher priced housing. The developer follows a natural, logical sequence in building houses. He determines the market, assembles land, obtains capital, designs site plans and floor plans, builds, and then finally sells. Land use regulations should be compatible with this course of development activity, provided it guarantees a standard of quality acceptable to the community. This means preventing poorly timed or badly placed development without stifling the industry's ability to build housing. With regulation, as with medication, it is often a matter of dosage. Too little, and it won't cure anything; too much, and the result may be worse than the original ailment. The more regulators are aware of the developer's motives and vulnerabilities, the better they can prescribe the proper amount of regulation. This is not just a matter of ensuring quality development; it is also the key to cost-effective regulation. The regulatory process that ignores the developer's natural inclinations needs more rules, stiffer penalties, more thorough reviews, more staff. The system that can cause the compelling logic of profit and loss to serve community interests already has half its work done.

However hackneyed the expression, time is indeed money. The homebuilder is acutely aware that the "meter is ticking" while the review process plods along. From the moment he purchases or takes an option on a piece of property, he begins to incur "carrying costs" – interest, insurance, property taxes, inflation, office overhead, capital tie-up and, beyond a certain point, lost markets. A recent study of the housing industry in the Houston area, for example, found that the five-and- a-half-month increase in processing time there between 1967 and 1976 cost the home buyer a minimum of $560 to $840 per lot in the projects surveyed. The study also points out that "most delay occurs after major financial commitments have been made by a developer."[1]

Linked to delay, and often even more of a problem, is uncertainty. Like all private investors, the developer makes judgments based on risk-reward ratios. He makes a "go/no-go" decision based on a projection of minimum acceptable return. Residential development is a high-risk business. It is highly competitive and decentralized, sensitive to business cycles, at the mercy of labor and material shortages, dependent upon the changing tastes of the consumer, and always mindful of the weather. As stated in a recent editorial on behalf of homebuilders:

Traditionally the potential rewards have been adequate to justify that risk. But when a builder has his front money at risk not for 9 or 10 months but for 2 or 3 years, the traditional rewards simply do not compensate. Instead of a profit of, say, 8 or 9 percent, the builder pencils in 15 percent or 20 percent – with, we believe, full justification. He is rolling over his capital more slowly, he usually must start fewer houses, and his exposure to potentially disastrous market changes is much, much higher.[2]

The need to manage risk has expanded the role of the "packager" – the developer who assembles land, obtains rezonings and other approvals, and then sells the property to a homebuilder. As with any middleman, a profit is made for absorbing risk. A second type of middleman is the new breed of consultant whose services extend far beyond traditional engineering or architectural design to include guiding the homebuilder through the regulatory labyrinth. Especially for a developer new to a community, the use of a local consultant is increasingly essential. Both consultants and packagers make it their business to know the personalities, politics and fine points of the local process, a skill which, though necessary, adds even further to the cost of the process.

Developers also point out that the regulatory process may, in some cases, have an anti-competitive effect that can keep prices high and limit options in housing types. In some particularly restrictive areas, developers say that they are competing not for home buyers but for permits. Once they have obtained official approvals, there is relatively little competition for the consumers' dollars, and prices are set at what the market will bear.[3] Further, the difficulties in mastering the ins and outs of the local system may discourage entry by new firms. Finally, some smaller firms claim that they are being driven out of the market, since they simply cannot compete with larger-scale firms with "patient money" (reserves that can be tied up in long-term land inventories and wait out two-year approval timelines) – and with those that can afford topnotch consultants and attorneys.

There may even be instances where the regulatory system becomes counterproductive. Some developers cite regulatory risk as a factor in their decisions to leapfrog over infill land and build at the urban fringe. Market and land price are usually underlying motives, but regulatory delay can tip the scales. Developers also claim that negotiating adds to the risk already present in market acceptance of PUD's and other departures from "cookie-cutter" plats. Thus procedural delay and uncertainty can sometimes reinforce decisions that result in sprawl and traditional large-lot subdivisions of single-family homes, beyond the means of many households.

Granted that overly complicated regulatory procedures have an impact on housing costs, how much bigger is the price tag as a result? Or, to put the question differently, if local officials were to eliminate every bit of unnecessary red tape, delay, and risk from their review process, what would be the effect on housing costs? Most analysts seem to agree that the most costly factors in regulation are growth policies that limit the supply of developable land, fees for on- and off-site improvements, and standards that set large-lot sizes and "nice but not necessary" amenities in housing structure and infrastructure. Despite numerous attempts, it has been difficult to isolate the cost increment attributable to delay – and even more frustrating to estimate the cost of greater risk. Many of the recent studies have lumped the impacts of local, State and Federal regulations together and have also included the costs of fees and design standards. Another open question is whether a developer would actually pass on to the consumer any cost savings realized through streamlining.

But it isn't necessary to put an exact figure on the costs of the regulatory system to recognize that it needs simplifying. Though no one seriously expects streamlining to single-handedly bring down housing costs, regulatory simplification should nevertheless be an integral part of any concerted strategy to address the quality, availability, and cost of housing.

"Facts of Life" about Streamlining

While there is room in many communities for significant improvement in the administration of development regulations, all parties should recognize that there are limits to what can be accomplished. First and most important, pursuing administrative efficiency cannot be allowed to compromise the valid public purpose for which regulations were adopted. Efficiency must not be achieved at the expense of effectiveness, fairness, and procedural due process. Always providing that these fundamental standards are met, the regulatory system should be as simple to administer, and as economical in its use of time, effort, and money as possible – both for the taxpayer and the applicant.

Beyond the basic principles that any regulatory system must adhere to, there are several "facts of life" about these systems that will affect the success of any attempt at streamlining. Since compromise and political bargaining are essential parts of any reform process, the following should be recognized as key "facts of life" in administrative reform:

• Efficiency means different things to different participants in the system. Everyone agrees that the review process should be made more efficient, but agreement quickly evaporates when a consensus is attempted among the different parties involved. There are some measures that can eliminate waste. These take "slack" out of the system and everyone is better off. Beyond that point, however, the rope is taut; any further tightening means that a tug on one end is felt by a party at the other end. At this point reforms become political rather than administrative.

• The regulatory system cannot be depoliticized. Nor would that be desirable. Land use decisions affect all members of the community. They are a matrix for a whole range of policy issues, from fiscal health to air quality to aesthetics. Where there are deeply divided interests in a community, land use decisions will always be magnets for controversy and conflict. These conflicts are built-in limits to making the review process run smoothly in communities lacking consensus on major growth or land use policies. The review process, by virtue of this political dimension, will always contain a measure of uncertainty.

• Local governments exercise only partial influence over the entire regulatory system. The regulatory system can straddle local, regional, State and Federal jurisdictions, each with its own role and review authority. There is little vertical integration in the permitting activities of different levels of government, and there is still an unresolved debate over where the initiative lies for solving that problem. An even more serious consideration is the role of the judicial system in determining how land use controls are administered.

• The diversity of participants complicates the process. Clients are numerous. Private developers range from the sophisticated large-scale builder to the one-time user who wants to get a variance for an addition to his garage. And the "private sector" is not composed solely of developers and homebuilders but includes an army of legal, architectural, engineering and planning consultants. Each requires different kinds and degrees of attention. There is also the "citizen," a term which covers ad hoc organizations and highly organized public interest groups. "Government" includes planning staffs, other departments (such as public works), elected and appointed officials, and park and school boards.

• There will always be a tension between flexibility and predictability. On the one hand there is the desire to lay down rational and dependable rules in advance of land development, and on the other hand a need for leeway to respond to changing markets or maximize the potential of individual sites. This duality will never be resolved to everyone's satisfaction.

• Any community can speed up its regulatory machinery when it wants to, but housing is rarely given special treatment. When it comes to commercial or industrial development, many local governments have created "fast tracks" to expedite permit approval. Public administrators know how to accommodate the developer and talk his language when it means higher ratables. But few communities have been as willing to push for residential development. Housing has become a step-child in many local communities in the 1960's and 1970's.

Despite these obstacles to simplifying the regulatory process, reform is not an exercise in futility. To admit that the process is fundamentally political makes it all the more important to lay down rules of the game to protect the rights of all parties. If the experiences of communities represented in this guidebook share one lesson it is that streamlining local land use administration can work. When realism tempers expectations, and common sense determines the approach, red tape can be cut to the benefit of everyone in the community.

Chapter 2: The Pre-Application Stage

The next three chapters break down the review process into its basic elements. This chapter focuses on the front end of the regulatory process. The techniques it describes are designed to help the public and the applicant understand the regulatory system better, assess the chances of getting the desired approvals, and save time and money in doing so. Some of the measures described have been in common use for years, such as the holding of preapplication conferences. Others, such as centralized counter services have generated a great deal of recent interest.

Why the Applicant's First Point of Contact is Important

Whether in need of a simple variance or a major plat approval, the typical applicant approaches the regulatory system with the same question: "I have an idea. Is it worth pursuing?" The initial contacts with staff in the planning department at this pre-application stage are important for several reasons:

- The applicant needs information to make the crucial initial decisions: whether to take an option on a piece of property; whether to submit a formal application; whether to hire consultants; and what type of project to build.

- First impressions on both sides may establish the basis for a good or bad working relationship. The applicant can come away pleasantly surprised at a cooperative attitude or leave with stereotypes about bureaucracies and the "permit maze" confirmed. Planning departments should not take public relations lightly.

- The pre-application stage can eliminate misunderstandings and result in a smoother, faster processing of project plans.

- From the perspective of the public sector, the pre-application period results in internal efficiencies by giving staff lead time to prepare for review of complex projects, by reducing errors and corrections in applications, and by facilitating the flow of communication.

Communication is essential throughout the review process, but nowhere is it as critical as at the concept stage. This is the point-of-no-return for the developer – the point at which he decides to commit time and money to the project. He is entitled to reasonable expectations about public action so he can accurately assess the risk of proceeding. This requires at a minimum:

- a central access point for information

- written materials which are current and pertinent

- access to personnel who have key roles in the approval process

- clear, concise standards, regulations and ordinances

- access to maps, plans and other public documents

- a reasonable estimate of the time and fees involved in approval of the project

- an informal assessment of the chances of approval.

Problems at the Pre-Application Stage

Unfortunately, some communities not only fail to meet these basic standards, they actually use the concept stage to discourage any type of development. Developers have complained of outright abuses on the part of planning staffs, such as bluffing, stonewalling, sandbagging or betraying confidential information. Others say they are "meetinged" to death, but encounter no real cooperation or assistance until they file a formal application. On the positive side, many communities go far beyond the basics, helping applicants work out design problems, filling them in on the fates of similar projects, and suggesting strategies on initiating contact with neighboring landowners or community groups – in short, providing access to the public grapevine.

Pre-application must be tailored to the applicant. One-time users, such as do-it-yourselfers, don't want or need elaborate information. They may have taken the afternoon off from work, and just want to pay their fees and get their permit – over the counter, if possible. Again, a local consultant or developer may know the system inside and out and only require an educated guess on a specific design feature before formal submission. Others may require several intensive sessions with senior staff to work out details of a major project before they go ahead with an actual application.

The person who may need the most help in learning the system is the newcomer who wants to start doing business locally. He is at a competitive disadvantage and frequently tries to remedy this by hiring a local consultant with a good reputation for getting projects through the process quickly. While consultants serve a useful purpose in many ways, their services can be expensive. An informative pre-application phase can help new developers enter the local market on their own.

The mix of services to be provided to clients by the planning department is not very different from that in a modern full-service bank. Ideally, when the customer enters the bank, he or she spots a reception desk or information counter. A clerical employee directs the customer to the proper station, answers common questions, and hands out brochures and written materials. Tellers' windows quickly handle simple transactions, such as withdrawals and deposits, over the counter. More involved business, such as opening accounts or applying for small installment loans, are routed to junior officers at more privately situated desks. Finally, complex financial deals involving large sums are worked out with senior executives during several meetings in conference rooms or private offices. These transactions often require supporting documentation beyond simple forms, plus site visits and agreements on special conditions. Some local governments have evolved organizational structures that parallel those in a bank or similar operation, offering a "tiered" set of services capable of meeting a variety of client needs. The next section describes these and other techniques, with examples.

Simplifying Pre-application

1. Written materials

Most local planning agencies have some kinds of written materials available to applicants and interested citizens, though they may be outdated or incomplete. Are they serving their original purpose? Do they answer applicants' questions? Personnel who deal regularly with applicants know what information is most frequently needed:

- simple explanations of procedures, with flow charts

- complete lists of all permits needed, with checklists of information requirements for each

- official time frames and deadlines with typical or average processing times

- fee schedules

- directories of elected and appointed officials which include (a) descriptions of review agencies, (b) names and phone numbers of responsible personnel, (c) the organizational structure of departments and of government in general

- legal documents upon which procedures and regulations are based, with criteria for discretionary review

- appeal procedures

- a glossary

The design manual. This is one type of document that deserves special attention. It is still rarely encountered – unfortunately, for it provides something for which developers and consultants frequently lobby: "We'll build it any way you want; just *tell* us what you're looking for." In all fairness, a community which decides to review site plans and building design owes the developer guidelines to discretionary reviews. The design manual or handbook meets this obligation, offering design principles and examples which embody the standards used by staff and public officials in judging the design of projects. Not only can a design manual help an architect get plans approved with less trial and error; it can curb the occasional staff person who wants to "play architect" and modify the project to meet his or her own personal tastes. Developers in one community remember a staff person as "having a thing for mansard roofs. For a while there, all you'd see going up in this town were mansard roofs – gas stations, bowling alleys, everything."

Producing a design manual can be an expensive, time-consuming undertaking. However, there are now some excellent examples on which to draw. Multnomah County, Oregon, for example, has a two-part *Developers Handbook*, produced over a three-year period, which covers site plans and how they relate to the community (Figures 2a and 2b). There is a master evaluation list composed of specific criteria used to judge design, followed by well over 100 pages of text and illustrations of acceptable design solutions. In San Jose, a five-person Design Review Task Force set up *Industrial Design Review Guidelines* in response to developers' requests. (Three of the five members of the task force were volunteers from the private sector.) San Jose chose to concentrate on industrial design standards because it is particularly anxious to smooth the way for industrial development – an example of selective streamlining to augment efforts to attract a particular type of development.

Benefits of written materials. Up-to-date written materials that provide a simple explanation of how the system works can be helpful in:

- reducing uncertainty, especially regarding specific design criteria, time frames, etc.
- orienting newly-elected or appointed members of lay review bodies
- saving staff time by answering routine questions and correcting common mistakes in applications
- creating a positive public image for the planning department.

Lessons learned. The following should be kept in mind in preparing or updating written materials:

- Follow a uniform style or format, preferably one which is also used by other departments. Not only does this present a recognizable image; it makes it easier to assemble an information kit for each applicant. For example, all materials can be of uniform size and punched for inclusion in a ring binder. Or a single folder with pockets can be used to hold all the materials assembled for a particular applicant.
- Enlist the help of interested volunteers. This might include local architects and engineers, the League of Women Voters, or the local homebuilders' association. Whether or not they participate in the actual drafting of materials, these volunteers should certainly be asked to review them.
- Keep in mind the intended audience for each document. It is tempting to create one or two all-purpose handouts; the chances are good, however, that these will be too general for some, too technical for others, and thus useful to very few.
- Regular updating may be a headache, but it is essential. Obsolete information can be worse than no information at all.
- Costs of producing materials depend on the type of document (e.g., design review manual or simple pamphlet) and how fancy it is. Some communities turn out glossy, three-color, typeset materials with photographs. Others settle for mimeographed typed copy. Budget, of course, dictates format. Some planning directors feel that high quality, professional materials are one of the ways they can create the public image they desire for their department. In general, it appears to be common practice to charge a nominal fee for ordinances and thick materials, especially those used by applicants who will realize a profit from their project. Briefer handouts are generally free.
- Materials should be on display, so that applicants can decide what they want. Arrangements should be made to have materials from other departments available, and to make sure these departments have copies of materials from the planning department.

Figure 2(a). **Sample Page from Design Manual**

EVALUATION CHECKLIST

Site layout and design are evaluated in terms of the following ordinance considerations. Numbers in parenthesis which follow each category title represent corresponding ordinance sections.

Ideas represent concepts presented in Part Two and information in the Appendix, which are meant to suggest how questions from each category might be answered. The checklist is divided into four sections: General, Residential, Commercial and Industrial. General applies to all development and combines with residential, commercial or industrial, whichever is appropriate.

GENERAL: ALL DEVELOPMENT

Design Review Plan (7.613)

Ideas: Site Layout and Analysis

Does the site analysis indicate the following characteristics? (7.614.1)

- ☐ Adjacent buildings, structures, natural features or other significant elements having a visual or other significant relationship with the site.
- ☐ Location and species of trees greater than 6 inches in diameter when measured 5 feet above ground level.
- ☐ Topography.
- ☐ Natural drainage.
- ☐ Information about climatic variables such as sun angles and wind direction.

Does the site development plan indicate the following as appropriate to the nature of the use? (7.614.2)

- ☐ Access to site from adjacent rights of way, streets and arterials.
- ☐ Parking and circulation areas.
- ☐ Location and design of buildings and signs.
- ☐ Orientation of windows and doors.
- ☐ Entrances and exits.
- ☐ Private and shared outdoor recreation spaces.
- ☐ Pedestrian circulation.
- ☐ Outdoor play areas.
- ☐ Service areas for uses such as mail delivery, trash disposal, above ground utilities, loading and delivery.
- ☐ Areas to be landscaped.
- ☐ Exterior lighting.
- ☐ Special provisions for handicapped persons.

Source: Department of Environmental Services, Multnomah County, Oregon. *A Developers Handbook: Part I: Site Design.* 1977.

2. Centralized counter services: information and permitting

In communities where each department operates its own information counter, the applicant who needs multiple permits has to make the rounds. This is inconvenient when counters are scattered throughout a building or separated by several blocks. But inconvenience is a small matter compared to the costly mistakes or oversights that can occur due to decentralized information sources. Staff in the Public Works Department may not be aware of the other departments an applicant should contact or the requirements that will be imposed when he gets there. In such cases, applicants must fend for themselves, sometimes having to backtrack to get approvals that no one had mentioned.

Some communities have set up central counters to remedy this problem. These can be simple information and referral desks or, more elaborately, the central counter can actually bring together professional staff from the various permit-issuing departments. These arrangements are occasionally billed as "one-stop" permitting centers. The use of the term is unfortunate because it creates confusion and can raise false expectations. Few projects of any complexity or size can be reviewed and approved without numerous visits to the planning department. Because "one stop" has been used to describe so many different types of operations it has no real meaning, and this guidebook has avoided the term. The three examples that follow illustrate a gradual progression in the level of services offered at central counters.

Figure 2(b). **Sample Page from Design Manual**

SITE LAYOUT & ANALYSIS

Not every site possesses obvious design layout indicators such as tall trees or good views. An analysis of the site must be made at the project's inception in order to identify and take advantage of the site's good qualities and correct its negative aspects. A thorough site analysis will inform the designer of critical factors to which site development must respond for the best project-site fit in the most efficient manner.

A site analysis should record the following:

Topography

Good views, and objectionable views

Existing trees

Areas which have poor drainage

Natural drainageways

Where the sun is located in the morning

When and where the sun becomes undesirable penetrating light in the afternoon

Prevalent storm winds

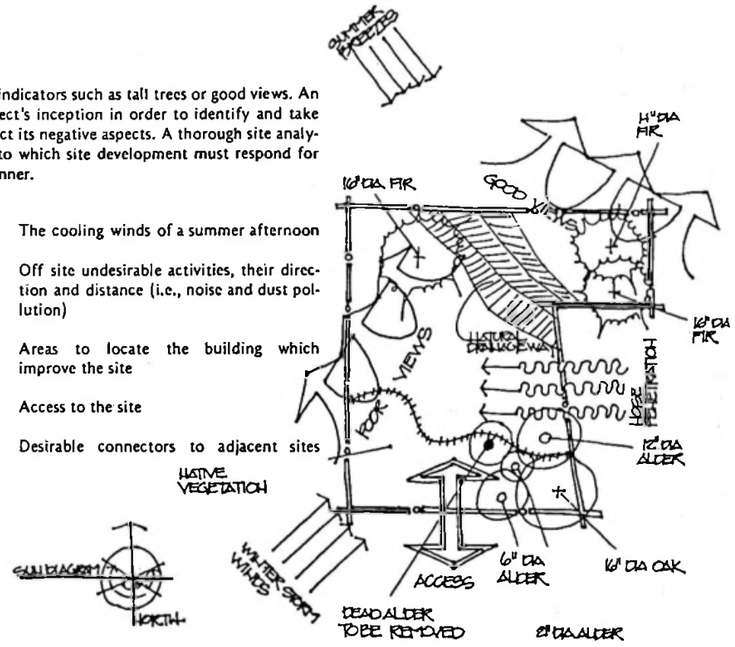
The cooling winds of a summer afternoon

Off site undesirable activities, their direction and distance (i.e., noise and dust pollution)

Areas to locate the building which improve the site

Access to the site

Desirable connectors to adjacent sites



Source: Department of Environmental Services, Multnomah County, Oregon. *A Developers Handbook: Part I: Site Design.* 1977.

The referral desk. The simplest function for a central counter is a resource center stocked with brochures and other written materials. It can usually be staffed with clerical or paraprofessional personnel who can answer general or frequently asked questions. These employees are usually "cross-trained," that is, given rudimentary instruction from each individual department. They can either direct the applicant to the appropriate counters in individual departments or may themselves offer basic assistance, thus saving the applicant another stop. The service is especially helpful to one-time users and do-it-yourselfers who are applying for simple permits such as variances or building permits. Lane County, Oregon, uses cross-trained paraprofessionals at a central station to assist applicants in filling out forms. If more complex questions arise, the clerk arranges a sit-down conference with professional staff back in the specific departments. A centrally located information desk can take an administrative burden off the individual departments, both in fielding routine questions and in screening previously misdirected inquiries. Counter personnel may be assigned from one or more existing departments, on a full- or part-time basis. Or, where a new position is to be created, it can often be funded jointly out of several departmental budgets. The most successful central counters are located so that they are immediately visible to the public.

The drop-off and pick-up station. A more ambitious arrangement is to use the central counter as a point of intake for applications. In Salem, Oregon, the "Permit Application Center" functions as a drop-off and pick-up station for many types of permits. The cross-trained clerks handle everything but the technical review of plans. This job is still done by specialized professionals in the departments. Staff at the Permit Application Center route plans, collect subsequent approvals, and complete the paperwork to issue the final permits. (Discussion of other aspects of the Salem approach can be found in Chapter 3, Sections 7 and 8.)

The Salem approach works best for construction permits and the like. It is important to note that the service is *not* being used for large subdivisions or rezonings, which seldom lend themselves to this kind of expediting. Major projects usually have unique problems and conditions that demand flexible scheduling, special handling by experienced staff, and usually a review by the planning commission or city council. These projects would impose an awkward burden on the Permit Application Center.

Some benefits of the widely publicized Salem experiment include:

- decrease in total time required to process most permits

- increase in service to the client: fewer stops, less wasted time, fewer cases where prerequisite approvals were overlooked; fewer incorrectly filled out application forms

- reduction in paperwork due to a central filing system and to the pooling of services made possible by consolidating clerical staffs

- reduction in personnel. Under the old system, the equivalent of 6.5 positions was required. The new system requires only four. (Even more significant from the standpoint of simplification, only four individuals are involved in information dissemination where the prior system employed 23.)

- reduction in cost. During the first year of operations the volume of permits rose from 17,000 to 20,000. At the same time, operating costs dropped from $74,000 to $72,000. Year 2 savings should be even more striking, because the $72,000 also includes $12,000 in one-time start-up costs.

