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Ariel Bierbaum worked at the Office for Commonwealth Development focusing on three projects to increase the economic competitiveness of cities across the state. She researched municipal best practices across the country for expedited permitting and pre-development processes for encouraging private developers to invest in targeted urban areas. Ms. Bierbaum also developed an index of indicators that may be used in the future as a way to gauge the health of cities across a number of broad categories including civic life, education, environment, finance, housing, income, jobs, population, public health and public safety. Finally, she provided background research about potential ways to implement this type of benchmarking system statewide.

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MEMORANDUM

To: Stephen Burrington, Deputy Secretary of Policy, Office of Commonwealth Development, Commonwealth of Massachusetts

From: Ariel H. Bierbaum, Rappaport Public Policy Fellow 2004

Date: 30 August 2004

Re: Expedited permitting processes

Introduction

This memo recommends the establishment of a pre-permitting process as one potential state-level initiative to improve the efficacy and efficiency of municipal-level administrative structures and processes. While municipalities often provide economic incentives for development, municipal administrative processes in the Commonwealth of Massachusetts do not actively promote private investment. In many communities, particularly in struggling urban areas, private investment would provide critical capital for spurring redevelopment, rehabilitation, and revitalization of downtown residential and commercial areas.

While developers identify significant challenges to working on urban sites, they also insist that as long as they feel that municipal and state officials are committed to expediting and facilitating development, they are willing to consider inner city locations as development sites. Many of the “deal breakers” they identify can be ameliorated through administrative changes in permitting and zoning processes. The state may play several roles by creating particular legislation, developing an administrative infrastructure, and acting as a catalyst and facilitator for municipal-level action.

Pre-permitting requires the identification of large tracts of land for development, visioning for the site at the municipal level, coordinated local- and state-level permitting review, and subsequent marketing outreach to potential developers. Pre-permitted sites are often more attractive to developers because the municipality and state have expressed a level of commitment that ensures community involvement and expedited approval processes.

While the state may create the administrative infrastructure for and promote a pre-permitting process, particular challenges may create tension for its full implementation. Pre-permitting requires municipalities to engage in some level of long-term strategic planning, where the municipality has

identified a site for development and worked through potential uses for that site. However, the community process may be difficult without a particular project pending. Ideally, the municipality needs cooperation from local planning entities, state and federal regulators, and utility commissions to gather all necessary paperwork and documentation. Localities, moreover, need resources for this considerable coordination.

The Commonwealth can help overcome many of these challenges, however, by providing loans and/or grants to municipalities for visioning and preliminary site assessments and through the creation of a state-certified pre-permitting process that includes clear guidelines and criteria. Thus, the state government can help spur development in targeted areas in need of revitalization and redevelopment across the Commonwealth.

The Need for Pre-Permitting

As summarized in the report produced by the Center for Urban and Regional Policy (CURP) at Northeastern University, existing municipal and state administrative procedures present key “deal breakers” for private investors and real estate developers.¹ These “deal breakers” include, but are not limited to:

- Municipal leaders’ lack of information about specific location requirements for targeted industries;
- Deficiencies of urban sites that make development more expensive; and
- State and local review processes that add time and cost to developments.

Developers identify these as significant challenges to working on urban sites. However, potential developers also insist that as long as they feel that municipal and state officials are committed to expediting and facilitating development, they are not unwilling to consider inner city locations as development sites. Many of the “deal breakers” they identify can be ameliorated through administrative changes in permitting and zoning processes.

Overall State Role

The state may play several roles by creating particular legislation, developing an administrative infrastructure, and acting as a catalyst and facilitator for municipal-level action. In the case of pre-permitting, the state can create an administrative infrastructure, through legislation or more informally. It can also provide resources that help facilitate municipal-level action. The state further enhances a pre-permitting administrative structure through the creation of a formal certification process. Finally, in conjunction with the municipality, the state can promote and market pre-permitted sites to potential developers through online and print publications.

How Pre-Permitting Works

States and municipalities can select and prepare sites for targeted economic development in particular industry sectors; this preparation allows developers and industry to walk into a process that is significantly more cost-effective, less risky, and more “user-friendly” which saves them both time and money. Pre-permitted sites allow developers to minimize the time before actual development begins, which often saves them significant costs.

Pre-permitted sites reduce cost to developers by cutting down on bureaucratic time delays inherent in multiple permitting processes and deadlines. Further, developers feel confident that public review around the proposed site use has already been worked out; it is the role of the municipality and/or the state to work with communities during the pre-permitting process to establish which uses will be permitted and which will be prohibited. In this way, many communities' concerns are addressed before the developer is involved.

States and municipalities work with local residents to determine what type of development/industry is best considering their individual needs. Next, they can analyze the existing conditions of the site and determine what work needs to be done to prepare the site for such development. Finally, through this process, municipalities can develop a full list of all permits that a particular industry will need to procure to begin development.

The value of pre-permitted sites only emerges when developers can find information easily. Marketing the programs to economic development firms, private developers, and the general public is important. For example, the state of New York has created the "Shovel-Ready" program, which provides a catchy and descriptive moniker to their program.