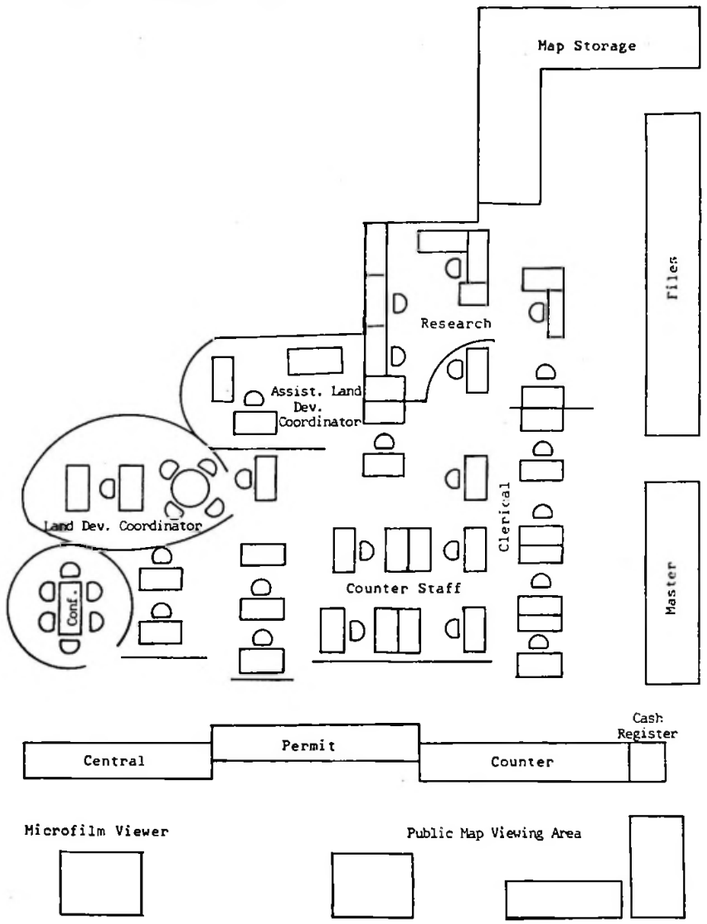
The professional team center. The third variation on central counter services is the most comprehensive. It actually brings together the specialized technical staff from the various departments. This is the approach taken in Santa Clara County, California. It has created a "Central Permit Office" staffed by an interdisciplinary team that reports directly to a "Land Development Coordinator." (Section 7 of Chapter 3 describes the organizational changes that created the office.) Drawn from several different reviewing departments, the team serves two functions: (1) it answers the kinds of questions usually referred to counters in individual departments; (2) it reviews plans and issues permits on the spot for pro-forma approvals, such as building permits, septic tank permits, encroachment permits, etc. This eliminates the need to route many applications back to departmental offices. The Central Permit Office also holds pre-application conferences, either over-the-counter or in a conference room when more privacy is desired.

The actual counter is 55 feet long. The public service unit serves as a receptionist, directing the applicant to the proper station. The counter itself has a rack of brochures and other information materials, and at the far end, built into the counter, is a cash register for collecting fees. There is a public work or "self-help" area, equipped with microfilm viewers, map displays, and other reference materials. Behind the counter are the individual staff workspaces, a conference room, and a central filing area. (Figure 3 shows the floor plan.)

The Central Permit Office has not eliminated the need to route *major* project plans back to the "parent departments" for review. As in the case of Salem, larger subdivisions and rezoning cases simply cannot be accommodated by a quick in/out system. However, the Central Permit Office eases the routing of such projects by acting as coordinating agency. Its research unit does a single work-up on an application, locating the site on USGS maps and other maps as previously established by each of the referral agencies. This eliminates duplication of effort by the reviewing departments. The CPO then routes the project package to the departments, collects their comments, and drafts the final report and recommendations.

The Santa Clara County experiment was begun early in 1978, and the first results are encouraging. A major factor in its early success is that the system has not been designed as the final authority on *all* projects, but serves to routinely process the bulk of applications, including building permits. Thus, of the approximately 3,000 applications the CPO processed from May 1978 to May 1979, roughly 2,370 were building permits. The counter has been staffed and equipped largely through loans and transfers of personnel and furniture from other departments. Three new clerical positions were created, in part to handle support clerical duties and the more than 350 phone calls the office gets daily.

Figure 3. **Floor Plan of the Central Permit Office, Santa Clara County, California**



Benefits of centralized counter services:

- Regardless of the level of service, pooling staff can offer more efficiency by eliminating duplication in individual departments;

- Even where a local government decides against an elaborate central counter, a single information and referral desk would be of real service in any community with several individual departmental counters.

- A central permit office can relieve departments of responsibility for reviewing numerous routine applications, thus saving them time for the more complex projects.

Lessons learned:

- Cross-training of counter personnel is essential, especially when they are clerical or paraprofessionals without technical backgrounds.

- Prolonged duty at the counter can take its toll on professional staff morale. A commonly heard attitude is, "The counter is Siberia in this department." Some planning departments rotate staff to help alleviate this problem.

- Some applicants resist the arrangement whereby a central counter provides the service of routing plans on behalf of the client. They believe that "walking" their own permits saves time and also provides the opportunity for direct face-to-face contact with the staff that ultimately makes technical decisions. Baltimore handles this objection by making its routing service optional, although strongly encouraged.

- It is important to know where the bottlenecks in the system really are, and what the volume of permits actually consists of. A central counter is apt to have the biggest impact where the majority of permits can be issued administratively, as exemplified in Santa Clara County. Where most projects involve extensive negotiating and involvement by lay review bodies,

central counters are not going to significantly address the problems of large-scale developers.

- Successful central counters have often been tied in with centralized record-keeping, standardizing forms, and departmental organization. (See Chapter 3, Sections 7 and 8.) Regardless of the extent of the services provided, the administrator should carefully consider the lines of authority, access to records, and back-up in the individual departments, before setting up a central counter.

3. Pre-application conferences

Over-the-counter consultations are useful for one-time users, but for seasoned developers familiar with the basics, stopping at the counter is a needless step. They want answers to complex questions, answers that emerge only when experienced staff sit down to discuss such matters as community opposition, probable conditions for approval, and how other projects have been decided in the past.

There are many ways to conduct pre-application conferences. Typically they are at the developer's option, although some communities have made consultation part of a mandatory "concept stage." Where pre-application conferences are required, it is usually because the planning department feels that they are not simply a service to the applicant but an important advantage to staff in getting a head-start on problematic proposals.

Sometimes pre-application consultations assemble staff from several departments, to give the applicant an interdisciplinary perspective and to save him the time and trouble of several separate meetings. In Phoenix, Baltimore, and Kane County, Illinois, for example, the "joint review committees" serve this purpose. (See Chapter 3, Section 1, for more information on joint review committees.)

San Jose offers a "first stop" service that structures the pre-application phase into two parts. A precursory discussion is held at the counter, in reference to a specially designed workbook that plots the project's course through the review steps. If after the initial consultation the applicant decides to submit a formal application, he fills out a preliminary form and is assigned a "project coordinator." The project coordinator conducts a second, more detailed conference, assists the applicant in submitting proper information, and follows the progress of the project. If the applicant has questions about the project, he contacts the coordinator, who is supposed to be able to inform him of its status.

Whatever specific form it takes, the pre-application conference should be conducted according to stated ground rules. Many communities formally recognize a "concept stage" as an integral (although often optional) part of the subdivision process. In such cases, procedures for conducting pre-application conferences may be incorporated into the ordinance. The description contained in the subdivision regulations of Phoenix typifies what goes into a pre-application consultation: "During this stage, the subdivider makes his intentions known to the department and is advised of specific public objectives related to the subject tract and other details regarding platting procedures and requirements." The regulations require that the applicant "meet informally with the Department to present a general outline of his proposal, including but not limited to:

1. Sketch plans and ideas regarding land use, street and lot arrangements, tentative lot sizes; and

2. Tentative proposals regarding water supply, sewage disposal, surface drainage, and street improvements."1

The ordinance also explains preliminary review by staff: "The Department will discuss the proposal with the subdivider and advise him of procedural steps, design and improvement standards, and general plat requirements." Then, depending upon the scope of the proposed development, the department proceeds with further investigations such as checking the existing zoning and determining the adequacy of existing or proposed schools, parks, and other public spaces.

Benefits of pre-application conferences. The preapplication conference can simplify the review process by:

- reducing the number of applications with errors or omissions

- ironing out difficulties between review staff and the applicant before expensive technical materials are prepared

- alerting developers to potential obstacles ahead, such as neighborhood opposition, probable densities, and other projects in the review pipeline

- establishing, at the outset, a basis of personal trust and confidence between staff and the applicant

- providing staff with extra lead-time to do homework when a proposal requires special studies, legal opinion, etc.

Lessons learned

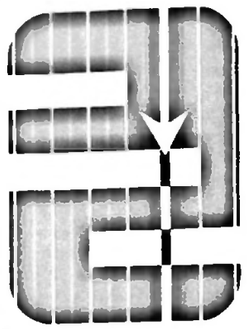
- It is prudent to keep written records of conferences, so that agreements and modifications in design are not forgotten or misinterpreted at a later point. "Sometimes developers call back the morning after a conference," one planner observed, "to find out what really happened there." Minutes need not be elaborate. For example, Phoenix uses a one-page Summary of Meeting form. Written records can also help make negotiators more accountable to the public.

- Staff need to have done their homework. This includes not only boning up on procedures and technical requirements that apply to a particular project, but also being familiar with the application at hand. It makes sense to request sketches well in advance of the pre-application conference, so staff aren't hit with a project "cold." In Phoenix, junior staff members prepare a Background for Pre-application Meeting report for each project. This one-page form summarizes proposed use, existing adjacent use, site location, and zoning status. It also reports on the preliminary field survey of the site.

- There should be reasonable time frames established to limit staff debate and review during the pre-application stage, especially when pre-application conferences are mandatory. A frequent practice is to exclude preliminary meetings from deadlines in the ordinance. Developers can get strung out with multiple meetings when staff abuse the concept stage.

- Staff and applicant will not always agree on what course the proposal should take. When serious differences occur, there should be some method of resolution available to get the process back on track. Review personnel in one community improved their ability to resolve conflicts by participating in a seminar on team management, communication, and group behavior.

- The preapplication conference uses up staff time, so local authorities and applicants should try to get as much as they can out of this step. This means using senior staff only when their expertise is needed, and otherwise delegating routine matters to junior planners or paraprofessionals.



The staff review stage builds on the exchange of ideas that took place during the pre-application phase. If the applicant decides to proceed with his project, he translates concept sketches into hard-line drawings and maps, assembles other required data, and formally submits the package for approval. The next step is for specialized staff persons, usually from different departments, to check the details for compliance with technical standards. This chapter describes techniques that can expedite staff review without sacrificing thoroughness. Included here are some widely practiced methods, such as interdepartmental review committees, and also less familiar innovations such as the use of permit expeditors.

What Staff Review Should Accomplish

The type of project determines the items considered by staff (e.g., utility easements) and the departments that take part in the review. Major subdivisions, for example, can involve public works, traffic, environmental management, fire and police, and the building code department. Other governmental bodies such as park or school boards may become involved as well. To coordinate multidepartmental review, one department, usually planning, is designated as "lead agency." The lead agency routes plans and assembles sign-offs or comments of the other departments.

In the course of the review, staff members often ask the applicant to modify the project design where it does not conform to regulations. Working out technical problems can be a time-consuming give-and-take process. There must be guidelines to limit staff discretion during negotiations; developers may object to what they characterize as "nitpicking," and at times with good reason. But revisions suggested by responsible agencies have saved many deficient proposals. As one planner points out, "What would the developer prefer – a sure, quick 'No'?" Staff decisions rarely result in final approval, but rather in recommendations to the planning commission or governing body. In most communities, however, recommendations carry great weight with lay review bodies.

From the applicant's point of view, what is reasonable to expect from staff during the technical review stage? A few basics might include:

- qualified and readily accessible staff
- assistance and advice on how to modify a proposal to make it conform to standards
- speedy review and prompt notification of omissions or problems in the proposal
- clear lines of authority, to allow for appeals of decisions and adequate accountability on technical judgments
- where requested, written statements regarding modifications, to ensure consistency and greater clarity.

At the completion of staff review, the applicant and staff should have resolved all significant technical problems – or at least have defined the issues that remain to be considered by public officials during public hearings.

Common Review Difficulties

In theory, staff review should go quickly and smoothly, with few surprises. For the most part, criteria for checking design elements are spelled out in ordinances and codes. Staff members in both the public and private sectors share the same basic professional training. And the review process has not yet entered the political arena of lay review, where predictability is a rare commodity. In practice, however, many factors work against efficient administration of the staff review phase, resulting in considerable "down time."

For example, the planning department in San Jose, California, found that in 1977 the average elapsed time for reviewing site designs, from submission to completion, was 27 days – but that only 23 hours of staff time were spent actually reviewing the average proposal. In San Mateo County, consultants estimated that only 24 to 32 actual staff hours were required to review use permits, variances and minor subdivision proposals, but that it took 90-plus days, on the average, to get through the process.[1] These experiences are probably not uncommon. There are several possible explanations for them:

- **Routing.** Applications can be lost, forgotten or, for one reason or another, bogged down for days or even weeks. This is especially likely when review time frames have not been established.
- **Disagreements.** When the applicant and staff disagree over certain aspects of the proposal, the application can sit until an acceptable solution is worked out.
- **Stalling.** Staff may deliberately try to stall when they don't want to approve a particular proposal. Or, as one bureaucrat candidly admitted, "In situations where amenities cannot easily be gained, the department uses time and bluff as bargaining tools. These are bureaucratic grains of sand thrust into the machinery."
- **Conflicting requirements and stalemates.** Individually, the requirements imposed by each of several departments may make sense, but collectively they can contradict one another. Furthermore, some developers complain that review personnel occasionally venture beyond their review capabilities or authority, especially where qualitative, subjective judgments are required. In such cases, the applicant may find himself negotiating with several departments.
- **Backlogs.** Seasonal or unexpected increases in the number of requests for development permits can create processing backlogs. They can also be caused by staff turnover or the introduction of new procedures. Unless steps are taken to increase processing output, some applications just have to wait until staff can get around to them.
- **Errors or omissions by the developer.** The efficiency of staff review also depends in part upon the applicant. The developer or consultant must have done his "homework," submitting a complete application with all required supporting documents, responding promptly to staff requests for additional information, and possessing a good working knowledge of regulations and procedures.

Simplifying Staff Review

1. *The joint review committee*

Where several departments are involved in project approval, the traditional approach has been to route the plans among them for review and comment. But one agency's modifications don't always take into account the comments of the others. "The environmental planner wants to save all the trees," one developer points out, "while the transportation department wants a full row width cleared. There is too much interdepartmental squabbling at the expense of the subdivider."
Theoretically, a lead agency – usually the planning department – should intervene to resolve conflicts. But this doesn't always work. The lead agency may not have the organizational authority or the expertise to come up with solutions unilaterally. And going back and forth between departments can be time-consuming. Sometimes the applicant himself acts as an unofficial mediator. An increasingly common alternative to sequential routing of applications has been to establish a review committee or team composed of staff from each relevant department, assigning them to meet regularly, go over proposals, and jointly solve problems and reach a final ageement.

The joint review committee is not a substitute for technical review by specialized staff. Before the committee meets, the application is usually sent to the respective departments for prior analysis. (An exception to this sequence is when a joint review committee is conducting a pre-application conference.) Joint review meetings are typically held weekly, spending a half-hour to an hour on each application.

Some joint review committees only review a single type of application, while others handle all applications that require review by several departments. They may be staffed by as few as three departments or upwards of six. Senior staff are usually designated for joint review responsibilities, though it is not uncommon for the assignment to fall to less experienced staff. The committee's level of authority is frequently limited to making recommendations to the planning commission. Some joint review committees, however, are the point of final approval for certain applications, such as minor subdivisions. The following examples illustrate different versions of the joint review approach.

Baltimore has instituted a "Site Plan Review Committee" which reviews site plans that accompany building permit applications, subdivision and development plans, zoning changes, conditional use permits, variances, and conditional use appeals. At the applicant's request, the committee will also review preliminary plans before an application is formally submitted. Committee meetings are actually working sessions which attempt to improve plans and achieve conformance. Applicants are allowed to attend committee meetings; however, the staff usually meets privately to reach a consensus before inviting the applicant to participate. Minutes are kept and are available to the applicant. The committee consists of senior staff from the departments of transit and traffic, public works, housing and community development, and planning.

Windsor, Connecticut, has established a "Development Team" staffed by virtually every department involved in the review process. The development team conducts pre-application conferences and is the point of final approach for most land development applications. The exceptions are subdivisions and apartment complexes, on which it makes recommendations to the planning

commission. Team meetings follow a common format: the applicant or consultant explains the project; each department comments; and then the group discusses the proposal. The team's written recommendations are sent to the applicant at the end of the day. Development team meetings are also used for other purposes, including:

- review of the planning commission agenda and submission of suggestions or advice to the commission on various items

- discussion of public projects

- monitoring the effectiveness of existing ordinances and regulations

- initial consideration of new development concepts and ordinances.

San Jose's "Project Review Committee" procedures differ in that the applicant is not allowed to attend meetings. Some applicants are dissatisfied with this arrangement, but the planning department maintains that the city simply cannot tie up the staff time required to give individual attention to the applicant at this point. Local officials feel that if applicants were allowed to participate the review would slow to a crawl, and this would hurt developers more.

Benefits of joint review committees. Joint review committees can cut down on paperwork, especially in those communities where departments communicate through memos. When the developer can attend meetings, they provide a forum where he can work with department representatives as a group. This can result in creative solutions to problems, solutions that might not have been found within isolated departments. Time is saved when the applicant no longer must make the departmental rounds. The group dynamics of an interdisciplinary team can also be professionally stimulating and educational for the participants.

Lessons learned. The considerable advantages of joint review should be tempered with several points of caution.

- **Authority.** Members of the committee must have enough authority to uphold their joint decisions. A developer in one community commented, "Members of the committee have to keep running back to their superiors for approval. This not only wastes time, it louses up the give-and-take." One solution to this problem is to staff the committee with "higher-ups" with the authority to make commitments on behalf of their departments. But this can be expensive and impractical in places where the volume of projects is high. A more direct approach may be to simply delegate more authority to the committee members. Alternatively, projects that will require special expertise or discretion can be spotted in advance, and when they come up for review, senior staff can sit in on the meeting.

- **Resolution of conflicts.** Where departments have difficulty in reaching compromises that are acceptable to the community and the applicant, joint reviews can drag into several sessions. The committee chairman must possess the personal leadership skills and the authority to break deadlocks. The Development Team in Windsor, Connecticut, improved its ability to resolve conflicts through a week long seminar on team management, communications, and group behavior.

- **Backlogs.** Joint review can result in backlogs, particularly when the volume of applications is high. This is especially frustrating to the developer who has a routine application but has to wait a month to get a minor problem resolved. One solution is to select only projects of a certain size or type, or with previously identified problems, for joint review. Another is for the lead agency to determine which applications will require a joint meeting after it has examined each department's initial comments.

- **Accountability.** When meetings are closed to the public, there is always the possibility of "back room deals" between the developer and the review staff. One solution is to require that minutes of meetings be kept and made public. Another is to open joint review meetings to the public, not as a forum for citizen input but to allow observation of the proceedings. In Lane County, Oregon, the meetings of the Land Development Review Committee are open to the public in compliance with State law. Public notice of committee meetings is not required, however.

2. *Fast tracking*

Fast tracking separates out projects with minor impacts and abbreviates the review and approval process. This technique has been in common use for minor subdivisions for many years. In the past, "minor" has been rather narrowly applied – to subdivisions with five or fewer lots, for example. The designation, however, could cover certain subdivisions of additional lots, as well as other types of routine applications with no major impacts.

One type of fast tracking eliminates lay review and public hearings, as in Lane County's partitioning and variance procedures. "Partitions" – subdivisions of four or fewer lots – are approved by a joint review committee composed of staff from major review departments. Variances are decided upon by the director of the planning department. County officials estimate that the use of an abbreviated review and approval process for minor subdivisions and variances has reduced processing time by about 50 percent. These two categories of applications have, in recent years, accounted for well over 75 percent of all applications processed. This single technique has thus had a huge impact on the system.

Lane County also uses an abbreviated process for building permit applications. This process, called SIFO ("simple in, fast out") puts at the top of the pile those applications that require review by only one or two departments. Counter staff spot the SIFO's and route them for immediate processing. SIFO provides same-day or next-day processing for applications that could take up to two weeks if routed through normal channels.

Kansas City offers a fast track option for rezoning and development plan applications. (See also Chapter 4, Section 2.) Administrators expect to reduce processing time from 110 days to 60 days or less. The Kansas City fast track option employs four procedures:

1. Simultaneous docketing of plan commission and city council hearings, which eliminates the waiting period for the city/county hearing. (This procedure applies to rezoning and subdivision plats.)

2. Simultaneous docketing of plan commission and board of zoning adjustment hearings for group housing projects.

3. Approval of final development plans by the city development department rather than the city plan commission.

4. The waiver of required council approval of preliminary development plans.

The applicant is not the only one who saves time through fast tracking. If lay review is dispensed with, planning commissioners have more time to devote to policy development and other planning-related activities. Staff time expended in writing recommendations to public officials and attending public hearing can also be reduced. Many types of applications must be heard at a public hearing under some States' enabling legislation, however. A more general hazard of fast tracking is its tendency to over-abbreviate the process in the interests of efficiency. The logic behind fast tracking is not to eliminate steps, but to eliminate *unnecessary* steps.

3. *Simultaneous review of multiple permits*

Reviews must follow sequentially when one permit is a prerequisite for the next. In many cases this is logical and efficient for both developer and the review staff, but some applications lend themselves to simultaneous review.

The Los Angeles planning department has instituted simultaneous review procedures for subdivision applications that also require rezoning. Applicants can file subdivision applications concurrently with an application for a zoning change. The procedure is optional. The applicant must sign a consent form which waives all review deadlines and stipulates that, if the subsequent zoning approval is other than that applied for, the applicant must submit a new map which conforms to the approved zone change. The city estimates that this procedure can reduce processing time by two to three months – the time normally required to complete processing of a zoning application.

Phoenix has taken a less formal approach. When there is a high likelihood that a request for a rezoning will be approved, the planning department is willing to begin informal discussions on subdivisions or site plans while the rezoning application is still being processed. This is usually done when a preliminary examination of the application shows that the proposed use is consistent with permitted uses. In contrast to the approach taken by Los Angeles, there is no signed agreement, no waiver of time limitations, and no obligation on the part of the city if the rezoning is not granted.

In both cases, it is up to the developer to weigh the potential time savings against the risk of preparing costly detailed drawings, since there is no assurance that prerequisite zoning changes will be granted. Many developers are cautiously optimistic about simultaneous review as a way of making the process more flexible. But they stress the importance of keeping the feature optional. The best way to reduce the risk factor is to go over the proposal thoroughly and candidly during a pre-application conference.

4. *Mandatory time frames for review*

Many developers say that the real problem in the system is not how long the process takes but *not knowing* how long the process will take. Mandatory time frames for review can help reduce the developer's uncertainty in projecting completion dates, while also giving staff a firmer deadline to meet. Many ordinances have contained review deadlines for years, but they are often viewed skeptically both by administrators and applicants. This skepticism can usually be traced to the fact that the time frames are unrealistic. If they are too generous, there is no incentive for staff or public officials to act quickly. If they are too tight, they simply will not be adhered to. For public officials, this means one continuance after another; for staff, it means requesting time waivers of the applicant. Often there are legitimate reasons for waivers. For example, where additional negotiation or more information is needed to save a proposal, a waiver is probably preferable to denying the project altogether. In other cases, however, waivers can become routine. In both situations, the applicant often has no choice but to agree to the extension. Staff may also try to buy time by repeatedly asking for more data before the application is deemed "complete" and the clock starts officially running.

Despite these potential problems, mandatory review deadlines should be seriously considered, and communities that have already incorporated them into ordinances should make sure they are reasonable, both from the applicant's and the administrator's point of view.

One practice that can be used with or without mandated time frames, is for staff to make a nonbinding, individual estimate of processing time, tailored to each project, at the time it is first submitted. The California cities of Long Beach and San Jose have taken this approach. They assign a projected date of final decision at the pre-application conference, a date that may come earlier than the one stated in the ordinance, or that can in some cases extend beyond it. In either case, the applicant is forewarned. And although the estimates are not binding, the staff pledges a good-faith effort to meet them.

5. *Hiring temporary staff to eliminate backlogs*

Some planning departments hire engineering or planning firms on a consulting basis to help regular staff review applications when backlogs occur. San Diego does this when delays in issuing permits are expected to exceed 10 days for single-family residential projects or 20 days for apartment projects. Multnomah County, Oregon, has established as a goal the issuance of building permits within 10 working days of application. When backlogs occur, outside engineering firms are hired on short-term professional service contracts. However, since many of the local consulting firms will also have clients who are applicants, care should be taken in matching the projects to be reviewed to the consulting firm to avoid conflicts of interest.

6. *The permit expeditor*

A permit expeditor, sometimes referred to as an ombudsman, smooths the way for efficient processing of selected development projects. Assigning a permit expeditor to a project is often part of a package of incentives for proposals a local government is trying to attract. Permit expeditors are usually engaged for commercial or industrial projects –few communities today are rolling out the red carpet for residential development. There are exceptions, however. Phoenix offers the services of its Development Services Manager to any developer who requests them. And in older, built-up cities that are encouraging reinvestment, such as Baltimore, some inner-city residential projects are given special handling. Another type of residential project that is sometimes aided by a permit expeditor is low- and moderate-income housing. Regardless of the type of project being expedited, the mechanics are much the same. The examples that follow show a range of approaches.

The "routing clerk." The most basic version of a permit expeditor is the employee who coordinates the routing of project plans and monitors their progress. This task is often assigned to paraprofessional or clerical personnel. A routing clerk can be indispensible in departments where the volume of applications is high. Merely knowing where an application is at any given moment can be a real help, not just to the applicant but to department managers as well. In Lane County, Oregon, the "Permit Control Clerk" station serves as conduit for construction permits. Staff distributes to the departments involved multiple copies of plans and application forms. The clerk assigns a projected completion date, after which a follow-up inquiry is made to make sure the permit has in fact been issued. Where there are problems, the clerk notifies the supervisory personnel in the departments to take corrective action. When a department knows in advance it can't meet a projected approval date, it sends a "hold slip" to the applicant with a copy to the permit control clerk. In this way, the clerk can inform an applicant of the status of an application at all times.

The city of Baltimore uses a similar approach. It has set up a coordinating desk as point of entry and distributor of applications for construction permits. The clerk routes a single set of plans through each department sequentially via a runner. The in and out dates are copied into a "route book" (Figure 4). Both applicant and administrators can easily trace the location of any project. The personnel who maintain the route book, however, have no authority to exert pressure on a slow department. It is up to the applicant himself to contact the agency and find out the cause of the problem.

The troubleshooter. A more effective form of expediting involves high-ranking staff, with the authority to intervene directly in the approval process. As one developer put it, "Civil servants need a pusher, just like many construction crews do." This is why Baltimore has established a permit expeditor to work closely with its coordinating desk. The permit expeditor is located in the Physical Development Unit. This unit reports directly to the mayor, and is responsible for priority projects such as commercial redevelopment and urban renewal projects. The mechanics of the process work like this: The Physical Development Unit identifies specific projects to get priority in processing, and the expeditor "tags" these applications when they are logged into the system. From this point on, the coordinating desk monitors their progress. "Tagged" projects are supposed to be in and out of each reviewing department within three days. When the route book shows that the project plans are stalled, the coordinating desk lists the project on a special "hot sheet" that goes to the expeditor once a week. The permit expeditor contacts the department where the plans are delayed to find the problem. Sometimes a simple inquiry suffices to get the project moving again. At other times gentle pressure is exerted. In some cases the expeditor sets up a meeting between applicant and department to work things out.

Baltimore has limited the amount of time the expeditor devotes to solving problems, since staff believe that the job could become a "hand-holding" or errand-running service for applicants. At present, expediting accounts for only 10-20 percent of one staff person's time, and this is considered sufficient. A key to the success of the expeditor is his strategic location in the mayor's office. He can cut across departmental lines and has considerable "clout." Nevertheless, he must be diplomatic. As one long-time civil servant observed, "There are a lot of old-timers in the departments. They are sensitive to bureaucratic channels, and when the expeditor doesn't go through the chain of command it can ruffle feathers."

The City of Los Angeles uses a "housing expeditor" for high-priority low- and moderate-income housing projects. By shortening the time it takes to get the proposal through the regulatory process, the housing expeditor cuts the developer's carrying costs. In return for the cost savings, the developer agrees to incorporate in the project a number of units for low- and moderate-income households as determined by a mathematical formula.

Phoenix has taken a different approach to expediting permits. It set up the position of development services manager in response to complaints from homebuilders that the city was not sufficiently sensitive to the needs of the development industry. In practice, the role of development services manager is a part-time function assumed by the deputy city manager. His key postion in the administration gives him the authority to "bend" procedures slightly, or "flex" the system when occasional technical impasses hold up projects for no valid reason. Since the deputy manager supervises the planning director and other department heads, he can make exceptions and strike compromises that departmental staff feel are beyond their authority. The development services manager can save a developer weeks or months of delay by expressing careful judgment in unusual circumstances.

Phoenix has different criteria from Baltimore for selecting projects for expediting. Special services are not limited to priority projects. Technically, any developer can request assistance. Some applicants work with the development services manager or his assistant from the pre-application stage, especially if they are new to the city and need some orientation. More often, however, applicants only come when they have problems. The city tries to encourage a problem-triggered service since it doesn't want developers to get "spoiled." It is stressed that the development services manager tries to limit his intervention to "life and death" cases in which the economic viability of a sound proposal is threatened by red tape. Developers and their consultants who "cry wolf" are less likely to get help in the future when they really need it. With few exceptions, the private sector respects this policy. Not counting simple

Figure 4. **Sample Page from "Route Book"**

BUILDINGS INSPECTIONS

PLANS ROUTING

	PLANS NO	ADDRESS	FOR	STARTED	LOC.	SURVEY	WASTE WATER	FOOT-WAYS	TRAFFIC TRANSIT	RECEIPTS	HEALTH	CITY PLAN.	ZON-ING	FIRE DEPT.	ING	PLANS EXAM.	ISSUE DATE

260-87040

Source: Baltimore, Maryland

information and referral cases, the Phoenix development services manager estimates that he handles about 400 cases a year.

Lessons learned about permit expeditors. Like the hearing official position (see Chapter 4, Section 7), the permit expeditor position places a great deal of visibility and authority on one person. The expeditor walks a tightrope. On the one hand, he must be an advocate for the developer, not just an apologist for the local goverment. At the same time, he must maintain the support and trust of the departmental staffs. One expeditor emphasized, "We have to be careful not to denigrate the department in the eyes of the developer, or discredit it in any way in the process of superceding its recommendations." Staff needs to be reassured that the expeditor hasn't "sold out" to the developer, especially when the postion is first set up. At the same time, the expeditor must be able to assume the developer's perspective if he is to keep his credibility in the private sector.

The permit expeditor must be accountable, especially in an arrangement like that in Phoenix. Public officials must clearly delineate the scope of his activity and discretion. In Phoenix, the decisions of the development services manager are subject to review by the planning commission or city council. Exceptions are all a matter of public record. These measures ensure that procedural due process is not violated. Insofar as a city uses a permit expeditor to encourage a certain type of private development, the technique shares many similarities with other public incentives such as subsidized loan programs, tax abatements, and the sale of urban renewal land at below-market prices. There must, then, be sufficient guidelines to avoid even the appearance of favoritism. It must be clear to all participants in the process that the permit expeditor provides his services fairly, acting on behalf of the public good.

7. *Departmental reorganization*

Some communities have cut costs and made the process easier for applicants through administrative reorganization. Frequently such reforms are prerequisites for other changes, such as a centralized permitting office. Reorganization can also be a way to deal with sensitive personnel problems, by reassigning duties and restructuring working relationships.

Reorganization can be internal or may cut across department lines. The California counties of Sacramento and San Bernardino furnish examples of internal reorganization. They have experimented with departures from the classic division of labor into "advance" planning and "current" planning. The strategy in both jurisdictions has been to organize staff in teams or units based on geographical areas. Not only does this integrate planning and regulation, it also makes staff persons more familiar with the special environmental and social problems in an area. Other communities are rotating staff duties or creating teams to work on special types of projects or permits.

The most troublesome organizational problems are often not within the planning department itself but among the several departments participating in project review. Management consultants analyzing the situation in one community put their finger on a common problem when they observed:

Overall, the fundamental weakness associated with the existing system for dealing with development applications. . . involves the simple fact that no single unit or individual is accountable for or has control over the entire development review process.

. . . Because no one has overall accountability, there is little impetus to worry about applications when they are in the hands of another agency during the review and analysis process. 'Out of sight– out of mind' appears to be the prevailing attitude.

Organizational and 'turf' problems provide barriers to coordinated policy development and concentrated, unified control of the development review process.

No one, on an overall basis, monitors all caseloads, assesses progress and identifes cases which are 'problems,' and formulates expeditious and appropriate solutions.[2]

The examples that follow all address this set of problems in one way or another. They suggest the endless variations possible on a single organizational theme. What they have in common is that they are all hybrids designed to meet special and local circumstances.

Consolidation. Multnomah County, Oregon, brought its engineering and planning operations closer together by creating a new umbrella division, the Division of Planning and Development. It includes two units: Planning, and Engineering Services. Engineering Services reviews project plans and also programs capital improvements. Before the reorganization it had been part of a former Public Works Division. The newly consolidated Division of Planning and Development not only ties together the review of projects, it also helps coordinate comprehensive planning with capital improvements programming. Ultimately the reorganization paved the way for a centrally located project review office.

Walnut Creek, California, undertook a similar reorganization. First it split off the maintenance duties of the traditional Public Works Department, and then it shifted the remaining engineering development and review functions into a newly created Community Development Department.

Clerical pools. Salem, Oregon, took another approach. Rather than consolidate departments, the city has pooled their common clerical tasks. Several permit-issuing departments now share a single support staff, reassigned from the individual offices, cross-trained, and relocated into a "Permit Application Center." This arrangement was dictated by both politics and common sense. Most permits, it was reasoned, are processed according to parallel procedures; the only substantive difference occurs during the actual technical review. In the Salem system, the 11 separate departments still carry out their individual reviews, but the tasks of providing information, picking up and dropping off forms, and filing are now all centralized. This has reduced the total number of staff needed and has cut operating costs.

Salem did *not* include the planning department in its reorganization. This is because zoning or major subdivision approvals usually require review by the planning commission or city council. With few exceptions, the permits handled by the new center are strictly administrative. Nevertheless, the logic of pooling resources could be applied to planning operations in many cases, to the benefit of developers and of the departments involved.

The interdepartmental professional team. Santa Clara County, California, presents a third hybrid approach. It has involved both consolidating of departments and some pooling of support functions, such as filing. But the real innovation is the creation of a special public service unit of professionals in a multidisciplinary Central Permit Office. This team is organizationally distinct; its members report directly to the head of the unit, the Land Development Coordinator. At the same time, they contribute the expertise of their own parent departments plus a general knowledge of other specialty areas. The staff is drawn from building inspection, fire marshall, health, land development engineering, planning, transportation, and the water district. (See Chapter 2, Section 2, for more information on how the Central Permit Office operates.) The Santa Clara County approach has preserved the integrity of the individual departments while pulling together into a central place an organizationally distinct team with clear lines of authority.

Benefits of departmental reorganization. Anyone who has worked in a bureaucracy for any length of time has probably been through numerous reorganizations that have not improved overall performance. Administrators who regard this technique with a jaundiced eye may have reason to. Nonetheless, there are times when reorganization does make sense, as the examples in this section show. While reorganization by itself is not always a very productive streamlining technique, it is often a necessary ingredient in making other reform measures work.

Reorganizing can be a delicate business, as every administrator knows. "Turf" can become a political issue, for example. The sheer logistics and expense of shuffling desks and moving files may make changes infeasible. And over-centralization can be as much of a problem as fragmentation if agencies that don't really belong together are consolidated. The challenge is to improve accountability, communication and coordination – but only for activities that overlap naturally in the review process.

8. *Managing information: application forms, filing systems, computer usage*

No system can operate efficiently unless the flow of information is well managed. Keeping on top of the paperwork generated by land use regulation is a problem for many communities. They may be using filing systems, for example, that are not compatible with each other. Or perhaps permitting volume is high enough to justify computerizing operations, but clerical staff still record everything manually. Limited budgets or a lack of awareness of technological advances may be preventing badly needed overhauls; but administrators who are serious about streamlining must, at some point, address their filing and paperwork problems. A comprehensive changeover to a new management information system can be costly and time-consuming, but in the long run it is worth the trouble. Lane County, Oregon, for example, conducted a study that estimated that *11,000 staff-hours* per year were being spent in pursuit of historical records. Before the county undertook reform, its recordkeeping system was a systems analyst's nightmare. Some property records were stored on reel microfilm alphabetically for years. Then the county switched over to filing by permit number. Some records were kept by tax and assessment maps; others by type of land use or year filed. Clerks had to dig through old volumes from the assessor's department for cross-referencing. When all else failed, old-timers on the staff relied upon memory. There is nothing unusual about Lane County – except, perhaps, its efforts to improve the situation. This section reviews some of the ways in which communities can improve control of their paperwork.

Forms and filing systems. Though everyone complains about them, forms are tools for increasing efficiency. They settle questions of format and content. They make it possible for nonprofessional employees to screen applications for completeness, saving valuable professional time for substantive review. Forms can also guide decisionmakers in reaching faster, more consistent decisions. For example, the application form for a variance can be designed to focus attention on the requirements, with space for explaining the nature of the hardship, why it is unique, and the basis for asserting that, if it is granted, the variance won't alter the character of the neighborhood. Since any information beyond this is, strictly speaking, irrelevant, the form simply would not provide space for it. The form can also serve as a concise written record of official proceedings by allowing space for a brief statement of findings of fact under each of the three headings.

Forms are often a better vehicle than ordinances or even procedural manuals for telling the applicant what information is needed. Their instructions and format can make it clear to the applicant not only what must be submitted, but *why* – that is,

Figure 5. **Instructions attached to an application form, San Jose, California**

PROCEDURE:

DEVELOPMENT VARIANCE,
DEVELOPMENT EXCEPTION,
ADVERTISING DEVICE VARIANCE

V&E

APPLICANT

1. Obtains Form "V" or "E" and other pertinent forms from Planning Office. One copy to be filed when completed.
2. Submits a list of names and addresses of property owners within a radius of 200 feet of the petitioner's property, as shown on the last equalized assessment roll of the County of Santa Clara.
3. Submits 4" x 9-1/2" envelopes with required postage on each, addressed to all owners of lots or parcels of land which are within 200 feet of petitioner's property, as shown on the last equalized assessment roll of the County of Santa Clara. No return addresses should be included.
4. Prepares 7 copies of a plot plan to scale of property showing a variance requested and hardship involved.
5. Submit one (1) copy of an assessor map or the official tract map (frequently included with title) indicating the petitioner's property.
6. Executes affidavit on application before notary.
7. Submits application to Planning Department for checking.
8. Pays applicable fees.
9. Files Application with Planning Department.

PLANNING STAFF

1. Determines environmental status and stamps application.
2. Indexes application with file number.
3. Places application on earliest available agenda of Director.
4. Discusses application with Building Official and obtains from him any pertinent data.
5. When necessary, makes field inspection and prepares a report thereon for the Director.
6. Present application, maps and other pertinent data to the Director.
7. Director sets public hearing in period of five to forty days and mails notices to petitioner and all owners within 200 feet of petitioner's property.

DIRECTOR OF PLANNING

1. Conducts hearing and takes under submission.
   a. If within ten days the request is denied, applicant may appeal to Commission, but not later than five days after Director's decision.
   b. Applicant obtains appeal form from Planning Department. One copy to be filed when completed. Applicant submits form to Planning Department for checking; pays applicable fee to City; and files with Planning Department.
   c. Appeal placed on agenda of Commission after setting same for public hearing.
   d. Notices are mailed to appellant and all owners within 200 feet of petitioner's property.

PLANNING COMMISSION

1. Conducts public hearing on appeal of denial of Planning Director.
   a. If appeal is denied, the decision of the Commission shall be final.
   b. If appeal is granted, the decision shall be effective forthwith.

TOTAL PROCESSING TIME: 30 to 60 DAYS

the nature of the findings upon which the decision will be based. Many communities attach explanations and detailed instructions directly to the form (Figure 5).

Standardizing application forms can also streamline recordkeeping. Salem, Oregon, for example, analyzed the forms in all of its permitting departments, and found it could divide their contents into three elements: a heading to identify the project, a technical information section, and an offical action section. Subsequently, the departments agreed to follow the same order, and where possible adopt a single format. In addition, departments consolidated forms to handle frequently encountered projects that almost always entailed the groupings of the same permits. These changes reduced the number of application forms from 80 to 63, and standardized most of those that remained. Not only was this a boon to the applicant, it eased the job of the paraprofessionals who were stationed at a central receiving point for most types of permits. In conjunction with its revision of application forms, Salem created a central storage point for information based on an "historical address file." At the same time, each agency kept the internal files that were essential to its own needs.

The ultimate in consolidating forms would be to create a single "master form" that could be used for any type of application. This was the approach Santa Clara County, California, took, as one component of its Central Permit Office. The master application form lists all possible types of land development approvals and is accompanied by a list of supporting materials to be submitted, samples of required sketches, and excerpts from relevant ordinances and procedures (Figures 6a and 6b). Under the previous system, if a project required rezoning, subdivision approval, and a grading permit, each department set up a separate file on the proposal, each file bearing a different number. The master filing system establishes a single file with a single identification number, and all files are stored in one central location. Although operated manually for the present, the recordkeeping system has been designed for conversion to computers. To understand the full effects of this system, the reader should refer back to Section 7 of this chapter and see how it relates to other changes that accompanied it. A word of caution to communities interested in Santa Clara County's approach: centralizing filing systems can create problems of access if review departments are scattered throughout a building. The key to Santa Clara County's success is that it had created a central office staffed by an interdepartmental team.

Lane County, Oregon, undertook a conversion of its recordkeeping system which required three CETA (Comprehensive Training and Employment Act) positions and finally a permanent staff person. To remedy the problems described earlier in this section, the county is converting from its old reel microfilm system to microfiche. Staff estimate that this will ultimately "provide 95 percent faster retrieval time, easy updating, greater accuracy, and a sizable increase in productive staff hours." Where previously staff members had to wade through several incompatible reference numbers and systems to assemble a complete record of a property, now a standardized procedure classifies all existing land use records by a single reference: map and tax lot. Records are microfiched in triplicate and sent to the departments that make frequent use of them. It should be pointed out that Lane County has deliberately excluded zoning records from the microfiching process because administrators feel zoning is too susceptible to change. The county has developed a new form for use with the new recordkeeping system. It is intended to: (1) identify the project, (2) serve as an internal routing record, and (3) be a work sheet for technical staff review. The county has designed the form for eventual computer coding, with shaded items representing future terminal entries.

Computerization. Some planning departments are beginning to take advantage of computer technology, often hooking into their city or county systems. Computers are common in local government administration, but they have not been widely used in managing information in land use regulation. However, the increased sophistication and reduced costs of hardware and software virtually guarantee that computers will become indispensable tools for handling regulatory paperwork. The examples that follow illustrate two very different approaches to using computers.

El Paso County, Colorado, has developed one of the more elaborate and better known computer systems, capable of a wide range of applications. The county contains the fast-growing Colorado Springs area (1975 population: 424,000). For one thing, the computer eases routine bookkeeping activities by locating the names and addresses of property owners and printing mailing labels for public notice. but it can also provide more substantive information that helps in making land use decisions. The computer can, for example, give the location and size of all vacant parcels zoned for a certain use. Not only does this help the developer shopping for cheap land, it can cut down on unnecessary rezonings and will, it is hoped, encourage infill by listing sites that might otherwise have been overlooked.

El Paso County's system was installed for mapping and research; its use in regulatory processing was almost an afterthought. Two regulatory computer programs have been developed, one of which has largely automated the old manual "route book" used in many communities to keep track of applications. There is now a computerized index and file on all applications and all actions taken on them. Three separate printouts provide a weekly history. This allows staff to answer questions on the status of current and past applications, and even helps with preliminary analysis of incoming items. A second computer program provides basic information on every land parcel. It

Figure 6(a). **Master permit application, Santa Clara County, California**

SANTA CLARA COUNTY MASTER LAND DEVELOPMENT PERMIT APPLICATION

Owner's Name _____ Address _____ City _____ Zip _____ Phone (res/bus) _____

Applicant's Name _____ Address _____ City _____ Zip _____ Phone (res/bus) _____

Site Location

_____ side of _____ (road or street) at/between _____ (road or street) and _____ (road or street)
(north, east, south, west)

Existing Address of Property: _____ A.P.N. _____

Existing Use of Property: _____ Adjoining property uses: _____

Specific Request (e.g. 2 lot subdivision, use permit for ____, modification of ____, extension of time for ____, etc.) _____

Notes:
1. All application fees are nonrefundable
2. The owner/applicant or their representative should be present at all public hearings.
3. A denial or grant may be reversed on appeal. No permit will be in effect until the appeal period has expired.

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I certify under penalty of perjury that the foregoing is true and correct

Signature of Property Owner(s)

X _____ Date _____

FOR DEPARTMENT USE ONLY

FILE # _____

TYPE OF APPLICATION	FEES	Numbers refer to required information. See key on reverse side.
☐ ARCHITECTURAL AND SITE APPROVAL *		1, 3, 4, 6, 7, 9, 10, 12
☐ CERTIFICATE OF COMPLIANCE		1, 2, 11
☐ CLUSTER SUBDIVISION * *		1, 2, 3, 6, 7, 8, 11, 13, 14
☐ CONSTRUCTION PERMIT (Non-County maintained road)		10 or 18
☐ ENCROACHMENT PERMIT (County maintained road)		10 or 18
☐ ENVIRONMENTAL ASSESSMENT		17
☐ GRADING PERMIT *		1, 5, 7, 12
☐ GRADING ABATEMENT*		1, 5, 7, 12
☐ LOT LINE ADJUSTMENT		1, 2, 7, 10, 11, 14
☐ SUBDIVISION * *		1, 2, 14, 7, 11, 12, (for 4 lots or less), 13
☐ SINGLE RESIDENTIAL BUILDING SITE		1, 2, 7, 10, 11
☐ SPECIAL PERMIT *		1, 2, 6, 7, 10, 11
☐ SUBDIVISION DIRECTIONAL SIGN PERMIT		1, 3, 7, 10, 16
☐ USE PERMIT *		1, 2, 3, 6, 7, 10, 11
☐ VARIANCE*		1, 2, 7, 10
☐ ZONE CHANGE *		1, 2, 6, 7, 10, 15
☐ OTHER		
TOTAL FEES		

*Denotes an environmental assessment may be required. A determination regarding the necessity of an assessment will be made at the time of the filing.
* *Denotes an environmental assessment shall be required.

DATES:	RESUBMITTAL DATES	
_____	_____	Application Received by _____
_____	_____	Distribution
_____	_____	Referral Response Deadline
_____	_____	Application Evaluation Deadline
_____	_____	Evaluation Notification

USA/SOI/TZ _____
Supervisorial District _____

500' Scale Map _____
Census Tract Number/TRA _____
Zoning _____
Parcel Size _____
Sanitation District _____
Zoning Violation # _____
Previous File # _____

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Figure 6(b). **Master permit application, page 2**

FOR OFFICE USE ONLY

DATE OF REFERRAL	DATE OF RESUBMITTED REFERRAL	DISTRIBUTION OF MATERIALS	Referral Response Deadline	REFERRAL RESPONSE RECEIVED	RESUBMITTED REFERRAL RESPONSE RECEIVED
		Planning	Investigation		
			Project		
			Assessment		
		Land Development Engineering and Surveying			
		Environmental Health Services: Office			
		County Fire Marshal			
		City or Fire District			
		County Transportation Agency			
		Santa Clara Valley Water District			
		CALTRANS			
		Historical Heritage Commission			
		School District			
		City of			
		Other			

Date application accepted as complete _____
Date preliminary report(s) to applicant and owner (Subdivision, Grading, Single Site) _____
Date notice to adjacent property owners (if applicable) _____
Tentative date(s) for action(s) _____
Date of Action(s) (CPO/ASA/SEC. P.C./P.C./BOARD) _____
Approval expiration date(s) _____

ITEMS TO BE SUBMITTED WITH APPLICATION - INCOMPLETE SUBMITTALS WILL NOT BE ACCEPTED. SEE "LIST OF REQUIRED INFORMATION" FOR NUMBER OF REQUIRED COPIES.

1.	Assessor's Parcel Map	May be obtained from a title company, Assessor's Office or Central Permit Office.
2.	Copy of Current Deed	May be obtained from Recorder's Office or title company.
3.	Exterior Elevations	See sample exterior elevation.
4.	Floor Plans	See sample floor plan.
5.	Grading Plans	See information handout on grading plan.
6.	Services Clearance Form (storm, water, and sewage)	Form available at Central Permit Office.
7.	Mailing List of all property owners located within 300 feet of subject property.	Names may be obtained from most current assessment rolls available in the Assessor's Office or the Central Permit Office. Forms may be obtained at the Central Permit Office.
8.	Preliminary Development Plan	See cluster handout.
9	Sign Program	See information handout on signs.
10.	Site Plan	See sample site plan.
11.	Copy of Deed Recorded Prior to June 25, 1969	May be obtained from the Recorder's Office or Title Company
12.	Stamped pre-addressed envelopes for adjacent property owners.	Names may be obtained from most current assessment rolls available in the Assessor's Office or the Central Permit Office.
13.	Tentative Map	See information handouts on tentative map.
14.	Title Report (Preliminary)	Prepared by title company.
15.	Zone Change Petition	Forms available at Central Permit Office.
16.	Subdivision Directional Sign Form	Forms available at Central Permit Office.
17.	E.I.A. Questionnaire	Forms available at Central Permit Office.
18.	Improvement Plan/Grading Plan	Must be engineered plans approved by the County.