Examples of assessments accomplished through the pre-permitting process may include environmental impact statements, storm-water management plans, zoning overlays, etc. Importantly, pre-permitting and "shovel ready" may be different processes. In Florida, for example, pre-permitting involves permits for a specific industry, whereas "shovel ready" prepares sites for zoning, infrastructure delivery, etc. up to the point of specifications for a particular industry development. In New York, however, they do not make this distinction.

State-level authority to certify "shovel ready" sites can be critical. Municipalities may say that their sites are pre-permitted and ready for development, but may be missing particular infrastructure needs, zoning changes, etc. States can create a certification process with a full checklist of requirements. Potential developers can be assured that the sites at which they are looking are in fact fully pre-permitted and ready for expedited development.

Key Elements of the Pre-Permitting Process

- Key parcel(s) identified for development
- Close work with surrounding community about types of permitted and prohibited development
- Municipal and state coordination among permitting agencies and utility/infrastructure entities
- Extensive marketing of and accessible information about "shovel ready" sites to potential developers
- State certification through comprehensive checklist

Potential State Action

To achieve the goal of a certified pre-permitting process, the state may promote the pre-permitting process as time-saving and development-inspiring strategy to municipalities and other economic development entities, such as the Economic Development Industrial Corporations or Regional Competitiveness Councils. Further, the state can highlight particular tools available to municipalities for pre-permitting sites, such as appropriate zoning changes, alternative meeting schedules for permitting boards, and empowerment of zoning administrator over zoning board (M.G.L.Ch 40A, sec 13). The state may need to provide grants and/or loans to municipalities to enable them to conduct necessary studies and impact statements and to complete applications for the purposes of pre-permitting certification.

The state has the oversight capability to ensure utilities and state-level infrastructure providers are equipped and ready to evaluate sites and participate in pre-permitting process. To ease this process and ensure that all municipalities use the same criteria for pre-permitting, the state should develop a full checklist of pre-permitting requirements for municipalities and create a formal certification application using this checklist.

As a final step, the state can use its resources for outreach to developers who may be interested in such development sites. The state may create state-level marketing on the web, as well as assist municipal-level marketing efforts around these particular sites. Finally, the state may institute a yearly audit for regular follow-up.

Challenges to Implementation

While pre-permitting has worked in some places across the country, there are significant challenges to its implementation. First, pre-permitting requires municipalities to engage in some level of long-term strategic planning, where the municipality has identified a site for development and worked through potential uses for that site. This type of strategic planning is heavily dependent on capacity and leadership in a particular municipality. In urban areas that are already strained by limited resources and other pressing problems, an additional expectation of long-term planning may prove overwhelming.

Further, the visioning process for these large sites occurs in the absence of a particular project; some communities may find it difficult to vision and brainstorm at this abstracted level. Finally, municipalities need cooperation from local planning entities, state and federal regulators, utilities, and utility commissions to gather all paperwork and documentation necessary. This heightened level of coordination and investment from diverse agencies may be difficult.

Case Study Example²

The West Seneca Development Corporation (WSDC) is a non-profit organization, with very close connections to the municipal government both in terms of financial and political support. The area in the Buffalo, New York region, suffers from severe underutilization and unemployment. The residents of the town of West Seneca are therefore very open to increased development, including manufacturing, industrial, and research and development industries.

In the early 1990s, WSDC identified a 400-acre parcel for an industrial park. WSDC and the town worked in partnership during the pre-permitting process. The town conducted a State Environmental Quality Review (SEQR), as required by the State of New York, and an Environmental Impact Statement. These reports were generic, and included a number of scenarios of anticipated uses and anticipated impacts. In 2002, these reports were supplemented with additional documentation of the infrastructure, location information, and details about the site. Finally, WSDC obtained written documentation from all utility companies detailing the capacity for provision of gas, electric, sewer, etc. WSDC created a CD with a PowerPoint presentation that included all of this information, which was distributed to prospective developers.

The State of New York has standardized their pre-permitting process so that communities can become certified as “shovel ready.” Thus, prospective developers know that the site is in fact “shovel ready,” as the State requires a comprehensive checklist as part of their certification application.

On the local level, West Seneca created an overlay district specifically for this 400-acre site. Thus all development will fall under this, even if the land is developed as separate parcels. The overlay district describes “permitted and encouraged” uses and “prohibited and discouraged” uses, according

to the pre-permitting process developed in conjunction with the state. Due to this pre-permitting process, according to WSDC, developers face a 45-day turn-around for submitted application.

The State of New York once offered grants and now offers loans to assist municipalities in conducting the appropriate studies and assessments for the completion of the pre-permitting process. Further, the state notably created a standardized definition of “shovel ready” for all municipalities, which signals to developers that Municipalities may face different challenges, most notably brownfields that may make the pre-permitting process more difficult. Finally, the climate in West Seneca was right because the community is very interested in economic development and job creation, and thus, was open to the zoning changes and processes that would allow for increased development of this kind.

1. *The Rebirth of Older Industrial Cities: Exciting Opportunities for Private Sector Investment*, published April 2004 <http://www.curp.neu.edu/pdfs/Final%20Report%20PDF.pdf>
2. David Lawrence, West Seneca Development Corporation, West Seneca, NY <http://www/gorr.state.ny.us/gorr/shovelready.htm>