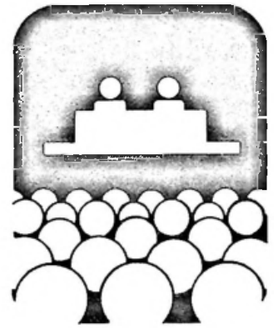
ALL DOCUMENTS AND MAPS SUBMITTED AS REQUIRED BECOME THE PROPERTY OF THE SANTA CLARA COUNTY CENTRAL PERMIT OFFICE.

uses the assessor's parcel number index as a planning data base. "The staff can analyze the results rather than collect facts. We can spend time solving problems rather than looking for them," commented one staff person.

Not only staff, but county commissioners use the planning department's computer information extensively, it is reported. Developers too are beginning to come in to ask about property before taking an option. Some staff members believe that the computer is even helping to make public hearings less controversial, because it provides a common information source which all parties work from. The El Paso County system requires one full-time person to enter and update data. Other staff members only use the system to retrieve information. Computerization has allowed the county to conduct more reviews with less staff; in spite of recent cuts from nine to four planners, 60 to 80 new review items are processed each month. The system took four years to become completely operational, at a cost of $250,000. That includes virtually no hardware costs, since the system was built into the county's existing computer operations.

San Jose provides a contrast to El Paso County, in that its system was developed on a minimum budget. Faced with Proposition 13 cutbacks, the zoning administrator there never even requested a line on the yearly budget to develop his system. He sandwiched it into regular activities by finding free time for a regular staff planner whose hobby was computer programming. Working about half-time for a year, he developed a modest system for internal use, primarily management and troubleshooting. The system cannot yet call up any project at will and give a readout on its progress, although it is expected to have this capacity in time. Meanwhile, it focuses only on problem cases. The program is based on what the city calls a "management by exception" approach; that is, it assumes that the majority of applications are being processed satisfactorily, so that the computer is only programmed to catch the stragglers. Weekly printouts list filing dates and other milestones from which staff can quickly pick out proposals that are lagging and give them special attention. The system also provides longer-range summary information, showing averages and distributions of processing times for each type of application (see Chapter 6).

Current operations only require one half-time person to punch in data and obtain printouts. The only equipment needed is a single cathode ray tube for displaying data, a printer, and a keyboard for input into the city's central computer facility. Applicants observe that the system has been known to "lose" an occasional application. But staff have come to depend upon it as a management tool, while the city government has become enthusiastic about the system and is generating increased demand for more refined and systematic data. Now that the potential of the system is being understood, the planning department is in a better position to request a special budget line for computer operations.



The review of projects by planning commissions, legislative bodies, zoning boards, and citizens is often where the worst bottlenecks occur. The streamlining techniques described here range from modest measures, such as providing training to public officials, to more controversial reforms such as abolishing the planning commission. The chapter stresses the need to redefine the roles and working relationships of lay review bodies, staff and the public in light of changes that have occurred in the land use system in recent years.

The Political Dimension in Land Use Regulation

By this stage in the process, the applicant and staff persons from several technical departments have spent weeks or perhaps months working on a project design. The staff have drafted their recommendations and put the project on the public hearing agenda. Even the most streamlined regulatory systems are apt to slow down at this point. While a political undercurrent runs throughout the process, at the lay review phase politics can come to the surface as the dominant factor. Delay and uncertainty are byproducts of controversy, and in many communities today almost any major subdivision becomes controversial.

Few would seriously question the fundamental purpose or legitimacy of lay review in a participatory democracy. But a growing number of participants, public officials included, are asking whether the way in which lay review bodies function today actually fulfills the intended goals.

Far-reaching changes have reshaped the context in which lay review takes place since the prototype system was developed in the 1920's. This means that planners and public officials must rethink their roles – not only in terms of one another, but in regard to the general public as well. Any efforts to streamline lay review must take into account these major trends:

Increased citizen participation. The traditional mechanisms of public hearings and general elections have not been able to accommodate the growing demands by citizens for more direct participation in decisionmaking. In more and more communities, citizens are negotiating directly with developers, challenging decisions in court, and formally reviewing projects through community councils. Some groups raise legitimate concerns over the environment, or their community's fiscal capacity. Others are frankly exclusionary, resisting any change in the social or economic status quo. Regardless of the motivating factors, citizen participation has become synonymous with citizen opposition to most developers. This view, while understandable, overlooks the positive and constructive contributions citizens can make to projects. Increased public participation raises new questions about the need for planning commissioners and elected officials to act as champions of the private citizen. Where citizens can mount their own defense, many public officials are beginning to view their jobs less as advocates, and more as judges, trying to sort out where the "public interest" really lies. As one planning commission chairman put it, "To the developer I represent the citizen, but to the citizen I represent the government."

Emergence of specialized review boards. Design review boards, economic development commissions, historic preservation committees, and many other special bodies have arisen, each appropriating some area of development policies. This can have the effect of narrowing the purview of the original planning commission. As a result, the planning commission's review is often less comprehensive, less central, than had been envisioned when it was first instituted. A factor which works in the same direction is the increased emphasis placed on the fiscal impacts of residential development. Familiarity with municipal services, budgeting, and control over capital improvements have traditionally been more within the scope of the governing body than the planning commission.

Increase in discretionary projects. The increase in flexible zoning techniques, zoning changes, special use permits, and variances has created a workload for lay review bodies not anticipated in the 1920's. This has jammed agendas and further reduced the limited time these bodies can devote to making policy.

Professionalization. To complicate matters further, the quantity and technical nature of information needed to review proposals has increased markedly, making it difficult for laymen to make intelligent, informed decisions based on the data presented. This data explosion has accompanied the growth of professional planning staffs in local government. Full-time staffs were relatively rare even in middle-sized cities until after World War II; the Standard Zoning Enabling Act of 1924 was not designed to take full advantage of professional planning or give planners an important role in decisionmaking.

These four trends are adding new dimensions to the 50-year debate over the value of the planning commission's role vis-a-vis that of the governing body. Because every community is experiencing changes at a slightly different rate, the combination of issues varies. Still, a number of common problems emerge.

Problems in Lay Review

From the applicant's point of view, duplicative hearings before planning commissions and governing bodies mean delay and extra consulting fees. The outcomes of these hearings may conflict with one another. It takes time to get onto agendas, and items are often continued. Furthermore, no matter how much time and effort go into pre-hearing preparation, the developer always faces the prospect of last-minute surprises at the public hearing. Lay bodies may be easily swayed by auditoriums packed with angry citizens. The private sector also charges that laypersons on public bodies indulge in "playing architect" and in other ways passing judgment on technical matters about which they lack expertise. Another problem is that where procedural due process is lacking, it is harder to get a fair hearing or prepare an adequate case if it becomes necessary to litigate.

But developers are not alone in their frustration over the lay review process. Planning staffs, public officials, and citizens have complaints too. Officials face meetings that drag late into the night, with agendas loaded with minor variances and permits that steal time from more important matters. They may be uncomfortable with the political pressures under which they must operate. Staff are frustrated when their recommendations are ignored for what appear to be illogical reasons. Duplicative hearings mean extra evening meetings, often without compensation, and extra administrative costs in preparing reports. Citizens complain that they too are worn down by multiple hearings. They feel that there are not enough safeguards to make negotiating accountable. And they point out that the system makes it almost impossible for their input to be constructive, when they are not brought into the process until the eleventh hour.

The techniques in this chapter are not designed to remove politics and citizen participation from land use decisions. They can't change the public's mind on growth issues or guarantee reasonable, qualified decisionmakers. Because land use decisions are compromises hammered out by conflicting interests, they are inherently messy. But regulatory reform can help balance interests and make the adversary system less destructive. The techniques in this chapter can help make the local system less vulnerable to take-over by narrow or selfish interests that invoke the public interest. They can also help public officials make more intelligent use of the work of professional planners, engineers and architects, by freeing lay review bodies to do what they do best: deal with tough, value-laden policy decisions. And if these objectives are achieved, delay and uncertainty will be reduced as well.

Simplifying Lay Review

1. Training elected and appointed officials

Fundamental to good public decisionmaking are good decision-makers. The apppointment of individuals of high caliber to lay review boards is a prerequisite in upgrading lay review, and it is equally essential to provide for their continued education in planning and land use regulation. It would seem natural that planning agencies would have an orientation program for new planning commissioners or members of the zoning board. Yet a recent survey of planning agencies by the American Planning Association indicates that *fewer than half* have such programs.[1] Newcomers to public bodies complain too frequently, "I had to learn it all by osmosis."

The staff, of course, is a primary source of information, but commissioners will want to avail themselves of other channels of education as well, so that they can form independent judgments. Staff may occasionally be frustrated that commissioners or elected officials are skeptical about their "planning school theories." In such cases, it makes sense to bring in outside authorities. This was done in Fort Wayne, Indiana, where the planning department selected two planning consultants who conducted a two-day seminar for the commissioners. They discussed the roles of commissioners and staff, the objectives of comprehensive planning, and the basic approaches to drafting a plan.

There are also short courses available through APA chapters, State university systems and private colleges. Where the budget permits, commissioners should attend conferences and other meetings on planning and land use policy. Many States issue guidebooks, handbooks, and manuals for commissioners. A number of them explain zoning and subdivision procedures and outline basic planning principles in relatively straightforward terms. While these are helpful, more is needed in the way of solid advice on judging public opinion, getting the most out of staff, and working with the governing body. Appendix D lists publications which provide that information. At a minimum, communities should have a basic library for lay decisionmakers that includes the ordinances, materials available for the general public, handbooks, and some basic planning texts.

2. Reducing public hearing backlogs

A common cause of delay is time lost while projects wait to get onto the public hearing agenda. In some communities this can amount to two or three months or even longer. Some of this "down time" is required for adequate public notice. But in many cases, the problem of backlogs can be solved by simply holding more frequent meetings. The planning commission that shifts from quarterly or monthly meetings to weekly or bi-weekly sessions can cut as much as 30 to 60 days from the process.

Communities have also experimented with increasing the length of meetings. While some like this solution, others have found that adding more items to the agenda only makes these "decision marathons" worse. Some communities keep to a regular schedule of meetings but add extra sessions whenever an application backlog begins to build up.

Another way to reduce time-in-line for public hearings is simultaneous docketing of cases that require hearings by two lay review bodies. Traditionally a project is not placed on the governing body's agenda until it has been heard by the planning commission. This means a second notification period, with additional delay. Kansas City, under its "fast track" option, gives public notice of both city council and planning commission hearings at the same time. This allows the two hearings to be scheduled back-to-back or within a few days of each other. Rezonings, community unit plans, and subdivision plats can all take advantage of this procedure. The city's fast track option also provides for the developer to voluntarily waive city council approval of preliminary plats, and it delegates to staff authority to approve final plats. (See Chapter 3, Section 2, on fast tracks for more details.) Kansas City claims that its fast track can reduce processing time from 120 days down to 60 days or less.

3. Improving public hearing procedures

A common complaint about public hearings is that they fail to satisfy the requirements for procedural due process. In recent years, State courts have taken a more active interest in the procedures used to conduct negotiations and public hearings. Judicial opinions conflict on when and what procedural due process requirements must be imposed, but the trend is toward more stringent rules than those many communities now follow. The handwriting seems to be on the wall: public hearings will be required to resemble courtroom procedures more closely, and closed-door negotiating sessions will be subject to far more judicial scrutiny. At a minimum, the elements that courts have stressed as essential to procedural due process include:

- a proper notice to all parties involved
- a fair public hearing with an opportunity to be heard
- a fair and impartial tribunal, or judge.

Increasingly the courts appear to be characterizing land-use decisions as "quasi-judicial" or administrative, and such decisions may be subject to additional due process safeguards, including:

- prohibition of *ex parte* contacts – private communications between decisionmakers and any party to the case
- a written record of the proceedings
- written decisions based upon written findings of fact
- the right of rebuttal and cross-examination.

Developers have pressed for tighter legal controls, but these can be a two-edged sword since procedural due process protects the rights of *all* parties. Due process requirements certainly don't simplify the process, and may add time and attorneys' fees. Some of the provisions, moreover, such as the prohibition against *ex parte* contacts, combined with some States' sunshine laws, could make it virtually impossible to conduct sensitive negotiations in private. "The negotiation process implied in flexible zoning techniques raises some important questions as to who gets to talk to whom, about what, and when," writes Michael Meshenberg.[2] Closed-door sessions in the past have been seriously abused in some cases. Nevertheless, common sense must seek a balance between "protecting the rights of all parties and the practicalities of the way the process works."[3] Certainly a minimum of negotiation should occur in private, and minutes of such meetings should be kept. At the time of the public hearing they should be entered into the official record.

The zoning ordinance should specify the procedures to be used at public hearings. Or they should be spelled out in an officially adopted set of by-laws or rules of procedure. Some local officials have admitted that the task of conducting hearings under more stringent rules is beyond them and have delegated the responsibility to a hearing official (Section 7, below). They have retained the function of conducting informal hearings for policymaking and information gathering on the pattern of the traditional New England town meeting.

Beyond the legal requirements, there are a number of common-sense techniques for running more productive public hearings. A "consent agenda" is one idea. It essentially groups routine or noncontroversial decisions as a single item requiring one motion for approval. Additional "housekeeping" matters involve the position and size of exhibits, the use of microphones, and so forth.

The reference materials listed in Appendix D, Section 2.B.3., provide tips to chairpersons who want to make improvements.

Successful public meetings require that officials, citizens, and staff do their homework, of course. Staff can prepare suggested resolutions and tentative findings of fact – pro and con – in advance of meetings to make it easier for officials to make motions. Informal meetings prior to the public hearing can help eliminate controversy and confusion, ironing out some problems and focusing others for the later public debate. They can also forewarn the chairperson about levels of controversy or the tactics of antagonists so that arrangements can be made to accommodate larger-than-normal crowds. Administrators should check the legality of such meetings under State laws before convening them.

4. Informal meetings with neighborhood organizations

One defect in the ordinary sequence of events in the review process is that by the time the public first sees a development proposal, the developer has already committed time and expense to the project and may be unwilling to make major changes. For this reason, some communities encourage or require informal meetings between developers and citizen groups at an early stage in a project.

The city of Baltimore, for instance, urges developers to meet with neighborhood organizations. The staff suggests that in the interest of public relations the developer set up the meeting on his own rather than through the planning department. In the past, when the city has approached a community group on behalf of an applicant, citizens were left with the impression that official proceedings had already begun, and it was already too late for meaningful input. There are numerous examples in Baltimore where early, informal meetings have helped resolve problems – battle-lines don't get drawn as quickly when official action is not imminent. But though developers recognize that this practice can be a wise alternative to a premature hearing packed with angry citizens, some complain that it can also add up to months of negotiations when they encounter a sophisticated, well-organized neighborhood group.

In Kane County, Illinois, the review system is structured to bring both lay review bodies and citizens into the process automatically, early in the concept stage. During the pre-application phase, the developer sounds out public officials and citizens on an informal basis, before he has expended the time and effort to submit a formal application. During this "dry run," staff mail the sketch plat to all adjoining property owners and other designated parties and invite their written comments. After 45 days, these comments are considered by staff, applicant and the lay review body in one or more informal meetings. A vote is taken, but it does not constitute an official action of approval or disapproval. Rather, it is a green light for the developer to go ahead with a formal application, reassured that any major problems are likely to have been noted and resolved by the people who will ultimately be deciding on the project. Of course, the public still has the opportunity to testify at subsequent public hearings. But if the pre-application stage has worked as intended, there should be few surprises.

Should early, informal contacts with citizens be optional or required? Most citizens would probably opt for mandatory communication. Developers, predictably, prefer a choice.

Many developers don't need any prodding by the local government to initiate contact with nearby property owners. They voluntarily conduct "missionary work," meeting informally with neighbors early in the process. They find they can quiet many fears with simple information, and gain support through minor changes in design. Some have even succeeded in getting neighbors to sign petitions in favor of the project.

Some developers, on the other hand, feel that contacting citizens in this way provides the neighborhood with an "early warning system" and only gives it more time to muster its forces in opposition. Further, by displaying an openness toward project modification, a developer can find himself suddenly "joined by half a dozen partners, but none of them wants to put up any money." Finally, there is no assurance that the group with which the developer is negotiating is the only local group; he may be surprised to discover other ad hoc committees at the public hearing. In short, these developers believe it's better to "let sleeping dogs lie."

5. Consolidating or eliminating multiple public hearings

The typical sequence of land review as envisioned under most State laws was supposed to entail one, or at most two, public hearings per project. But where an applicant must obtain a change in zoning before submitting a subdivision approval, this can add another two public hearings, and perhaps upwards of four in States, such as California, which require corresponding plan amendments. In these cases it is not unusual for even relatively non-controversial projects to go through three to seven hearings. The separate review procedures of zoning changes, subdivision approvals, etc., were designed as closed systems, complete in themselves with all the essential elements of due process. When they are added together, however, the composite process becomes redundant.

This duplication is often defended by pointing out that the separate hearings at the rezoning stage and the subdivision stage differ in degree of detail and issues to be considered. But increasingly, the two sets of concerns get mixed together, since zoning changes are usually adopted with binding conditions applicable to an approved site plan. This means that even the initial hearing(s) cover both general and specific items.

Phoenix is a jurisdiction that has eliminated most hearings not mandated by State law. Duplicative hearings can be avoided in those cases where parties to a decision are pleased with the outcome of the first hearing, and it is to no one's advantage to hold subsequent deliberations. Any public hearing at any stage in the process can become the *final* hearing automatically if no one appeals. The subsequent review steps are there for those who want to avail themselves of them; but in the absence of an appeal, the findings of the lower body are considered binding.

In the case of zoning changes in Phoenix, the planning commission holds the initial public hearing and makes its recommendation to the city council. "The City Council may adopt the Planning Commission's recommendations without holding another public hearing"[4] unless an appeal is filed in writing. For subdivision approvals, the planning commission has delegated its approval authority to the planning director as chairman of an interdepartmental "subdivision committee." This committee holds *no* public hearing; it simply meets with the developer to go over the preliminary plat or site plan. The committee's decision is final unless appealed. Participants feel this makes sense, because:

- the typical subdivision has almost always been through the rezoning process, and therefore has undergone a public hearing
- stipulations were attached at the rezoning stage and serve as guidelines for later administrative review of the plat
- citizens who spoke in opposition have the opportunity to participate in subsequent design modifications
- applicants and third parties can always, on appeal, obtain a second hearing before the city council.

Phoenix has cut public hearings for the typical application from *four* to *one*. Previously, projects that required rezoning and subdivision approval (the majority of cases) had to go through two hearings before the planning commission and two before the city council. Now, if there are no appeals, there is only one hearing before the planning commission. Only 10 to 12 out of roughly 300 rezoning decisions are appealed, and only about 5 out of 120 subdivision decisions are appealed. An unappealed rezoning averages about two months in Phoenix. Site plan and preliminary plat reviews are processed within an average of 20 to 30 days from the date of official submission. (This does not include time spent by the developer in preparing submissions or time elapsed at the pre-application stage.)

6. Redefining the role of the planning commission

Political analysts and practitioners have been debating the role of the planning commission for 40 years. Its advocates claim that the commission serves a vital purpose in local government and cite its contributions: political "lightning rod" and time-saver for the governing body; respected endorser of policies; advisor insulated from the pressure of politics. Opponents take issue. They believe that the original purposes of the planning commission, appropriate back in the days of progressive "good government" reforms, are no longer applicable. At the far extreme, they advocate abolishing the commission altogether.

Wherever the truth lies – and the answer is probably different for each community – the abolition of lay review bodies is, in most cases, either politically unfeasible or legally prohibited. There has been talk here and there about communities that have "abolished" their planning commissions or zoning boards; but investigation shows that, while technically they may have done so, for all practical purposes they have really replaced them with new bodies, with new roles, under new names. Two of the better known cases are Tucson, Arizona, and King County, Washington. In both communities, the defunct planning commission's duties were divided between:

- a hearing official who conducts public hearings on all project proposals, and either makes decisions or recommendations to the governing body;
- a new citizen organization that meets regularly and holds public hearings on planning and policymaking. In Tucson, the new body is the 13-member Citizens Advisory Planning Committee, established in 1975. In King County, it is the Policy Development Commission, a group of 100 citizens presided over by an 18-member board. The Commission is divided into as many as nine ad hoc subcommittees, and was established in 1971.

There is no reason why the existing planning commission could not be retained in most communities but simply relieved of some of its review and approval duties. In Florida, for example, two jurisdictions, Hillsborough County and Tampa, the county seat, set up joint hearing officials to conduct hearings on project proposals, and directed the two planning commissions' roles toward policy and planning. (In Florida this required special State enabling legislation.) Similarly, Mountain View, California, redesigned the role of its planning commission so that it could begin an ambitious planning program. In this case the planning commission continued to hear rezoning cases but a hearing official took over the rest of the project caseload.

Delegating planning commission review responsibilities to a hearing official need not be an all-or-nothing arrangement. Duties may be shared; a hearing official may hear only a few types of applications, or he may hear them all. In either case, in the communities contacted in this study the consequences have been the same:*

- the project review process goes more smoothly and quickly

*With the exception of Tampa and Hillsborough County, where the changes are too recent to draw any conclusions.

• the vicious circle that steals officials' time away from policymaking is broken. Attention can be directed to developing the standards that are so badly needed to make flexible zoning techniques and the negotiating process more predictable.

Some public administrators may look with envy at these arrangements but nevertheless voice reservations that "We're too conservative here," or "My board would fire me if I ever even suggested something like that." Planning commissioners may indeed object that redefining their role amounts to "kicking them upstairs." As one commissioner stated, "Everybody knows that zoning is where the action is, not in long-term planning."

How many communities succeeded in making these reforms politically palatable? There has been no common formula. In the Florida communities the redefinition was, to some degree, imposed on reluctant local officials by developers and citizens who lobbied for changes at the State capitol. In Mountain View, California, the planning director gained the support of elected officials through informal, one-on-one conversations. After gaining their support, he approached commissioners in the same fashion, explaining the concept, allaying doubts, and modifying the proposal in the light of their comments. A vital element has been the preparation of an aggressive, practical work program in advance of any changes, so that commissioners can see that they will still exercise substantial influence. An ambitious work program that is tied closely to setting standards for project review also takes the vagueness out of the concept of policy-making. In some communities, local events may be more persuasive than logic, as in one instance where sobered commissioners willingly handed over their review authority to staff after being sued by a developer. Another motive was mentioned by a planner who observed, "The way to get people to give up power is to overwork them." This was echoed by a commissioner who said, "We needed no convincing. We were looking at subdivisions all night every week."

But the best argument for redefining the planning commission's role is that where it has been tried, the commissioners themselves report, almost without exception, that they are happy about the changes and find their jobs more stimulating and personally rewarding. Equally significant, there has been no notable protest from the general public; on the contrary, many citizen groups have welcomed the new arrangement.

There may be political, legal, or budgetary problems in shifting all or a part of the project caseload to a hearing official, but this is not the only option. Some cities and counties have experimented with setting up the equivalent of a *second* planning commission. Roughly, this approach divides the workload in half. One body hears only planning and policy-related items, and can "get out in front" of routine project approval to work on standard-setting. The other body hears only project proposals, but can devote its full attention to them while still ultimately benefitting from the long-term planning and policymaking of its sister body. Whether project review is accomplished through a hearing official or a newly established lay review body, the objective in both arrangements is the same: to allow the planning commission to give more attention to long-range planning and development standards. The next two sections examine, in turn, the hearing official and the dual commission.

7. The hearing official

A hearing official is an "appointed officer who conducts quasi-judicial hearings on applications for at least one flexible device – parcel rezonings, special use permits, variances, etc. – enters written findings based on the record established at the hearing, and either decides on the application or makes a recommendation to a local legislative or administrative body for decision."[5] In addition to freeing the time of commissioners and elected officials, the hearing official can also reduce delay and uncertainty for both large and small applicants. A hearing official can also improve the quality of public hearings, as mentioned above.

How the hearing official operates. Briefly, the public hearing held by the hearing official replaces the separate hearing(s) traditionally held by the planning commission, zoning board or governing body. It also follows guidelines for procedural due process. (See Section 3, above.) Staff input needed by the hearing official is just about the same as that required by lay review bodies – preliminary studies or written recommendations to the legislative or administrative body that makes the final approval or denial.

Duties and powers can vary. Some hearing officials are limited to exceptions, variances, and certain special use permits. In these relatively minor, routine cases the official's decision is often final. In other communities the hearing official may also conduct hearings on subdivisions,* and certain types of rezonings.** Since such matters are often of greater consequence, typically the hearing official only makes a recommendation. In some places, however, the hearing official is empowered to make final decisions even on rezoning.***

The hearing official approach is now 15 years old but continues to be discussed as something innovative. The first positions were created in Maryland and the Pacific Northwest, and the number has been growing slowly but steadily from Ohio to Arizona. A partial list includes:

Arizona
Phoenix
Tucson

California
Antioch
Buena Park
Fremont
Los Angeles
Mountain View
Orange County
Palo Alto
Redwood City
Sacramento County
Salinas
San Francisco
San Jose
San Louis Obispo County
San Mateo County
Santa Cruz

Florida
Hillsborough County
Jacksonville (proposed)
Tampa

Maryland
Anne Arundel County
Baltimore County
Oxford County
Montgomery County
Prince Georges County

New York
Niagara County

Ohio
Cincinnati
Kent
Xenia

Oregon
Eugene
Lane County
Portland
Salem

Pennsylvania
Pittsburgh

Washington
King County
Seattle
Spokane
Tacoma
Whatcom County

West Virginia
Wheeling

*San Jose, Ca., King County, Wash., Tucson, Az., Mountain View, Ca.
**Tucson, Az., Montgomery County, Md., King County, Wash., San Jose, Ca.
***Baltimore County, Md., Tampa, Fla., Hillsborough County, Fla.

Benefits of the hearing official system. One of the major benefits of the hearing official has already been discussed: freeing time for lay review bodies to engage in planning and policymaking. Other key advantages include:

For the one-time permit applicant

• The process is more relaxed and informal. In many communities applicants respond positively to what they view as a more personal, understandable procedure, often less intimidating than standing before an imposing commission in the council chamber.

• For simple cases, there is often *less* need for attorneys – just the opposite of what has sometimes been predicted. Phoenix, for example, estimates that only 5 to 10 percent of the cases heard by the hearing official – variances and use permits – have attorneys present. In Lane County, Oregon, the hearing official, himself an attorney, does not encourage applicants to retain legal counsel. He himself tries to elicit facts that are beneficial to the applicant's claims if the applicant fails to realize the points of significance in his favor.

• "Time in line" to get onto agendas can be cut. In Phoenix, queuing time was cut from six to three weeks.

For the large-scale developer

• Queuing times can also be shortened for more complex projects, even when they don't go before the hearing official. Because the planning commission and governing body don't have to spend time on such matters as variances, they have more time to catch up on pending cases for rezonings, preliminary plat approvals, and PUD's. Where the hearing official does hear rezoning cases or subdivision applications, there is an even greater time saving;

• It is often easier for the hearing official to comply with strict procedural due process requirements for public hearings than it is for lay review bodies. Thus, the developer's rights may be better protected, especially with regard to an accurate written record and a decision based on findings of fact.

For elected and appointed officials

• The hearing official can relieve them of the burden of conducting public hearings according to strict due process requirements.

• He can also help relieve pressures for more frequent meetings that eat up commissioners' free time. In Phoenix, the caseload for variances, signs, and special use permits was so heavy that the city had to set up a *second* zoning board to cope with the volume. Now the hearing official hears about 2,350 cases yearly, resulting in a drastically reduced annual caseload of 150 for lay reviewers. The second zoning board was disbanded.

• Virtually every community contacted reported devoting more time to policy formulation and planning as a result of establishing a hearing examiner.

For public administrators

• A 1975 assessment of Prince Georges County, Maryland, found that the hearing official process "has significantly improved the quality of the staff's input to the examiner" and has "reshaped the attitude of staff to the reality of court decisions. Staff reports now contain the data upon which a determination of the applicability of the legal tests can be made. The reports are organized with regard to this aspect."[6]

• Field experience varies on staff time required. In some places, time may not be reduced, since it still takes time for staff to analyze an application and prepare reports. However, Mountain View, California, found that "each

administrative zoning hearing represents approximately 11 man hours of direct staff time, compared to 35 man hours previously required for each Commission adjustment meeting." (Mountain View's hearing official hears conditional use permits, variances, and PUD's).[7]

• Again, experience varies on administrative costs. In Phoenix, it is claimed that the hearing official's time represents very little in the way of a net additional cost, since under the previous arrangement, a high-level senior staff person had to attend all zoning board meetings anyway. Mountain View found, after two years that:

— $1,000 per year was saved since explanatory photographic slides were no longer required;

— Economies in printing, postage, and clerical time amounted to another $1,600 saved per year;

— "Total direct dollar savings of zoning adjustment by a planning hearing officer over adjustment by the Planning Commission exceeds $8,000 per annum."[8]

• Some of the conclusions here depend upon the type of permit being issued. Where projects are complex or controversial, the hearing will still be packed with citizens. Expert witnesses and attorneys may be needed. There may be no appreciable difference in the actual time the hearing takes, especially for zoning changes or subdivisions. Some findings for simpler approvals are:

— In Mountain View, "Planning Commission adjustment hearings took 25 percent longer than comparable administrative zoning hearings;"[9]

— In Sacramento County, the hearing official can hear eight to ten items in an hour and a half weekly meeting (variances, exceptions, selected use permits);

— In Phoenix, simple cases take about 12 to 15 minutes each; figures are about the same in Lane County, Oregon.

Answers to frequently asked questions about the hearing official. Some local officials still hesitate to consider the hearing official function. Clearly the hearing official is not for everyone. But oftentimes objections are based on misconceptions. This section addresses some of the common reservations expressed by administrators.

Cost. A hearing official is too costly to be justified by the low volume of cases in some communities.

For communities in this situation, there are options available to overcome the problem. One is to engage an independent attorney to provide services on a contract basis, as done in Tampa and Hillsborough County, Florida and in Lane County, Oregon. Lane County shares the services of its hearing official with the city of Eugene. The private attorney serves at the pleasure of the county board there, under a contract which stipulates an hourly fee based on whether time is spent in hearings, consultation, or site visits. The county planning and clerical staff is responsible for making arrangements for hearings, issuing legal notices, writing reports, and transcribing the proceedings. Staff attend the hearings to present their findings and testify. Meetings are held in the evenings, twice a month, and last about an hour.

A second option is to designate an existing staff person on a part-time basis – with adequate measures to ensure the independence of the position. San Jose, Phoenix, and Sacramento County, among others, have used this approach. In San Jose, the zoning ordinance and subdivision regulations empower the planning director to hold hearings on several types of application. The director, in turn, deputized a senior staff member to conduct them. In Phoenix, the hearing official doubles as a zoning administrator, giving half his time to each job. The hearing official in Sacramento County is a senior staff person in the planning department who spends about 10 percent to 33 percent of his time on these duties.

A part-time hearing official may be cheaper, work more efficiently in low-volume operations, and may provide more flexibility for the community that wants to experiment with the technique on a limited basis. Furthermore, appointing an existing staff member means that the individual is already fully acquainted with local policies, regulations, and so forth.

There can also be some drawbacks to the part-time on-staff hearing official. The one that causes most concern is that ancillary duties of part-time staff may make it difficult for them to perform as "impartial tribunals." Responsibilities such as providing public information, conducting pre-application conferences, and giving advice and technical assistance to applicants could potentially conflict with procedural due process standards regarding *ex parte* contacts with applicants (no private communication between the tribunal and parties to the case). This can be troublesome. For instance, the Sacramento County hearing official is required to be available to suggest ways in which plans could be modified to avoid the need for variances. Similarly in Phoenix the hearing official, in the role of zoning administrator, is actually directed in the ordinance "to undertake preliminary negotiation with, and provide advice to, all applicants for zoning adjustment action." It is very important, therefore, to have a provision in the ordinance to deal with *ex parte* contacts. The two most common approaches are: (1) for the hearing official to disclose any prior communication at the outset of the public hearing, and to make its substance part of the record, or (2) to notify all parties to a case when any communication is to take place, and offer them the opportunity to be present and participate.

Extra delay. The hearing official will just add another step to the process.

If the appeal body regularly overturns the official's decision, there is a real danger that appeals could become routine. To prevent this, the appeal body and the hearing official must see eye to eye on most decisions. A system should be maintained to monitor the number of appeals and reversals, along with an analysis of the points of difference.

Too much authority. Concentrating power in the hands of one individual will create a "zoning czar" who has virtual control over land use decisions in the community.

The research for this guidebook turned up no reports of instances where hearing officials have abused their discretion or power. This is not surprising, given the number of checks and balances that can be built into the system. Foremost, of course, is careful selection of the individual who is to fill the post. It cannot be overemphasized that the key to success is to appoint an individual who is judicious, fair, personable, and highly respected. There are also legal measures that can prevent an overconcentration of power. Chief among these is the appeals process. Other areas that have an effect on limiting the influence of the hearing official include:

- tenure of office, whether for a set term or at the pleasure of the governing body
- limitations on the kinds of cases to be heard
- whether the hearing official has final authority or acts in an advisory capacity only.

Finally, the hearing official's role must be limited to *applying* policy, not making it. If he or she begins to exercise broad discretion, the purpose has been defeated.

Legislative obstacles. The hearing official may require special State enabling legislation. Some States have added provisions to the basic planning and zoning enabling legislation to ensure the legal authority of the hearing official. At the same time, there are several examples of communities that went ahead and established hearing officials before they were specifically permitted under State law. Both Tucson and Phoenix recognized that they were taking a calculated risk; when they acted without State enabling legislation, however, no suits were brought against either city challenging their authority. Subsequently, Arizona has enacted amendments to the State statute to permit hearing officials. In Oregon, too, Eugene instituted a hearing official prior to enabling legislation, again without adverse results. All the same, local governments should be aware of possible legal problems in adopting the approach in the absence of specific language in the State statutes.

Playing politics. Is political neutrality in the hearing official position possible or desirable?

This question cannot be answered in the abstract. The method of appointment, the length of term, and other factors can make the position more or less a reflection of the policies of elected officials. On the other hand, the position may be designed to be relatively independent. Political neutrality is not always a highly desired quality. In Phoenix, for example, there did not appear to be great enthusiasm for bringing rezonings under the jurisdiction of the hearing official, despite the fact that it would probably save time on a backlogged agenda. One developer summed up his opposition to making the rezoning process less political this way: "A man up for murder always chooses a jury over a judge."

8. Dual commissions

Despite the advantages of the hearing official approach, many communities may not be ready or able to use it. Yet they still want to streamline lay review and devote more of the planning commission's agenda to standard-setting and policymaking. Some local governments have accomplished this goal by adopting a dual planning commission structure. Typically the division of labor follows the traditional distinction at staff level between policy planning and project planning. Therein lies the strength of the dual system – and greatest potential weakness as well.

Multnomah County, Oregon, had a nine-member planning commission organized along traditional lines. In 1975, the governing body created a new nine-member "Hearings Council" alongside it. The Hearings Council now hears applications for specific projects, while the old planning commission devotes its full attention to planning.

San Antonio, Texas, made a similar split in its planning and zoning commission. In order to begin work on its comprehensive plan, the city established a new planning commission composed of new members selected for their interest in planning. The old commission then became the zoning commission and considered only project proposals. All the original members were retained. The two bodies are linked through staff and through the ex officio membership of the zoning commission's chairperson, who also serves on the planning commission. The San Antonio strategy is one way to address the objections of existing commissioners who are afraid of losing power. They may be more willing to be relieved of their planning responsibilities than their zoning and project review duties.

Lane County, Oregon, also has a dual planning commission, but it is based on geographic coverage. The County is immense (4,600 square miles) and includes terrain from the Pacific coast to the Cascade Range. Because of the wide geographical variations and sheer physical distances, a second "West Lane County Planning Commission" was set up in 1972 to provide better representation. The two commissions are separate and coequal, with identical permit and planning responsibilities in their jurisdictions. They share a single staff and work together on the countywide comprehensive plan. Because the workload of the old commission has now been cut in half, not only planning but project review can go more quickly.

Sacramento County is one of the oldest and most successful examples of a dual commission. Developers, environmentalists and public officials there all agree with a commissioner who said, "The dual commission was a first step to all the rest. In the long-run, permitting has been smoothed immeasurably." Ironically, the primary reason for setting up the dual structure was not to expedite permitting, but to make plans.

Like Multnomah County and San Antonio, Sacramento County has a "Policy Planning Commission" and a "Project Planning Commission." (The Project Commission took over the job of the old zoning board, which was subsequently dismantled.)

The experiment began as a three-year trial in 1975, despite initial misgivings. There was fear that two separate commissions might widen the gap between long-range and current planning. Could the two bodies work together, or would they be at odds? The experiment required an amendment to California enabling legislation, and in the first several months several problems had to be worked out. The most serious was that for some agenda items the responsibilities of the two bodies overlapped, resulting in two separate sets of reviews before two separate bodies. Modifications were made, the division of labor was better defined, and a series of administrative reforms was introduced to simplify hearings (several of which have been described elsewhere in this guidebook). It was agreed to rotate commissioners on the two boards, one at a time each year, to further reduce the chance of the two bodies growing apart.

A 1977 evaluation of the Sacramento experiment stated, "None of the more than 40 individuals appearing before the committee considered returning to the single planning commission as a viable alternative."[10] The State legislature was sufficiently impressed that it decided to continue authorization indefinitely and also made it possible for any jurisdiction to set up a dual commission. By mid-1979, roughly four years after the dual commission was initiated, the long-term benefits were being felt in project review as well as on the policy side. The dual commission made possible an intensive community-level planning effort that has ultimately made it much easier for the developer to gain community support for proposals in conformance with the community plan. Furthermore, the new plans were sufficiently detailed to serve as Master Environmental Impact Reports (MEIR's), another procedural benefit.

Lessons learned. The dual commission system is not for everybody. Here are some hazards and limitations:

- The dual commission means finding additional dedicated, well-qualified citizens to serve.

- Establishing a dual commission can be a major effort. In Sacramento County, the pay-off took seven years from the initial date of the task force creation. It required commitment from staff and public officials, with continued monitoring in the first two years.

- There is a danger of the two lay review bodies growing apart or competing. Lacking strong linkages, the project review body could undermine the policies of the planning body.

- Staff time to attend commission meetings increases and may be a problem either from a morale or a budget point of view. In Sacramento County, the staff is resigned to getting back only a small fraction of the "comp time" earned at numerous evening meetings.

- In Sacramento County, there is a high volume of development applications and at the time the dual commission was set up the planning activity of the county was behind schedule. Communities with a very low volume of development, or with recently updated plans would probably be advised to bypass the dual commission approach.

9. Mediation

The increase in the number of potential litigants and in points at which legal action can be brought in project reviews has meant that far more local land use cases end up in court. Not everyone agrees that the courts are the best forum for resolving land use conflicts, especially those that involve environmental issues. For one thing, the process can be tremendously expensive and drag on indefinitely. For another, the courts at times fail to address the main issues that concern the disputants, deciding cases on narrow legal points instead. Thus the solutions may please neither party. Another problem is that the legal adversary system may only serve to further polarize environmentalists and developers.

Both public interest groups and the private sector are beginning to look more closely at mediation to settle disputes out of court. Long recognized as indispensable in labor relations, mediation in environmental conflicts can be defined as "a voluntary process in which those involved in a dispute jointly explore and reconcile their differences. The mediator has no authority to impose a settlement. His or her strength lies in the ability to assist the parties in resolving their differences. The mediated dispute is settled when the parties reach what they consider to be a workable solution."[11]

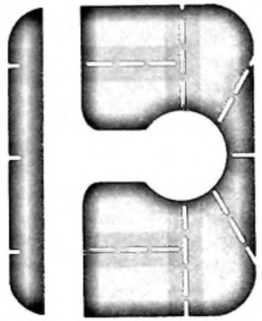
Land use mediation for the most part is still experimental. It is estimated that it may be a useful technique in about 10 percent of environmental conflicts. And the percentage may be a good deal lower for disputes at the local level. Why is this the case? For mediation to succeed, certain conditions must be met which seldom occur all at once in strictly local conflicts:

- There must be a sense of urgency for both parties, with adverse action imminent
- All parties must participate – and voluntarily
- All parties must be vulnerable to adverse action – that is, mediation must offer a surer, quicker solution than the courts and entail less risk of an unacceptable conclusion.

At the local level it is usually this last condition that is not met, since local governments often hold all the cards in zoning and subdivision cases. This is why mediation has been used primarily for larger cases: locating dams, highways, large landfills, power plants. Since these involve higher levels of government, the question is not *if* they will be located, but *where*. Nonetheless, mediation can still have a role in local land use conflicts. One example in Montgomery County, Maryland, involved a developer-initiated arbitrator in a controversy over the White Flint Mall shopping center.[12] At least one mediating group is actively seeking local land use cases. The Environmental Mediation Foundation at the Wisconsin Center for Public Policy in Madison states that "no dispute is too small for us." This nonprofit, nonpartisan research and education foundation is funded through grants, so it can offer its services at no charge to local governments and developers.

Other such organizations can be found through a quarterly publication entitled *Environmental Consensus*[13] which disseminates information about significant developments in the field of mediation and lists ongoing projects. It is published by RESOLVE, a nonprofit, charitable organization created by a crosssection of leaders from the environmental movement, industry, and labor. Headquartered in Palo Alto, California, RESOLVE has mediated disputes itself and also runs a Center for Environmental Conflict Resolution.

When this book was being prepared there were more than 15 mediation projects going on across the country, from New Jersey and Wisconsin to Colorado and Washington State. Efforts have been hampered by inadequate funding and the lack of mediator training and coordination and referral services. Despite its modest beginning, mediation suggests a trend toward improved working relationships between developers and the public sector for the 1980's. In a recent Issue Report entitled *Environmentalists and Developers: Can They Agree on Anything?*, the Conservation Foundation observed, "Clearly, both developers and environmentalists have a stake in solving the national housing problem. It is in the interest of both to spend less time blaming the other for past excesses, and more time devising housing solutions that are simultaneously profitable and environmentally sound."[14] Mediation is thus part of the search for a middle ground – the same search that is prompting local governments to simplify their regulatory systems.



This chapter shifts from the procedures in the review process to the ground rules that guide it. Suggestions covered here range from clarifying plan policies to getting rid of obsolete ordinance provisions to limiting the unnecessary use of discretion. A completely overhauled permitting system adopted in Breckenridge, Colorado, is also described. These techniques are based on a simple principle: the clearer the ground rules are to all parties involved, the easier it is to play the game.

Why Ground Rules Are Necessary: Problems in Discretionary Decisionmaking

There is no reason why the regulatory system cannot rely heavily on administrative approvals at the routine level of reviewing uses-by-right under the zoning ordinance. Technical staff can make rapid and predictable decisions if specific standards and guidelines have been clearly stated in advance. Where administrative problems do exist, they can usually be corrected.
Commissioners and elected officials who devote their attention to decisions that could be appropriately delegated to staff are wasting their own valuable time. Problems begin to arise when project decisions fall outside the preestablished guidelines. Where there are no policies to direct staff, public officials must assume the responsibility for project review – and in fact, delegation of project approval to staff, even for routine applications, has become the exception rather than the rule in many communities. One reason is that out-of-date regulations do not reflect changes in market preferences and new building technologies. Proposals that respond to the current market may ultimately get approved – even as a matter of course – but only after they have been put through an unnecessarily complex and outdated special permit review process.

But even when an ordinance is relatively current officials often exercise a great deal of discretion. This is because rezonings, PUD's, conditional use permits, site plan reviews, and sometimes even preliminary plat approvals tend increasingly to involve the applicant and the local government in a negotiated approval. As Chapter 1 emphasized, there must be discretion in the regulatory system to accommodate types of development which are sensitive to unique local circumstances. Developers are not adverse to negotiation, per se, but they do object to the way in which some local governments handle it. Some claim that the system has become too heavily weighted toward flexibility. The use of discretion, they say, has gone further than ever intended or needed. Developers are at a disadvantage when there are no public policies to limit what officials can demand. Density is the most frequently negotiated item; others are off-site facilities and subdivision exactions. Setting policies on these matters in advance can be controversial, so public officials may hedge with broad ranges for densities or vaguely worded policies such as "in keeping with the existing surroundings" or "adequate provision for."

Another problem often cited is that public sector negotiators can change their minds because they really hold all the cards. The developer may not be able to rely on the public sector to keep up its end of the bargain. Land use policies governing such things as annexation may change literally overnight when an election shifts a swing vote on the governing body. This can cost developers who maintain a large long-term land inventory. New ordinances may be passed with a retroactive effect, or permits may actually be revoked.

Ultimately, governments must reserve the right to "change the rules in the middle of the game" for compelling reasons of public welfare. And as an entrepreneur, the developer must be willing to risk that. But local governments should not abuse their prerogative. Whether the official action is justified or not, the vesting issue makes negotiation far more uncertain and less accountable. At what concrete point in time, or after how much substantial investment, does a developer's interest in governmental approval vest so that permit denial or retraction should be compensated for? To date, the courts offer little uniformity in their opinions.

Yet again, the problem may be not so much changing the rules as simply not following them. On that count and others there is a need for clearer road maps to indicate how the negotiation process should operate and for more explicit floors and ceilings to limit items for negotiation. Ordinances should also set specific points in the process after which further exactions cannot be imposed.

The techniques discussed in this chapter are designed to correct problems of inconsistent decisions, breakdowns in accountability, and administrative inefficiencies that are embedded in the regulations themselves. Clearer regulatory guidelines will, among other things, allow officials to delegate more decisionmaking to staff.

Improving the Ground Rules

1. *Revising zoning ordinances and subdivision regulations*

The precision and clarity of zoning ordinances and subdivision regulations have improved substantially over the years. Yet many communities still handicap themselves by working with ordinances that are poorly drafted, obsolete, or inappropriate. Some zoning ordinances were fine when drafted but have since been gradually amended into confusion. Others got off to a bad start as cut-and-paste jobs borrowed from other communities. Deficiencies in the ordinances show up not just in the resulting land uses, but as processing problems as well.

Benefits. Virtually every participant in the system benefits from an up-to-date, well written set of regulations. When regulations are easy to read and understand, and are organized for quick referral to relevant provisions, they save time and effort for citizens, developers, public officials, and planners.
Applicants – especially one-time users and smaller-scale homebuilders – may find that they don't have to depend so heavily on attorneys or consultants to explain provisions and procedures. Clearer ground rules make it easier to know in advance the prospects for project approval.

New staff in the planning department, as well as new officials, will have less trouble mastering the intricacies of a well-written ordinance. And there are potential time and cost savings in cutting down on activities associated with interpretations of rules, such as cross-referencing, or getting ratification from decisionmaking bodies. In San Mateo County, California, for example, consultants estimated that a new, well-drafted zoning ordinance could save *one person-year annually* in the planning department and *cut in half* the time spent by a deputy district attorney (from half-time to quarter-time).[1]

Lessons learned. Updating a zoning or subdivision text is time-consuming, expensive, and often controversial. It is important, then, to devote special attention to the following points when considering ordinance revisions:

Structure of the ordinance

- Organization

-- uniform formats
--wide margins and white space for note taking
--liberal use of diagrams, tables, grids, charts
-- comprehensive cross-references and an index
-- a convenient page size, preferably the same used in all documents
-- a comprehensive table of contents
-- illustrations that provide graphic examples of dimensions, etc. (Figure 7.)

- Language

-- a comprehensive and informative definitions section
-- use of plain rather than legal English as far as possible
-- precise terminology

- Unity and cohesion

-- consistency within and between ordinances
-- adoption of parallel procedures wherever possible (for example, uniform public notification requirements for all types of applications)
-- incorporation of the texts of the zoning ordinance, subdivision regulations, and other essential written materials into a single "development manual," as many communities are beginning to do (examples: Phoenix; Kane County, Illinois; Redmond, Washington; Jefferson County, Kentucky; Dayton, Ohio).

Substantive provisions

- Updating of provisions that new technology or other factors have made obsolete. Not only do outmoded regulations inhibit design improvements, they can increase processing time.

- Keeping the ordinance as simple as possible. Ordinances should be no more comprehensive or sophisticated than needed. Communities with limited staff and budget and a low volume of development may simply not need the latest in zero-lot-line or eight different residential districts.

- Deletion of provisions that are not being enforced and which the community has no intention of enforcing in the future.

Procedural provisions

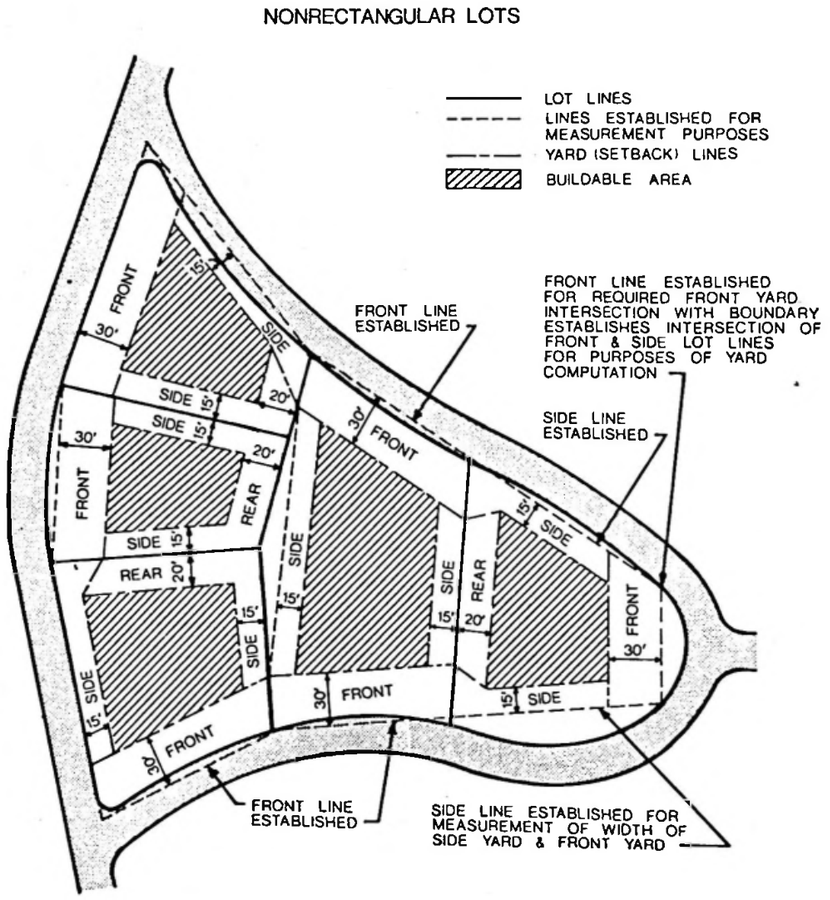
- The ordinance should be a road map for the process, indicating such things as information required at the time of application, the responsibilities of all those who take a formal part in project review, etc. Where long, detailed lists are involved, however, rather than put them verbatim in the ordinance, it may be better to incorporate by reference, e.g., "information as listed on forms provided by the administrative official."

- It is especially important to address deadlines, negotiating ground rules, and due process requirements.

Figure 7. **Diagram Used to Illustrate Text of a Zoning Ordinance**

(c) Nonrectangular Lots - Yard Nomenclature, Location, and Measurement.

The following diagram and text define the terminology used in this chapter with reference to front, side, and rear yards on interior, corner, reversed frontage, and through lots of nonrectangular shape and the manner in which required yards shall be measured:



Source: St. Petersburg, Florida. *Zoning Ordinance*, Article I, Section 64.06, page 16.

2. *Interpreting ordinances*

Considerable delay and expense can be caused by the need to make frequent interpretations of the ground rules. No matter how well drafted regulations are, some intrepretations will be necessary. Simple, direct procedures are needed for rendering consistent interpretations where the intent of ordinances is unclear. Where appropriate, interpretations should be incorporated into ordinances by amendment. In the interim, they should at least be written down and given some official status. Here are four examples of how communities have provided for interpreting ordinances:

Standing staff committee. Sacramento County, California has a Zoning Code Interpretation Committee composed of two members of the Building Inspection Department and two members from the Planning Department. It meets weekly to consider technical questions referred to it over the past week, to go over problems of long-standing, and to consider possible amendments for planning commission and county board approval. Interpretations are set down in writing and kept in a special manual at the front counter. Interpretations may take the form of opinion letters to applicants as well.

Staff initiated circular. In Middletown, Ohio, any staff person can trigger the interpretation process. On a one-page form, the staff member questioning the interpretation cites the section, states the question, and suggests a clarification. The form will be reviewed up the chain of command to the department head and then circulated back down. The interpretation is then official until such time as the planning commission amends the ordinance.

Written arguments from interested parties. Lane County, Oregon, specifies in its zoning ordinance that when its hearing official finds that a case raises a substantial question of interpretation, he may submit it in written form to the Board of Commissioners for a determination. The Board will consider written arguments from interested parties regarding the proper meaning and render a written determination within 45 days of the request.

Zoning adminstrator. Phoenix, Arizona, officially charges its zoning administrator (who functions as a hearing official) to "interpret the zoning ordinance to members of the public, to city departments, and to other branches of government. . . subject to the supervision of the planning director, and to general and specific policy laid down by the planning commission and city council."[2]

3. *Reducing dependence on complicated procedures*

Sometimes communities are using complicated procedures that are not really needed. When provisions in the zoning ordinance are out of date or too restrictive, they can increase the number of requests for exceptions. For example, a consultant for El Paso, Texas, analyzed variance activity there for a six-year period, and found that 78 percent of the 645 petitions involving side yard dimensions had been granted.[3] If, in this case, sideyard standards could be revised to reflect actual zoning practice, the variance workload would drop dramatically.

Sacramento County, California, has reduced red tape by substituting special use permits for zoning changes under certain conditions. County administrators had analyzed typical requests for rezonings and realized that much of the cumbersome regulatory machinery was being set into gear by minor deviations from overly restrictive zoning districts and provisions in the ordinance. It was reasoned that, if the number of zoning districts was reduced and if, at the same time, the range of uses in each zone was broadened, fewer rezonings would be necessary. Of course, controls were still needed to prevent incompatible uses. This was done by relying more heavily on special use permits. Thus, if an applicant wants to develop a commercial convenience center in a single-family zone, he can now request a use permit instead of submitting an expensive application for a parcel rezoning. If advisable, the planning staff imposes conditions to assure that the proposed project is consistent with its surroundings. A *single* public hearing before the planning commission will ratify the recommendations, and unless appealed to the county governing body, the decision is final.

The county still requires its full-fledged rezoning procedure when uses are intrinsically incompatible (such as heavy industrial uses in a residential district). These major land use changes – the policy issues – are the only ones that receive extensive public scrutiny.

Benefits

- The processing time for a special use permit versus a rezoning is *just about half*. Where rezonings require anywhere from 16 to 20 weeks, a special use permit only takes 8 to 10 weeks.

- The number of requests for rezonings has declined dramatically – between 75 and 90 percent, according to staff and users. This means a major time saving in a majority of cases.

- For rezonings, four public hearings are common in California communities, if the general plan must be amended first. A special use permit, on the other hand, can be approved with *only one* public hearing, a boon to citizens, staff, and developers alike.

- The agendas of lay review bodies are cleared to hear the more important land-use cases, thus helping to prevent backlogs.

Lessons learned

- If it is not done carefully, the shift to special use permits can mean a sacrifice in public participation and control of development. Adequate safeguards must be built in, such as clear standards for the kinds of conditions that are likely to be imposed.

• Sacramento County emphasizes that overhauling the ordinance was not an overnight job. It took about three years of work.

• Sacramento County attributes much of its success to an extensive community planning effort that established a rationale for simplifying the zoning districts and deciding what kinds of uses were potentially compatible.

4. *Establishing in advance conditions for approval of routine cases*

The task of setting conditions and policies in advance of actual applications may seem an insurmountable job, especially to planning departments with limited resources. But even modest efforts can go a long way in making decisions more routine. A good place to begin is with minor applications that come up for approval on a regular basis. This is the approach taken in Elizabeth, New Jersey, an older, built-up industrial community, where many land-use decisions deal with redevelopment of relatively small parcels.

The planning commission there has approved a series of more than 13 "Land Use Plan Studies" covering standards for types of projects that come up frequently for review, such as restaurants, rooming houses, and those affecting intersection visibility. Each study is a two-to three-page memo from the staff to the commission laying out the reasoning behind the standards and specifying in advance the conditions to be imposed when applications are being considered. Report Number 8, "Child Care Facilities," reads, in part:

Child care centers should not disrupt residential neighborhoods; Standards: Hours for outdoor play in or adjacent to residential uses should be between the hours of 9:00 a.m. and 5:00 p.m. Restricted play areas should be screened from adjoining residential uses with massed evergreen plantings.

Staff recommendations written for individual projects refer back to the "Land Use Plan Studies," citing compliance with, violation of, or ambiguity concerning specific standards.

5. *Specifying PUD performance standards*

Discretionary decisionmaking can be a problem in many kinds of permit procedures, but it is most often associated with PUD developments. Sacramento County, California, has been successful in setting guidelines for PUD projects in advance of concrete proposals rather than in conjunction with them. Instead of drafting a single PUD ordinance that applies to any potential PUD in the jurisdiction, the county has written a set of individually tailored performance standards that govern specific undeveloped parcels in the county. In this way, criteria can be less vague; the applicant knows ahead of time any particular requirements that are attached to a parcel.

The PUD districts, called Special Planning Areas (SPA's), are required rather than simply allowed. They are administered via overlay zones. The terms and conditions for each SPA are hammered out during the community planning process, incorporated into each local community plan, and then made part of the zoning ordinance as a special amendment. An SPA ordinance has the following mandatory provisions:

• legal description of the property

• statement of intent

• reasons for establishing the SPA (or findings)

• a list of permitted uses

• performance and development requirements relating to yards, lot areas, intensity of development on each lot, parking, landscaping, and signs. (See Figure 8 for an example.)

Often these requirements also specify who bears what costs, thus limiting the gray areas of negotiation to manageable proportions.

The SPA ordinance may also contain other provisions not specifically mandated, such as:

• regulations relating to nonconforming uses

• phasing and sequencing of development

• procedures for the official review of the project. If there is anything unique about an SPA that could require special processing, such as extra hearings or documentation, it can be noted in the individual ordinance.

The mechanics of the process require the developer to submit a "General Development Plan," the equivalent of a preliminary plat; he bases it on the provisions in the ordinance. The planning commission and the county board review the General Development Plan to see that it agrees with the conditions in the SPA ordinance. Once approved, the General Development Plan becomes part and parcel of the SPA ordinance. From this point on, all subsequent official action is delegated to staff.

Benefits. Sacramento County's Special Planning Area (SPA) approach has several distinct advantages:

• While retaining the freedom of design possible in a PUD, the developer has

-- a better idea of basic performance standards

-- more foreknowledge of any procedural quirks or special information demands

-- a better estimate of what special costs he will bear in terms of on- or off-site subdivision exactions.

Figure 8. **Excerpt from a typical Special Planning Area ordinance, Sacramento County, California**

Section VIII. *Development and Performance Standards*

A. Access.

1. Full development shall be based on the provision of adequate vehicular access. Development shall proceed in conformance with the phasing schedule described in the general development plan and shall be correlated with the provision of access improvements as described therein.

2. The applicant shall petition the county and participate in a request to CalTrans for access to Highway 50 and will participate in the cost of said access in conjunction with county policy. The applicant shall likewise petition the county and participate in the cost of providing vehicular access to Hazel Avenue.

3. The cost of all street improvements to Sunrise Boulevard including signalized intersections shall be shared by the developer and the county in accordance with policy of the Department of Public Works. There shall be no curb cuts (private access) directly onto Sunrise Boulevard.

B. Services.

1. The development shall provide a combined surface and groundwater water supply system in conjunction with the City of Folsom's development plans for public water service.

2. Prior to the approval of any tentative subdivision map or other specific development proposals, the property owners shall take the necessary actions to initiate annexation to the Folsom Cordove Unified School District.

C. Design.

1. A sound attenuation device or mitigation measures (setback) shall be provided along Highway 50, along the industrial property boundary to the west and along Sunrise Boulevard to the specifications of the County Health Agency.

2. A plan for live landscaping along Sunrise Boulevard shall be developed in conjunction with the county and subject to review by the Project Planning Commission.

D. Physical Environment.

1. A thorough investigation of the extent and nature of the acquifer recharge function of the site shall be prepared prior to development. Provisions for on-site disposal of surface water runoff shall be included with the general development plan for the site.

2. Development plans for lots along the American River shall be subject to approval of the Project Planning Commission and shall include:

a. the size, type, color, and location of fencing along the American River Parkway;

b. the number, location, and type of the planting along the American River Parkway shall be from the list of native trees and shrubs prepared by the Parks and Recreation Department Native Vegetation Planting Program Advisory Committee;

c. all structures shall comply with height restrictions of Section 235-26 (Parkway Corridor Combining Land Use Zone) of the Sacramento County Zoning Code;

d. each lot along the Parkway shall be so oriented that the rear yard setback will be along the Parkway boundary rather than a sideyard setback along the Parkway.

E. Density.

1. The gross density of residential development in this Special Planning Area shall not exceed 3.5 dwelling units per acre.

Source: Ordinance No. 78-SPA-12 amending the Zoning Code to establish the Natomas Property Special Planning Area, 1978. Sacramento County, California.

• The county is no longer in a reactive posture, but has taken the initiative in determining the shape of development. The developer has a head start on his project design; the community has a better chance of getting the kind of development it really wants.

• Through the community planning process that generated the SPA performance standards, the county undertakes the task of working with local citizens to accept and endorse innovative land uses such as mixed uses or clustering. The developer therefore has less of a battle on his hands at public hearings.

• In California, most development of any size must undergo environmental review, and the builder must prepare an Environmental Impact Report (EIR) – a lengthy and costly process – unless granted a "Negative Declaration." The specific SPA ordinance functions as a Master Environmental Impact Report (MEIR) since it is a part of the community plan. This obviates the need for this extra step. All EIR's can be brief and "focused," or may even be granted "Negative Declaration," since they meet all "mitigating measures" by definition and the General Development Plan meets performance standards.

• While it is the county that generally initiates SPA's, any landowner can petition the county to designate a parcel SPA. If the individual already has a development plan in hand, the county may tailor the ordinance to fit the plan, as long as basic standards are met. When desired, in other words, the process can resemble very closely the more conventional PUD approval process.

Lessons learned. Sacramento County had established over 60 SPA's by the summer of 1979. Each represents a substantial planning effort. A prerequisite to this in the county was an ambitious community planning process. Some communities may simply be unable to afford the time and effort to do such in-depth planning, and must operate on a demand basis, waiting for developers to take the initiative. Not only are planning costs high, there may be additional costs incurred in keeping SPA ordinances current. If specifics are set too far in advance, the effort may be for naught when changed circumstances require substantial revisions. Finally, as with all policies, there must be a balance between vagueness and precision. If too precisely stated, the standards in an SPA will defeat the purpose of a PUD; if too vague, they will not address the problem of discretion.

Nevertheless, the SPA approach has been a success in Sacramento County and may be successful elsewhere too. If 60 SPA's sounds ambitious, a community may wish to apply the technique selectively for just a few sites with special environmental sensitivity or with a high likelihood of development in the near future.

6. *Shifting the burden of proof in approving plans*

In striking that elusive balance between specificity and flexibility, Rochester, New York, has taken an interesting approach to site plan reviews. Rather than trying to be explicit as to the circumstances under which a site plan will be approved, the drafters are explicit about the conditions under which a site plan would be *disapproved*. The ordinance reads:

The Director of Planning shall not decline to approve, and the Planning Commission shall not disapprove, site plans submitted pursuant to this section except on the basis of specific written findings directed to one (1) or more of the following standards:

(A list of 12 standards follows. For example, "The proposed site plan interferes unnecessarily, and in specified particulars, with easements, roadways, rail lines, utilities, and public or private rights-of-way.")

In citing any of the foregoing standards. . . as the basis for declining to approve or for disapproving a site plan, the Director of Planning or the Planning Commission shall suggest alternate site plan approaches which could be developed to avoid the specified deficiency or shall state the reasons why such deficiency cannot be avoided consistent with the applicant's objectives.[4]

One effect of this language is to shift the burden of proof from the applicant to the reviewer. There is then a presumption of innocence unless the planning staff can demonstrate that the application is "guilty" of a specific violation. This contrasts markedly with many site plan review procedures, which simply provide that the Planning Department "shall approve, approve with conditions or deny," and in so doing, "consider the following design principles" – usually vaguely stated.

After five years of experience, the planning staff in Rochester find the ordinance easy to administer in the roughly 100 site plans they review annually. The requirement for specific written findings has improved accountability and predictability without unduly restricting the ability to deny clearly deficient proposals.

7. *Using a point system: Breckenridge, Colorado*

The techniques discussed up to this point are designed to work within the existing regulatory structure. Breckenridge, Colorado, has addressed the problem of discretionary decisionmaking by creating a review process that departs significantly from traditional regulatory systems. The "Permit System," as it is called there, establishes a weighted point system connected to a set of policies that address the planning goals of the community. Its advocates claim that the point system is the most effective way to establish clear, simple regulatory guidelines, and that it is fair, predictable, accountable, and easy to administer. It is too early to judge the success of the Breckenridge model, but it deserves special attention.

How it works. Although uncommon, point systems are not new; the two most famous examples are Petaluma and Ramapo, where they were overlaid on zoning to control growth. The permit system, as first envisioned, was for use in booming rural western counties that were adverse to zoning for political reasons. While Breckenridge builds on earlier point systems, it departs from them in that it totally *replaces* the zoning ordinance. There are no more uses-by-right and very few prohibited uses. In their place is a set of about 250 policies. They are derived from neighborhood plans and adopted directly into law. They reflect the varying problems and needs of the 34 neighborhoods, and are thus location-sensitive. Each policy is assigned a numerical value based on its importance. Projects are "graded" on how they affect each policy, and their cumulative impact is reflected in a total score. Approvals or special density bonuses are awarded on this basis.

The policies used in the Breckenridge system fall into two categories:

(1) Absolute policies. These require or prohibit certain features (e.g., no development in avalanche chutes). Failure to meet these policies means automatic rejection of a proposal. There are relatively few absolute policies.

(2) Relative policies. These encourage or discourage certain features in a project by assigning points to them (positive, negative or zero) depending on whether they support or undermine each of the policies. To be approved, a project must score at least zero – that is, have a neutral impact. It can then be built at a preset density or intensity based upon the neighborhood plan. If the project scores positively, however, it gets a density bonus, which is also predetermined on a set scale.

The policies reflect environmental, social, economic, aesthetic, and many other types of community concerns that are in some way affected by new development. Inevitably, values conflict; the point system is designed to deal with this real-life problem head on. Every development has its good and its bad features; assigning points is a way of getting to a "bottom line." It is up to the developer to mix and match amenities, according to his perception of market preferences; he has the flexibility to do so. For example, although discouraged by the code, fireplaces are frequently included anyhow in residential projects. Developers make up the lost points through extra landscaping or special care in relating new structures to existing architecture. The point system is especially sensitive to design features; this is where the height and bulk standards of traditional zoning ordinances come into play. The system is modular. New policies can be added or deleted individually or in groups, or their point value can be changed. (The revision process is described as "lengthy, but basically simple.")

The Breckenridge permit system combines all the old sequential reviews in a single, comprehensive permit. Processing focuses on the developer's "evidentiary package." This is a bound set of 250 one-page forms that score the impact of the development against each policy. The package also includes exhibits such as traditional site plans, drawings, and renderings. One staff person observed, "When developers first see the package, they moan and groan. But afterwards, most of them admit it was simpler than they thought." This comprehensive inventory of development impacts helps staff and officials in their review. And by forcing developers to think of every possible contingency, it eliminates surprises that could crop up after construction has begun.

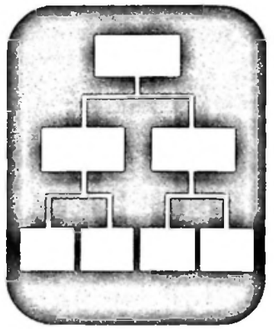
Theoretically, each project must undergo only one public hearing, and this is before the planning commission. A second hearing before the town board is not uniformly required, since the planning commission review is considered to be quasi-judicial. In practice, however, multiple hearings are frequent. The town board has the right to "call up" any project for review at its discretion, and most larger, controversial projects *are* called up. Moreover, there may be one or more "preliminary hearings" before the planning commission prior to the official hearing. In this respect, the Breckenridge system has not escaped some of the problems encountered in more traditional regulatory systems. It should be noted that, while there is an official 40-day period from the date of application to the date of approval, it does not include time spent in preliminary application activity.

Benefits. The Breckenridge planning staff consists of four professionals and one clerical person. In 1979 the department reviewed approximately 75 residential projects consisting of almost 1,600 units. In addition, under consideration were 101,250 square feet of commercial space and a major hotel. Staff in Breckenridge believe that they simply could not have handled this volume under a traditional ordinance. "The invasion of large, sophisticated developers into a small town would have created a panic situation," observed one. While the permit system is not without its problems, it has accommodated a great deal of development while protecting the interests of the community and the environment. It also saves time.

Lessons learned. Is the Breckenridge system the ultimate answer to regulatory simplification? There is certainly something innately attractive about a point system, but like every other system it entails tradeoffs. The use of numerical points brings with it certain dangers. For one, some development impacts are too subtle to be easily quantified. For another, it may be difficult to determine the cumulative impact of 250 separate policies and the staggering number of permutations possible. The physical results of the individual decisions of many developers must be monitored closely, especially in the early stages, to see whether the policies are truly sensitive and effective. This is being done in Breckenridge, and staff indicate that the initial results have not always been to everyone's satisfaction. As a result, some of the policies are being modified. The fact that the new system involves some trial and error should not condemn it, for this is the way virtually all regulatory

systems are improved. It does indicate a limitation, however. Human judgment and policies still play the deciding roles even though quantifying tends to play down their visibility. Discretion, while limited, is still exercised in assigning positive or negative points in each of the 250 decisions.

The creators of the Breckenridge system describes it as "evolutionary," but many communities would still classify it as revolutionary. It is too early to judge the success of the permit system but it is certainly the most imaginative and administratively feasible system yet proposed as an alternative to conventional zoning. For the cautious, a modified, scaled-down permit system could be used in conjunction with an existing zoning ordinance. It could be used, for example, to guide negotiation for specific PUD districts or as an overlay for sensitive areas such as floodplains or historic preservation neighborhoods.



"Please! No more streamlining! We have enough steps already."
California Developer

The cure, on occasion, can be worse than the problem. Charging ahead with joint review committees or one-stop permitting counters without some reasoned forethought has in some cases wasted time and money, damaged credibility, and not solved the underlying causes of the problem.

The previous chapters have dismantled the typical review and approval process into its basic parts and presented techniques for improving efficiency at each step. In many cases, it will be clear where problems of delay and uncertainty exist and how they can be solved. Action can be taken without hesitation. In other cases, however, the specific problems underlying administrative inefficiencies are not clear and some further study may be in order.

This chapter presents three approaches to investigating administrative problems with regulatory systems and offers some guidance on assessing performance, implementation, and monitoring.

Launching a Reform Effort: Three Basic Approaches

The plan of action for streamlining can be as simple as assigning the job to a staff person or as ambitious as having the mayor form a blue-ribbon study commission. Some factors to consider in deciding on the right approach include:

- **The specific tasks to be undertaken.** All action plans at some point involve weighing the pros and cons of specific streamlining techniques. Some communities feel it is important to establish objectives or criteria to judge the performance of their systems. Usually, but not always, the reform process includes an evaluation. This can be systematic, with flowcharts, case studies, and statistical analysis or more loosely structured. Often procedural streamlining efforts are combined with revisions of substantive standards.

- **The political context in which regulatory simplification is to take place.** Political considerations can become as important as technical administrative issues in deciding on reform measures. The plan of action should set up a framework that will help build a base of political support for streamlining where controversy exists.

- **The resources that can be devoted to the reform process.** The budget will usually dictate the level of detail, the final product, and the extent of staff or consultant involvement. Other factors here include competing activities in the planning department, the capability and perceived objectivity of staff, and the willingness of volunteers to offer their services.

There are three basic options, practically speaking, that communities have used, either separately or in combination:

- hiring a consultant, either from the field of planning or systems management
- forming a special study commission or task force made up of individuals selected for their expertise or political influence
- carrying out the streamlining work program in-house, either as an individual staff assignment or through a study team.

1. *Hiring a consultant*

This makes sense when staff resources are stretched either in terms of time or capability. A consultant may be called for in cases where the perspective of a third party will be perceived by public officials, developers, or the public as more impartial and objective than that of a study commission or staff investigation. Consultants may also bring a fresh point of view to the local scene and suggest ideas being used in other jurisdictions. Some excellent evaluation work has been done by consultants from both the fields of planning and systems management. Consultants' services can be worth the price if they are carefully selected and their mission is thought out in advance

by local administrators. The pros and cons of hiring consultants to evaluate the regulatory system are no different, by and large, than they are for any assignment in the planning department.

Communities have engaged consultants for a variety of tasks. In San Mateo County, California, for example, management consultants carried out a major evaluation from beginning to end. The firm's team conducted extensive staff interviews and documented the performance of the existing system with flow charts and analyses of the time taken to process each type of application. The final report, over 100 pages long, pinpointed administrative bottlenecks, analyzed problems in the ordinances, and proposed a step-by-step work program to increase control and efficiency.[1] Most of the recommendations have been put into effect. On the other hand, a consultant can be brought in for only a portion of the reform program – to revise a zoning ordinance or to analyze the information system in a given department.

2. The task force or independent commission

This approach assembles a cross section of participants – such as planners, developers, elected officials, and citizens – to meet on a regular basis to identify problems in the system and ways to solve them. Special study commissions are time-honored devices and receive both criticism and praise. In some places, assigning a problem to a blue-ribbon study commission is the equivalent of burying it. But commissions or task forces can be extremely useful, as the examples in this section illustrate. Among their benefits, study commissions can:

- be essential in building political support for reform. The findings of a balanced cross section of the private and public sector are often perceived as more objective than those put forward by either side unilaterally. The added credibility helps carry more weight. Participants may also be used to obtain the support of the groups they represent when reforms are put into effect.

- arrive at workable solutions, either through the process of compromise, or because of specialized expertise. A broad-based study group may be better able to explore all the dimensions of the regulatory problem from first-hand experience.

- serve to publicly announce a departure from past policy or practice – a concrete inauguration of a new atmosphere of improved working relationships.

- supplement limited staff resources and budget with volunteer labor.

- serve as an educational vehicle for the participants, especially when they seldom sit down together to trade points of view.

In setting up an independent study commission or task force, administrators should ask:

- Who appoints the members? The mayor? The city council or county board? The planning commission? The planning director?

- What is the group's mission or charge?

- How is the group structured? How many members should it have? What authority will its findings carry? How often will it meet? What is its life span? To whom does it report? What will its final product be?

- What staff support and budget should the group be given?

There are no general answers to these questions, although there is consensus on a few points. Experienced communities agree that smaller groups work better than larger ones, even if this means sacrificing a degree of representativeness. They can get more work done and can reach agreements more easily. The local government should be prepared to provide staff support. This includes not only clerical services, but also a full- or part-time staff liaison who can provide access to records, draft recommendations, and work closely with the commission. Communities were unanimous that the mandate and time frame of the commission must be specific or deliberations can drag on indefinitely. Finally, selection of members is paramount. The group should represent several technical disciplines and be politically diverse. Individuals should be chosen for their ability to work together. Members must be well represented by their own professions and have hands-on experience with the system.

As is the case with hiring consultants, the independent commission approach is flexible. Commissions may be used in tandem with staff investigations or consultants' studies. Or they may be assigned to only certain parts of the problem, or to reviewing and commenting on proposed solutions. The examples that follow offer a sampling of these approaches.

How it works. Kane County, Illinois, set up its Subdivision Regulation and Procedures Committee in November 1977, in response to a protest staged by developers and consultants at a county board meeting. The planning director served as chairman and hand-picked the other six members for their interdisciplinary backgrounds. All were from the private sector – developers, attorneys, or consultants. The group met monthly for 18 months to review, modify, and finally endorse a revised subdivision ordinance. The planning staff provided back-up support, and drafted the actual regulations. (See Chapter 4, Section 4 for more details.)

Kansas City opened discussions with local developers in the spring of 1977 to find out why they were passing over vacant land in the city for suburban locations. This resulted in the creation of the City/Homebuilders Working Committee, composed of three city council persons, three members of the local homebuilders association, and three representatives of major city departments. The planning director and assistant city manager served as staff to the committee. The homebuilders set the agenda, which included both procedural and substantive elements of the regulations. The first round of talks resulted in several changes, including a way to identify and handle problem zoning cases early; the streamlining of tapping, metering, and providing water service to construction sites; modification of bonding requirements; and changes in design and capacity for sewers, sidewalks, and street lighting. More meetings were scheduled to consider other possible changes.

San Jose turned to its unique Committee on Productivity and Efficiency (COPE) when developers complained that the residential development process was not as streamlined as the industrial one. COPE is a private sector umbrella group where upper management volunteers act as consultants to the city on a wide variety of topics. To deal with permitting, a special development advisory committee of about a dozen homebuilders was set up. To complement the COPE committee, the city set up its own internal task force composed of heads of permitting departments. The two groups met weekly for four and a half months. The city manager's office provided staff support (one person full-time for three months). The other departments also supplied limited staff. The parallel task forces painstakingly documented the review process and wrote procedural guides to be used in conjunction with a new "first-stop" system.

Sacramento County, unlike the other three examples, was urged to set up its Environmental Protection and Planning Review Committee by a group of environmentalists rather than developers. However, the committee included representatives from the building industry and county departments, as well. The initial agenda was quite broad – it even included creating another lay review body. But the committee quickly narrowed its focus to a reorganization of the planning commission. Meeting regularly for a year, the group wrote a report with recommendations. The county later reconvened the commmittee to evaluate how well its recommendations had been followed.

3. Using in-house staff

This option, like the other two, lends itself to many arrangements. An in-house investigation may simply mean assigning a research job to a staff person or drafting a memorandum to the planning commission or governing body. Or it can consist of an interdepartmental team under the supervision of the city or county manager. Many of the same considerations are factors in organizing an in-house effort as for establishing an independent commission. Staff-only activities are usually easier to control and direct. They may be able to reach findings and recommendations more quickly than a task force can, since staff are usually better versed in the workings of the process. The logistics of meetings, such as scheduling, tend to be less of a problem. The lower visibility of an in-house evaluation may be an advantage in some cases where a public vehicle might force the hand of local officials. An in-house evaluation can also provide a format within which department personnel can be more frank and open in discussing what they know to be their own shortcomings.

On the other hand, staff-conducted investigations are apt to be more remote from the concerns of developers. They run the danger of justifying the status quo rather than trying to improve it. Staff may also have blind spots or vested interests. Because it is so easy to let other pressing duties take precedence over streamlining, an in-house effort must receive a high and continuing priority or it may never get off the ground. This is especially important when several departments are involved. There must also be a concerted effort to get input from developers and citizens.

How it works. The mayor of Baltimore assigned a member of his Physical Development Unit to "troubleshoot" the building permitting process after receiving numerous complaints from applicants about delays. He investigated the situation and reported back with findings and recommendations including the maintenance of better records, creation of a developer's handbook, and the creation of a "permit expeditor" position. The same individual now serves as permit expeditor and has overseen the implementation of the other recommendations as well.

Santa Clara County, California carried out a series of sweeping changes to create a "one-stop" system through an in-house effort. Staff worked up a proposal on the new system, and presented it to public officials at two public evaluation workshops. Through these workshops, a number of participants voiced opinions, and the planning commission and county board went on record as endorsing the concepts embodied in the proposals. Then staff went back to work out the details. Two employees were appointed to visit other jurisdictions, continue to meet with different interest groups, and review existing practices to arrive at the final concrete program. This program was presented to public officials, approved, and put into effect.

Seattle determined that some of the problems in its regulatory system were interdepartmental. It decided that what was really needed was an open discussion among department heads in a task force type of setting, but without developers present. The city therefore formed an internal Land Use Administration Task Force composed of nine staff persons from the departments involved in land-use review. Once the questions and issues became focused in the course of discussion, outside opinions were elicited. The working group got its information through (a) interviews with users of the system, (b) preparation of a limited number of case studies, (c) discussions with city employees, (d) review of the current literature on simplifying regulations, and

(e) discussions with other jurisdictions in the area. The in-house task force met during a five-month period and produced a report with recommendations.

Assessing Performance

How is the performance of a regulatory system measured? What rules of thumb exist against which to evaluate the efficiency of a development review and approval process? Local development regulation systems should be as simple and efficient as possible without compromising the valid public purposes which the review and approval process was intended to serve in each community. They should also, of course, treat all parties involved in a fair and equitable manner.

Beyond these basic principles of performance, no special norms exist. The housing and land development industry is a highly localized business subject to widely varying conditions from one community to the next. Of the two key regulatory problems, delay and its associated costs can be quantified and measured (though this is no small accounting task). The other problem, uncertainty, is a highly subjective concept subject to different interpretations. Many factors affect the delay and uncertainty found in local review procedures, including the types of regulations and standards in effect, a community's attitude toward growth and development, local politics, budget and staff resources available, and the quality of proposals submitted by developers.

Comparisons with other communities can be helpful in assessing administrative performances where relatively comparable conditions exist. A current study underway by the Urban Institute has produced some preliminary figures from case studies conducted in three communities.* Researchers reported that Garland, Texas (in the Dallas metropolitan area) processed subdivision applications (including rezoning, preliminary and final plat, and engineering plans) in an average time of 4.2 months (based on a sample of 19 subdivisions of varying size processed between 1972 and 1979). This does not include down time attributable to developers; median total elapsed time was 9.75 months. Over the same period, Snohomish County, Washington (Seattle suburbs) reported an average of 10.2 months for processing time only, based on a sample of 25 subdivisions. For Naperville, Illinois (Chicago area), investigators reported an average of 19.4 months, based on 13 subdivisions. (Here, developer response times could not be factored out and were included.) These figures illustrate the wide variations which exist from one area to the next.

Comparisons with neighboring communities where local developers are also likely to be working may have more practical merit. Pressure for reform is likely to come primarily from local developers; thus neighboring communities often become the benchmarks against which performance is evaluated. Familiarity with a nearby community's regulatory procedures and attitudes toward development will help to interpret and qualify any data that may be available. Local administrators interested in comparing notes with their peers should refer to Appendix A where 70 communities active in regulatory reform are listed.

Choosing the Right Reforms and Getting Started

Chapters 2-5 have described streamlining techniques and pointed out their strengths and weaknesses in general terms. What are the questions that local administrators will want to keep in mind as they weigh pros and cons for their own communities? Some of the most important ones are:

- Will the technique solve our specific problem? What other problems could it possibly create?
- What will it entail in terms of staff time, funds, and expertise? This includes both start-up and ongoing operations.
- How much time should be allowed to put the change into effect?
- What are the legal ramifications? Is it, for example, allowed under State enabling legislation?
- Who will benefit from the change? Who might be adversely affected?
- How will this technique affect the rest of the system? Will it reinforce, duplicate, work at cross-purposes?
- With what other techniques should it be combined to get additional mileage out of it?
- Are there any special circumstances that may limit the transferability of the technique? Examples: Will it work as well in a high-volume operation as a low-volume operation? Is staff size a factor in its usefulness?
- How much of a commitment does the technique require? Can it be tried on a provisional or experimental basis?
- What concrete expectations do we have? Do the benefits of the technique outweigh its costs?

-- How much time will it save? For whom?

-- How much money will it save? For whom?

-- In what other ways will it make the process more certain, accountable, consistent, fair, effective, efficient?

Even the most carefully chosen streamlining techniques may not work if they are not put in place according to a well-thought-out plan. The classic bureaucratic response to change is resistance, and the administrator should expect some initial difficulties. The objective is to minimize confusion as the new administrative measures are

*Telephone conversation with Michael Fix, Urban Institute, Washington, D.C., December, 1979.

phased in. The first few weeks and months of operation under the new system are crucial. There will be inevitable "bugs" to work out, and "fine-tuning" to do. Once the system is in operation, the administrator should monitor it. Are expectations being met? The best way to be sure is to set performance targets ahead of time and then check to see whether they are being achieved. Information can be obtained at regular staff meetings, through followup questionnaires to users of the system, and by maintaining records on processing time.

Some planning departments have more formal ongoing evaluative techniques, such as PPBS (Planning, Programming and Budgeting Systems), MOE's (Measurements of Effectiveness), or MBO (Management by Objectives). Los Angeles uses MOE's to quantify activities, such as staff hours per plat review. Phoenix's planning department is now involved in a citywide Performance Achievement System. Dayton, Ohio, has adopted an MBO approach. Its planning department "contracts" with the city to reach certain production goals during the annual budgeting process. An example of one such goal is "to process all minor subdivisions within seven working days after submittal."

San Jose, California, uses a computer to help monitor and diagnose its regulatory procedures on an ongoing basis. (See Chapter 3, Section 8, for details.) The computer logs all applications by type and records dates and deadlines for specific official actions. Printouts show averages and distributions of processing time for each type of application. In this way recurring problems and bottlenecks can be identified and eliminated.

Sophisticated monitoring and evaluation systems have their advocates and critics, but their basic logic is no different from that used by any administrator who wants to make explicit, rational connections between defined goals and actual achievement. Now that the review process has been streamlined, it should be checked and tuned at regular intervals. Continuous monitoring, based on feasible, reasonable objectives, can be a major factor in preventing the regulatory system from slipping back into inefficiency.

About the Appendices

This guidebook has described some 35 techniques to streamline review procedures, as used in more than 30 communities. The appendices that follow provide supplemental information and additional resources to help communities get started in their reform efforts.

Appendix A. Parts 1 and 2, constitute a list of 70 communities in 27 States that have responded to an APA Planning Advisory Service solicitation of information on local streamlining activity. These communities have experience in regulatory reform, and have indicated their willingness to share their expertise with others who want to contact them.

Part 1: Summarizes the techniques each community has put into practice. Twenty-eight of the more commonly used techniques have been listed.

Part 2: Provides the names of contact persons, telephone numbers, and addresses in the communities cited in Part 1.

Appendix B offers background information on seven communities selected as major case studies for this guidebook. It includes brief summaries of the techniques these communities have used to simplify their regulatory systems.

Appendix C describes the research methodology used in this project.

Appendix D is a bibliography. It suggests background reading on the costs of government regulations, but the emphasis is on how to carry out reform measures. The references include both published and unpublished materials. The authors cannot certify either the price or availability of unpublished documents from local government sources. Unless specifically noted, however, these are available on loan to subscribers to the APA Planning Advisory Service.

Appendix A, Part 1: Summary of streamlining techniques

Explanation of matrix

This matrix organizes communities by State, indicating streamlining techniques in practice in each community. The list of techniques is not exhaustive; it summarizes the approaches most commonly found in use today. It also does not correspond exactly in number or category to the techniques discussed in the text of the guidebook. The information is based on responses to a Planning Advisory Service survey questionnaire undertaken in the fall of 1979. In some instances the authors have supplemented this data with their own research findings.

Communities preceded by an asterisk are mentioned by name in the text. An "x" indicates that a particular technique is being used in a community. A dot (".") indicates that this guidebook discusses the technique as used in a particular community.

Summary of Streamlining Techniques

Legend

"X" = technique in use in community.
"•" = technique in use in community and described in the text of the guidebook.

COMMUNITIES	Use of handouts, manuals, flyers, and other written materials	Holding informal preapplication meetings	Reorganization or revision of ordinances	General counter operations	Reorganization of regulating departments	Use of permit expediters or "ombudsmen"	Preparation of master environmental impact reports	Elimination of duplicative hearings	Use of joint staff/project review committees	Improvement of application forms	Use of a hearing official (or equivalent position)	Simultaneous processing or review of permits	"Fast-track" processing of minor applications	Use of computer in some phases of processing	Institution of more project review deadlines	Elimination or consolidation of review steps	Delegation of decisionmaking authority to lower levels in administration	Strengthening or revising of appeal process	Holding more frequent commission meetings to improve regulatory process	Improvement of citizen input procedures	Formation of a task force or committee	Use of consultants to study procedural reforms	Staff training programs	Public education programs	Training for commissioners	Revamping of recordkeeping procedures	Addition of planning commission or zoning board	Dual planning commissions
ARIZONA																											
*Phoenix	•	•				•		•	•		•	•				•	•	•	X							•	
*Tucson																											
CALIFORNIA																											
Alameda County	X	X								X	X	X	X			X							X				
Antioch	X	X			X	X				X	X					X											
Covina	X								X	X		X															
*Long Beach	X	X	X	X	X		X	X	X	X	X			•	X		X											
*Los Angeles						•					•									X								
Los Angeles County	X	X	X			X			X																			
*Mountain View										•															X	X		
Palo Alto	X	X	X		X				X	X	X	X			X	X												
Redwood City								X	X		X	X			X	X												
*Sacramento County	X	X	•			•		X		•	X	X			•		X											•
*San Jose	•	•				X		•	•	•			•	•		X	•	X	X	•								
San Luis Obispo County	X	X	X		X			X	X	X	X	X	X	X		X					X	X			X			
*San Mateo County	x		x	•	•			x			x									•			X					
*Santa Clara County	X	•		•	•			X	•																•			
Santa Cruz	X	X	X	X	X	X		X	X	X	X	X		X	X	X	X	X	X		X	X	X					
Stockton		X			X		X	X			X	X				X												
COLORADO																				•							
*Breckenridge		•														•											
*El Paso County	X	X				X		X		X		X	•	X	X	X			X		X	X	X	X			
Pueblo Region	X	X		X		X	X	X	X			X		X	X				X		X	X	X				
Weld County	X	X					X	X			X			X					X								
CONNECTICUT																											
Middletown	X	X	X					X	X		X	X		X		X					X						
*Windsor								•																			
FLORIDA																											
Clearwater	X	X	X			X	X		X			X					X										
Jacksonville Area	X	X	X																								
*Tampa/Hillsborough County										•																	
ILLINOIS																											
*Kane County	X	•	•						•																		
McHenry County	X	X	X		X			X	X	X			X		X										X		
Schaumburg	X	X	X		X			X	X	X															X		
Skokie	X	X	X						X																X		
Springfield/Sangamon County	X	X	X					X	X			X			X	X											

*(asterisk) Indicates that the community is mentioned in the text of the guidebook.

Summary of Streamlining Techniques

Legend

"X" = technique in use in community.
"•" = technique in use in community and described in the text of the guidebook.

COMMUNITIES	Use of handbooks, manuals, registers, and other written materials	Holding informal preapplication meetings	Reorganization or revision of ordinances	Central counter operations	Reorganization of regulating departments	Use of permit expediters or "ombudsmen"	Preparation of master environmental impact reports	Elimination of duplicative hearings	Use of joint staff project review committees	Improvement of application forms	Use of a hearing official (or equivalent position)	Simultaneous processing or review of permits	"Fast-track" processing of minor applications	Use of computer in some phase of processing	Institution of more project review deadlines	Elimination or consolidation of review steps	Delegation of decisionmaking authority to lower levels in administration	Strengthening or revising of appeal process	Holding more frequent commission meetings to improve regulatory process	Improvement of citizen input procedures	Formation of a task force or committee	Use of consultants to study procedural reforms	Staff training programs	Public education programs	Training for commissioners	Revamping of recordkeeping procedures	Abolition of planning commission or zoning board	Dual planning commissions
INDIANA																											
Tippecanoe Area	X	X	X		X			X	X	X			X		X	X		X	X	X	X		X			X		
IOWA																											
Sioux City	X	X	X	X	X				X			X	X			X									X	X		
KANSAS																											
Newton		X		X																								
KENTUCKY																											
Bowling Green City/ County	X		X					X		X		X	X			X					X					X		
Louisville/Jefferson County	X	X	X		X			X	X	X		X				X	X		X	X	X		X	X	X			
MARYLAND																											
Annapolis		X	X						X	X		X																
Caroline County	X	X	X		X				X				X								X					X		
*Baltimore	X	•		•		•			•											•	•							
MICHIGAN																											
Livingston County		X							X	X										X		X						
MINNESOTA																											
Brooklyn Park	X	X	X	X	X			X	X	X															X	X	X	
MISSOURI																											
*Kansas City	X	X	X			X			X		•	X	•			•	X			X	•							
MONTANA																											
Billings/Yellowstone/ City/County		X	X						X						X													
Bozeman City/County	X	X	X												X													
Missoula	X	X	X		X		X	X	X	X		X	X		X	X	X	X	X	X	X		X	X	X	X		
NEVADA																											
Reno	X	X			X				X	X						X				X								
NEW YORK																											
New Rochelle	X	X	X		X															X	X							
Rensselaer County	X	X	X					X	X	X		X	X			X				X	X							
NORTH CAROLINA																											
Guildford County	X	X	X						X				X				X				X							

*(asterisk) indicates that the community is mentioned in the text of the guidebook.

Summary of Streamlining Techniques

Legend

"X" = technique in use in community.
"•" = technique in use in community and described in the text of the guidebook.

COMMUNITIES	Use of handbooks, manuals, registers, and other written materials	Holding informal preapplication meetings	Reorganization or revision of ordinances	Central counter operations	Reorganization of regulating departments	Use of permit expediters or "ombudsmen"	Preparation of master environmental impact reports	Elimination of duplicative hearings	Use of joint staff project review committees	Improvement of application forms	Use of a hearing official (or equivalent position)	Simultaneous processing or review of permits	"Fast-track" processing of minor applications	Use of computer in some phase of processing	Institution of more project review deadlines	Elimination or consolidation of review steps	Delegation of decisionmaking authority to lower levels in administration	Strengthening or revising of appeal process	Holding more frequent commission meetings to improve regulatory process	Improvement of citizen input procedures	Formation of a task force or committee	Use of consultants to study procedural reforms	Staff training programs	Public education programs	Training for commissioners	Revamping of recordkeeping procedures	Abolition of planning commission or zoning board	Dual planning commissions
OHIO																											
Hamilton		X		X				X				X				X						X	X		X		
Holmes County																							X	X	X		
Kent	X	X	X					X		X	X	X		X	X	X	X	X					X	X				
*Middletown	X	X	X	X	X	X			X	X		X			X										X			
OREGON																											
*Lane County	X	•	X	•	•	•			•	•	•		•	X		•	•	•			X	•			•		•	
*Salem		X	X	•	•				X	•	X											•			•		•	
*Multnomah County	•	X			•				X																			•
SOUTH CAROLINA																											
Florence	X								X			X										X			X	X		
TENNESSSEE																											
Chattanooga/Hamilton County	X	X	X						X			X	X	X													X	
Clarksville/Montgomery County	X		X						X						X								X	X	X			
VIRGINIA																											
Culpeper County	X	X	X					X		X		X	X	X	X								X	X	X	X		
James City/County	X	X	X		X			X	X	X		X	X		X						X	X						
WASHINGTON																											
Clark County		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X							X			
*King County	X	X		X	X			X	X	X	X	X			X				•		X		X				•	
*Seattle																												
WEST VIRGINIA																											
Wheeling							X		X	X	X				X					X			X					
WISCONSIN																											
Mequon	X	X	X			X	X	X	X	X		X		X	X											X		
WYOMING																											
Sweetwater County	X	X	X						X																X			
CANADA/BRITISH COLUMBIA																											
Burnaby	X	X								X	X			X												X		

*(asterisk) indicates that the community is mentioned in the text of the guidebook.

Appendix A, Part 2: Community contacts

These communities have experience in regulatory reform, and have indicated their willingness to share their expertise with others who want to contact them. This list corresponds to the matrix in Appendix A, Part 1.

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Skokie, Illinois 60077
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Oregon

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1. Phoenix, Arizona

Description

Phoenix is one of the classic sunbelt cities. Its 1975 population was roughly 670,000, and its annual growth rate has been between 4 and 5 percent. In 1978, a total of 43,437 residential building permits were issued. This steady demand for new housing has made homebuilding one of the area's basic industries. With important exceptions, the backbone of the market is single-family detached tract housing, often produced by large-scale subdividers. The city has prided itself on being able to provide a stock of relatively moderately priced new housing for younger, middle-income households and for the large segment of its population that is of retirement age. But here, as elsewhere, housing prices are climbing.

A great deal of residential development occurs at the fringe, and the city continues to annex new subdivisions. Rapid growth has created problems, however. The transportation network, for example, is seriously overburdened. Some critics have, in the past, characterized Phoenix as one vast, unplanned suburban sprawl, criss-crossed with miles of nondescript commercial strips. Still, public officials accept growth as inevitable, and ultimately good for the city if properly managed. Learning from the past, they maintain they are regulating development more carefully now. In 1979 the city completed a new comprehensive plan, after extensive citizen review. The plan takes an "urban village" approach, identifying and strengthening commercial and employment centers around which local communities can take shape.

There seems to be relatively little public opposition to the city council's growth policies. In contrast to some of the fast-growing California cities, there is no powerful local environmental lobby. Protests over new projects usually come from neighbors and tend to be limited to higher-density infill proposals. Most developers interviewed agreed that there were solid working relationships among the local development industry, the planning department, and public officials.

Reasons for streamlining

City officials have always tried to be hospitable to development. Nevertheless, developers complained that the planning department was increasingly insensitive to their needs. In response, the city initiated a program called "Somebody in Here Cares," subsequently expanded to include many facets of administration. In addition, as the city moves to raise filing fees to cover a greater portion of its administrative costs, the planning department has pledged to upgrade service to its clients.

Regulatory climate

There is little or no regulatory activity at the State or regional level that significantly affects private residential development in the city.

Volume of regulatory activity

1978 workload for the Development Coordination Office:

pre-application meetings	908
preliminary site plans filed	184
preliminary subdivision plats filed	122
rezonings (1977 total)	243

Planning department profile

Budget: $1,996,000 in FY 1979, 80 percent for current planning; 20 percent for comprehensive planning.

Staff: 87 staff positions, of which 24 are clerical or support. The Development Coordination Office has 10 professional planners or engineers.

Streamlining techniques and activities

consolidated regulations in *Development Manual*
series of brochures explaining procedures
permit expeditor
hearing official
elimination of multiple public hearings for certain types of projects
joint review committee
pre-application conferences
delegation of various types of decisionmaking to staff
simultaneous processing of certain types of applications

2. Kane County, Illinois

Description.

Kane is an exurban county in the Chicago SMSA (1975 population, 267,000) containing some older, freestanding urban centers surrounded by rich farmland. Residential development in the unincorporated area is primarily single-family detached houses on quarter-acre lots, served by private sewer and water systems. Development pressures exist, but they are not intense at present. However, staff foresee serious problems if past patterns of scattered subdivisions are allowed to continue. Agricultural preservation is increasingly recognized as a priority, but the public's attitude on controlling growth is still deeply divided. Efforts to strengthen existing land use regulations significantly are considered politically infeasible. The basic tool for managing growth, therefore, is large-lot holding zones. Almost all subdivisions require rezoning. Most participants agree that this "wait and see" approach results in a regulatory system that is highly discretionary. There is a strong tradition of personal, informal relations among decisionmakers, staff, and land developers (most of whom are "homegrown" and respected members of the community). A traditional element in county land use regulation is multiple lay review. Virtually all projects undergo multiple hearings before four separate lay review bodies.

Reasons for streamlining.

As the volume of development increased, and as public officials became increasingly concerned over some of its adverse effects, projects were subjected to closer scrutiny. Lacking political support for establishing stronger land use controls, officials and staff felt forced to rely more and more upon informal, unofficial tactics that were characterized by some as footdragging. This led to a confrontation between developers and the county board in 1977. A task force was set up to introduce more certainty, accountability, and efficiency into the system while still retaining some of the personal, informal flavor of the previous system.

Regulatory climate.

There is little or no regulatory activity at the regional or State levels that significantly affects private residential development in the county. The exception is the occasional problem of overlapping jurisdictions when subdivision occurs on the edge of an incorporated municipality with extraterritorial rights.

Volume of regulatory activity.

(staff inventory, 1978)

residential subdivisions in "pipeline"	79
public hearings held for rezonings	56
public hearings held for variances	14
special use permits	7

Planning department profile.

Budget: $325,000 in 1978, 70 percent earmarked for administration, "current planning," and enforcement. 30 percent for comprehensive planning activities.

Staff: 10 professionals, four technical employees, subject to minor fluctuation.

Streamlining techniques and activities

revised subdivision ordinance via developer/county task force
creation of consolidated regulations into a *Development Manual*
creation of new appeals process
restructuring of subdivision approval process, with emphasis on an extended "concept stage." This entails an "early warning system" with informal review by citizens and lay bodies, coupled with elaborate pre-application conferences conducted by a joint review committee.

3. Baltimore, Maryland

Description

Baltimore is an older, built-up industrial seaport whose ambitious urban renewal efforts have been well-publicized. To date it has achieved dramatic results in revitalizing its central business district and neighborhoods, using public funds as leverage. The city has a strong tradition of neighborhood organization and citizen participation in land-use-related decisions. It is frequently a "partner" with private development, offering incentives and absorbing risk through such techniques as land assembling and writedown, favorable financing terms, and provision of improvements normally supplied by the developer. There is little vacant land left within the city limits; most development or redevelopment is on lots which are already subdivided and serviced by an existing infrastructure. A high proportion of housing production is through rehabilitation.

Reasons for streamlining

The mayor has taken a pro-development attitude, aggressively trying to attract development back into the city. This strategy is aimed, in part, at gaining a competitive edge over surrounding suburban jurisdictions through faster permit turn-arounds. An accompanying motive for regulatory efficiency is to hold down administrative costs to the city.

Regulatory climate

Where housing is produced through federally provided funds, red tape can be a problem. Otherwise, there is little or no regulatory activity at the regional or State levels for most local residential development.

Volume of regulatory activity
(staff estimate, FY: 1977)

zoning changes	104
residential subdivisions	56
variances	550
PUD's	5

Planning Department Profile

Budget: 2,367,418 in 1978, 5 percent for current planning.

Staff: 69 total in 1978, 5 for current planning.

Streamlining techniques and activities

Development Guidebook, completed 1978
task force of builders and city to reform regulatory procedures
permit expeditor
joint review committee
pre-application conferences
centralized routing and information counter in building division
informal meetings encouraged between developer and neighborhood groups

4. Lane County, Oregon

Description

Lane County's 4,600 square miles include coastline, extensive timber and grazing land, part of the Cascade Range, and the Willamette River. In 1977, over half of the county's total population of 252,000 lived in metropolitan Eugene-Springfield. An urban service boundary controls development in this, one of the fastest growing urban areas on the West Coast. For the most part, large-scale, higher density development has been effectively discouraged beyond the urban service line. Thus the bulk of proposals that the county reviews are minor subdivisions of two or three lots, typically around 20 acres in size. In Lane County, these are called "land partitions." The applicants are either private citizens or members of a small, fragmented homebuilding industry. In fact, 50 percent of the housing starts in the county in 1978 were mobile homes. The type of applicant and the high volume of land partitions has shaped the administrative organization and streamlining strategies of the county. It is geared to volume and routine review, providing service to a relatively "amateur" applicant.

Reasons for streamlining

State legislation in Oregon has mandated local comprehensive planning and regulations. To comply with the law, Lane County had to shift resources and attention away from land regulation to planning and policymaking. This meant delegating a substantial part of the regulatory workload, first from public officials to staff, and then from professional staff to paraprofessionals. The routine nature of the bulk of projects made this feasible. The second reason for streamlining was to make the process less delay-ridden and confusing for the typical unsophisticated applicant.

Regulatory climate

Many would rank Oregon with California and Florida as among the States having taken the most active roles in land-use regulation. In conjunction with mandatory local planning, Oregon also requires that local plans reflect the 19 policies articulated by the State Land Conservation and Development Commission. These policies greatly influence local regulations, which must be consistent with plans. One of the policies, for example, *requires* urban growth boundaries. The county has subcontracted with the State to administer most State-required permits.

Volume of regulatory activity

zoning and rezoning	52
subdivisions	34
site reviews	52
land partitions	856

Planning department profile

Budget (FY 1979-80): $661,260 total, 38 percent for zoning and subdivision administration.

Staff: 20 professionals, 7 clerical/ support.

Streamlining techniques and activities

brochure and written materials to explain procedures
pre-application meetings
central counter operations
departmental reorganization
hearing official
joint review committee
improvement of forms
"fast track" processing of land partitions
use of computer in processing
elimination/consolidation of some review steps
delegation of decisionmaking to staff for some types of applications
dual planning commission
revamped recordkeeping procedures

5. California Case Studies: Santa Clara County, San Jose, and Sacramento County

Three of the local case studies are located in California, for reasons explained below. Before profiling these three communities individually, this section provides some brief background information on the State which applies to all three study sites.

Background on the State of California

Complicated regulatory procedures are a serious problem throughout the Nation, but when analysts focus on local settings to study, they turn most often to the State of California. Nowhere in the country is land so strictly regulated, and nowhere are regulations more essential. California has a fragile and priceless physical environment. At the same time, pressures for development are intense. Housing prices in the San Diego, Los Angeles and San Francisco Bay areas are legendary. This puts the value conflict which underlies regulation into acute relief: provision of affordable housing versus protection of the environment and the overall quality of life.

Some observers view California as a model of progressive planning and land use control; others consider it an alarming example of a regulatory system out of control. The interest in land regulation in California is heightened by the State's reputation as s trend setter. For these reasons, California is particularly fertile ground both for studying the problems of regulatory systems and devising solutions to them. Factors that affect local regulatory procedures include the following:

- Citizens' groups and public interest organizations are active and sophisticated. Land use decisions in California are typically controversial.

- The State courts have generally been supportive of State and local regulatory activity and are frequently sympathetic to suits brought by public interest groups.

- Proposition 13 and subsequent legislation have sent local agencies scrambling to find funds to replace general revenues that used to support planning activities. Reduced budgets have given local agencies more motivation to improve administrative efficiency. Even so, regulatory reviews in some communities take longer because of budget cut-backs. The real impact of tax and expenditure limitations, of course, is to make jurisdictions even less eager to approve new residential development, unless the developer agrees to heavy fees and stringent conditions.

- Regional regulatory agencies, such as Local Agency Formation Commissions (LAFCO's), may be involved in issuing permits or ratifying local decisions.

- The State of California imposes special conditions on development that affect local decisions:

-- The California Environmental Quality Act (CEQA), as interpreted by the courts, requires an elaborate process of evaluating the environmental impact of new development. The Environmental Impact Review (EIR) process has stopped or modified many projects that would have done serious harm to the environment. However, its critics claim that CEQA has imposed extra delays and expense on local development and has increased the homebuilder's exposure to lawsuits and citizen challenges. Too often, opponents argue, the EIR process is used to extort excessive improvements from developers – or to halt growth altogether.

-- California imposes mandatory comprehensive planning at the local level. It also requires that regulatory decisions conform to the local comprehensive plan. This can create additional red tape when nonconforming projects must not only undergo zoning changes but *amendments to the plan* as well.

-- The not-yet-completed coastal management program is being overseen by the State Coastal Commission until local jurisdictions have their coastal plans and regulatory mechanisms in place. In the meantime, development in designated coastal areas has slowed considerably.

Given the pressure for growth, high housing costs, and irreplaceable physical environment of California, land use regulation there will probably always be more controversial and problematic than it is in many parts of the country. But these very problems have inspired some of the best approaches to simplifying administration of the complex regulatory system. While not all of the California experience is transferable, the lessons being learned there merit special attention from planners across the country.

5(a). Santa Clara County

Description

Santa Clara County, once billed as the "Valley of Heart's Delight," grew from a sleepy agricultural basin to a major population center of 1,200,000 in three decades. Its economy is dominated by the high-technology industries of aerospace and electronics. The roughly 1,300 square miles of the county are governed and serviced by 15 cities and several dozen special districts. There is a long history of annexation battles, and this has resulted in serious imbalances. For example, some cities have captured the lucrative industrial tax base and expensive housing. Others, primarily San Jose, the county seat, have a disproportionate share of the moderately-priced housing without accompanying industrial ratables. These fiscal disparities are accompanied by physical problems, since the jobs are located for the most part in the northern part of the county, while much of the housing affordable by workers is in the south. This means seriously jammed highways and air pollution from commuters' automobiles. The county and its cities have been working to manage growth for many years, but still have deep-seated differences. Future development in Santa Clara County is intimately tied to each city's decisions for annexation and extension of services. Some degree of accommodation has been reached through assigning each city an "urban service boundary" and "sphere of influence." This has been done through the Local Agency Formation Commission (LAFCO), a special county-level independent regulatory body unique to California.

The county regulates development outside of incorporated areas. The usual sequence of events is for applications to be referred to the city within whose "sphere of influence" projects have been proposed. Current county policies limit development to already serviced areas. These policies are designed to slow growth and to preserve the remaining open space, much of it in the hillsides and south county. Minimum residential lot sizes are 20 acres. Even at such low densities, there is pressure to develop. However, nearly all subdivisions are minor, consisting of fewer than five lots. This means custom homebuilding, at high prices. The larger, sophisticated developers are not active in this market, and the county's clients tend to be small-scale homebuilders and private citizens.

Reasons for streamlining

Multiple referrals from county to city to LAFCO, and then to as many as six permitting counters within the county itself, had created such a confusing system that some applicants actually found it necessary to hire a consultant to help them get building permits. The impetus for streamlining came from public officials concerned about the problem.

Volume of regulatory activity (FY 1978-79)

subdivisions (nearly all minor)	50
rezonings	53
lot line adjustments	37
grading permits	52
site review for construction on unsubdivided land	192
building permits	2,366

Environmental Management Agency profile

Budget: Approximately $500,000 in FY 1978-79.

Staff: Total 19. To staff Central Permit Office, a six-person Public Service Unit.

Streamlining techniques and activities

hand-outs and other explanatory materials for applicants and the public
pre-application conferences
revision of the zoning ordinance and subdivision regulations
central counter operations
departmental organization
joint review committees
improved application forms
revamped record-keeping system
"fast-track" processing of minor applications

5(b). San Jose

Description

San Jose is one of the West Coast's most widely studied cities, and is known for its phenomenal growth rate. A small city of 95,000 in 1950, it is now the fourth largest in California, with a population of about 557,000. Located 50 miles south of San Francisco in the fertile Santa Clara Valley, the city aggressively annexed land and encouraged residential development for years. Its affordable housing stock made it a bedroom community for workers employed in the booming electronics industry in the valley. The unfettered growth brought with it serious problems. Leapfrog development and sprawl left the city with a boundary that defies description. (Its map has been compared to the fossil remains of a prehistoric bird.) San Jose has reaped but a small proportion of the tax revenues generated by industry in the area. Its services are seriously overburdened. Transportation and education are two particularly pressing problems. To balance its fiscal base, the city is now actively courting new industry. It has streamlined the permitting process for industrial and commercial development by establishing the equivalent of a permit expeditor, writing Master Environmental Impact Reports, and "prezoning" land for industrial uses. Residential development does not get the same red carpet treatment. In 1970 the city established an urban growth boundary, and since that time it has become increasingly selective about the residential development and annexations it will approve. Still, when compared to other neighboring municipalities, San Jose continues to be a city that developers consider open to homebuilding.

Reasons for streamlining

Residential developers were aware of the special treatment their counterparts in commercial and industrial development were receiving and put pressure on the city to remove delay and risk from residential permitting as well. A second motive was the serious budget limits imposed by Proposition 13, resulting in staff cut-backs and turnover.

Volume of regulatory activity (FY 1978-79)

tentative maps (preliminary plats)	260
rezonings	250
PUD's	120
conditional use permits, variances, and adjustments	370
site plan review	365

Planning department profile

Budget (FY 1977-78): $1,204,975 total, 46 percent for zoning and subdivision administration.

Staff (FY 1978-79): 66.3 total, 29.8 for zoning and subdivision administration.

Streamlining techniques and activities

brochures to explain procedures
hearing officer
joint review committee
pre-application conferences
computerized management
delegation of some approvals to staff
self-help counter
administrative manual for use by employees
preparation of master environmental impact reports for commercial and industrial projects
design manual for industrial projects
permit expeditor for industrial projects
creation of a task force to streamline procedures

5(c). Sacramento County

Description

Sacramento County is located in a valley of rich farmland about midway between the Pacific Coast and Lake Tahoe in the Sierra Nevada mountains. The city of Sacramento is both county seat and State capital. While physically the city and its urban fringe resemble many other urban areas in the country, the governmental structure of the Sacramento metropolitan area is quite different. For the most part, suburbanization has not been accompanied by incorporation of suburban cities. Rather, communities have opted to remain unincorporated under county government. Almost 60 percent of the population of 700,000 lives outside of any city limits. There are two consequences that affect regulatory activity. First, turf wars to capture industrial ratables and keep out residential development seldom occur in Sacramento County. Second, the county's role in planning and regulation is major, and will continue to be.

The county has had a growth phasing plan in effect since 1973. Citizens seem to support growth as long as it is managed. There are responsible public interest groups that lobby for environmental protection and agricultural preservation, but these groups seem to be able to work with members of the development industry. By and large, there is consensus that the county, citizens, and developers enjoy a rare working relationship based on mutual respect.

The county is now completing an ambitious program of community planning, in the course of which unincorporated areas have written their own localized plans to fit into the county general plan framework. Through this effort, community advisory councils have been set up to structure citizen input to county officials.

Reasons for streamlining

The basis for regulatory streamlining grew out of a task force made up of the county, environmental interests, and developers. Although concerns over policy figured uppermost, delegation of responsibility for routine land use decisions was seen as necessary to free time for officials to focus on planning matters. Since then, the budget squeezes brought about by Proposition 13 have made administrative efficiency even more essential.

Volume of regulatory activity (typical annual volume)

tentative subdivisions	180-200
parcel maps	400
zoning changes	200
items processed through zoning administrator	400-500

Planning department profile

Budget (FY 1978-79): $921,600 total, 49 percent for current planning.

Staff: 19 in current planning, which makes up about 40 percent of total planning staff.

Streamlining techniques and activities

written materials and information handouts for developers and public
pre-application conferences
reorganization and revision of the zoning ordinance
reorganization of review staffs and planning staffs into geographic teams
use of Master Environmental Impact Reports (MEIR's) for development, prepared by county, to save time and money for applicants
use of conditional use permits to replace many types of zone change approvals
hearing official
delegation of approval authority to staff for certain types of projects
frequent commission meetings
dual planning commission structure
structured citizen participation in planning and project review

Appendix C: Research methodology

This guidebook is the product of research which began in November 1978. Funding was provided by the Office of Policy Development and Research, U.S. Department of Housing and Urban Development (HUD). The project was carried out by staff of the Research Division of the American Planning Association, with the assistance of staff from the Urban Land Institute. The research project followed these major steps:

1. **Review** of the literature on regulatory efficiency and housing costs;

2. **Identification of communities** that had recently streamlined their regulatory systems, through two surveys conducted in the fall of 1978:
(a) An APA solicitation of information from the approximately 1,300 members of its Planning Advisory Service. (PAS is a publishing and consulting service to which local planning agencies, private consulting firms, and other institutions subscribe.)
(b) A ULI survey of its membership. (ULI membership consists primarily of land developers in the private sector.)

The two parallel solicitations resulted in the identification of 199 communities representing 42 states and four Canadian provinces. The names of another 30 jurisdictions were identified in the course of the literature search. Of the total of 241 communities, APA staff talked with 56 by telephone and compiled a tentative list of streamlining techniques that appeared to merit further investigation. The literature review and telephone discussions also yielded a set of preliminary findings and hypotheses.

3. **Field studies in seven selected cities and counties.** Seven sites were chosen for field study, based on the following criteria:

- The communities should provide a broad spectrum of streamlining techniques. In practical terms, this meant that each technique could be observed in at least two specific settings.
- The streamlining techniques should have been in use long enough to allow for critical evaluation of their success.
- The sample should provide a cross-section of local communities, based on such factors as
  — state enabling legislation and regulatory activity at other levels of government
  — regional distribution, size, growth rate, age, type of government.
- The sample should exclude communities that have already received extensive treatment in other studies on regulatory simplification.
- The planning staffs in the field sites should have indicated their willingness to cooperate in the research.

Week-long field visits were conducted by two- or three-person teams representing both APA and ULI. Communities visited were:
Phoenix, Arizona
Kane County, Illinois
Sacramento County, California
Baltimore, Maryland
San Jose, California
Lane County, Oregon
Santa Clara County, California

Information was obtained through newspaper articles, departmental memos and reports, ordinances, files of actual residential projects, and other local resources and statistics. The main source of information, however, consisted of interviews with key participants in the local regulatory system, including:

Members of the planning department
Other local government staff, such as heads of other review departments, city managers, etc.
Public officials, including planning commissioners and elected officials
Representatives of citizen and neighborhood groups and other public interest groups
Representatives of the private sector, including: homebuilders, developers, legal, engineering, and planning consultants; officers and staff from local homebuilders' associations; and representatives of local chambers of commerce.

As a rule, interviews followed an open-ended questionnaire, tailored to the circumstances of each field site. No attempt was made to *empirically* verify claims regarding processing time or other criteria for judging the effectiveness of streamlining techniques. However, the perceptions of the interviewees were cross-checked. Any conclusions drawn in the text of this guidebook represent the consensus of those interviewed. When there were substantial differences of opinion, the report has attempted to convey the range of these differences.

4. **Review of Guidebook.** The draft guidebook received extensive review from the following:

- Project staff from HUD
- Selected experts from environmental and public interest groups, and from universities
- Staff of local governments which figured prominently in the text of the guidebook.

Finally, a special eight-member Advisory Panel was set up, composed of developers, consultants, planners, public officials, and a city manager. The panel met as a body to review the draft document. The final version of the guidebook has incorporated many of the suggestions and comments of the reviewers.

Appendix D: Further Reading

General Information on Regulation and Housing Costs

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A. Evaluating the local regulatory system

1. Evaluation methodologies

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2. Examples of task force reports

Sacramento County Environmental Protection and Planning Review Committee, *A Review of Sacramento County's Two Planning Commission Processes**, Sacramento: June 1977.

Los Angeles Mayor's Office of Urban Development. Three reports:*

-- Ad Hoc Committee on One-Stop Construction Permit Processing, September 1977.
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-- Ad Hoc Committee on Construction Processes, June 1976.

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2. Educating planning commissioners and other public officials

These readings are not about streamlining *per se*. Rather, they offer a sampling of materials available to local governments to train new public officials and upgrade their performance in making decisions on zoning and subdivision matters.

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3. Public hearings and procedural due process

These readings are concerned with improving the ways in which public hearings are conducted with respect to fairness and efficiency. Readings cover principles of procedural due process, examples of rules of procedure, and tips on running meetings.

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Tustian, Richard E. and Elston, Lewis, "Zoning Hearing Examiner Process: In Use in Montgomery County, Maryland for Four Years," *Planner Notebook,* Vol. 1, No. 5, Chicago: American Institute of Planners, August 1971.

*Ordinances**

Phoenix, Arizona
Tucson, Arizona
Sacramento County, California
San Jose, California
Montgomery County, Maryland
Lane County, Oregon
King County, Washington

C. Written materials for applicants and for the public

Of the many communities that have produced imaginative and well-written materials, the following are a good sample:

* Available on loan to subscribers to the Planning Advisory Service, American Planning Association. PAS cannot certify the price or availability of materials from local organizations.

1. Brochures*

Phoenix, Arizona
Santa Clara County, California
Lane County, Oregon
Arlington, Virginia

2. Development manuals or guidebooks*

Sacramento County, California, *Environmental Impact Report Guidelines* (43 pp.)

San Jose, California, *Land Development Application Process: What It Is; How It Works* (7 pp.)

Santa Cruz, California, *Planning Procedures Manual* (63 pp.)

Baltimore, Maryland, *Development Guidebook* (16 pp.)

Fairfax County, Virginia, *A Guide to the Development Process* (3 volumes)

Government directories*

Sacramento County, California, *Sacramento County, Government* (15 pp.) and two brochures by the League of Women Voters.

Kane County, Illinois, *A Guide to Kane County. . . Its Government and Services* (60 pp.)

Baltimore, Maryland, *Baltimore Area Government* (produced by the Commission on Governmental Efficiency and Economy, Inc.). Baltimore also has a *Guide to Baltimore City Department of Planning* (38 pp.)

4. Citizens' guides*

Sacramento County, California, *Planning Handbook* (14 pp.)

Louisville and Jefferson County, Kentucky, a series of regularly published issues in a "Planning Notebook," entitled *Foresight.* "It is intended to be used as a reference tool and guide. . . .produced to provide useful information to the public." (Issues typically run 8-20 pp. Sample topics: the Board of Zoning Adjustment; The Purpose of Zoning Regulations; Zone Changes and Subdivisions).

San Jose, California, *Hi! Thank you for Taking the Time to Attend This. . . .Meeting* (information available at public meetings and hearings to explain terms and actors).

5. Permit inventories or "registers"*

Lane County, Oregon, *Directory of Permits, Licenses, and Fees,* 1978

State of New Jersey, *Directory of State Programs for Regulating Construction*

New York City, New York, *Business and Construction Guide to New York City Agencies: Permits; Approvals; Information* (34 pp.)

6. Design manuals or handbooks*

San Jose, California, *Industrial Design Review Guidelines* (26 pp.)

Multnomah County, Oregon, *A Developer's Handbook* (two parts, Part I: 126 pp.)

Mercer Island, Washington, *Design Guidelines*

Miscellaneous references on other techniques

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Wright, Laurie K., "Streamlining the Permit Process," *OPR Journal,* Vol. 1, No. 2. Sacramento: State of California Office of Planning and Research, October 1978.

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1. Phoenix, Arizona, Subdivision Ordinance, Article II, Section 32(8)(10).

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1. San Mateo County, California, *Final Report on the Study of the Development Review Process*, Redwood City: February, 1978, p. 13. Prepared by Hughes, Heiss and Associates, Inc.
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2. Meshenberg, Michael, *The Administration of Flexible Zoning Techniques*, ASPO, PAS Report No. 318, June, 1976, p. 7.
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