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Abstract

For cities and villages to encourage needed development and the tax base benefits it brings, they must be certain that the process of receiving, reviewing, and acting on applications for land use approvals is efficient, saving applicants the time and cost of undue delays. Streamlining ensures that this process is as clear and understandable as possible, from the moment an applicant enters city or village hall until a Certificate of Occupancy for a project is secured. This document is designed to assist municipalities in assessing the purpose of existing application processes and gives guidance on how to streamline those processes.

Resource

LAND USE LAW CENTER

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STREAMLINED REVIEW & APPROVAL PROCESS

Mayors Redevelopment Roundtable
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What is Streamlining?

For cities and villages to encourage needed development and the tax base benefits it brings, they must be certain that the process of receiving, reviewing, and acting on applications for land use approvals is efficient, saving applicants the time and cost of undue delays. Streamlining ensures that this process is as clear and understandable as possible, from the moment an applicant enters city or village hall until a Certificate of Occupancy for a project is secured. There must be a clear road map of the process and requirements, a one-stop information and application desk or office, and a process free of unnecessary steps or delays.

Explanation:

Communities have been processing applications for land use approval for decades, encountering new challenges and difficulties, and crafting solutions to each one as and when encountered. In many communities, the aggregate of the forms, steps, and standards required has not been reviewed to insure that each requirement is still needed, that each board must be continued, and that the forms are coordinated. The result of this aggregation of forms, steps, and requirements should be reviewed periodically to be sure that it has not become unnecessarily complex and time consuming.

The costs of a land use approval process that is not streamlined can be considerable. Such a process can discourage property improvement and lower property values as a result, drive major developers away depriving the community of needed additions to the tax base, and frustrate the volunteers who sit on local boards as they are confronted with complaints by frustrated applicants.

Threshold Questions:

- If there are several offices where applications are made, is there a justification for each one: why can't there be one central location for all applications?
- Once an application is submitted, is the applicant given a clear road map of the approval process that applies to that type of application?
- How are the forms filed by the applicant? Is there an electronic filing and tracking system that coordinates the submission and movement of the applicant throughout the approval process? Can that electronic system be easily located on the website and easily tracked during the process?
- Does each applicant have an opportunity to talk with a staff member who is charged with explaining the road map for each type of approval and answering questions at the time of the application and as any difficulties are encountered?
- Are the forms that applicants fill out as simple as possible; do applicants have to insert the same information multiple times; is the information required on each form truly needed; how can the forms used for various ministerial and board approvals be simplified and integrated?
- If the information required for an application seems overly complicated, is there a need to revise the zoning or other regulations to eliminate some of the information required for approvals of variances, subdivision and site plan review, special permit issuance, and design, historic, and coastal review?
- For larger and more complicate projects, is a pre-application workshop or meeting required where the applicant can learn how to modify the application to comply with local requirements and avoid adverse environmental impacts?
- Does each of the land use boards in the community understand its role and stay within its respective authority? Does each board handle all applications as expeditiously as possible, avoiding the need to return for multiple times? Are the dates of the meetings of each board coordinated so that time is not lost for applicants who must get two or more approvals or reviews, for example both a variance and site plan approval?
- Are all of the boards established by local law really needed? Can any local board be eliminated? Can the functions of any of them be transferred to the planning or other board to eliminate unnecessary reviews?

Process for Evaluating Streamlining Steps

1. Begin by discussing the current application and land use review and approval process with involved staff to find out whether they or applicants are frustrated with any inefficiencies in the system.

2. Working with those staff members identify several applicants who represent a variety of types of applications and interview those applicants to determine what complaints about inefficiencies they have that can be addressed.
3. Work with staff to simplify the submission and progress of applications, automating it as much as possible, and making the automated system as user friendly as possible.
4. Review all application forms to determine whether they are duplicative or require applicants to enter the same information multiple times. Since all applications must include an Environmental Assessment Form, edit that form to get all the basic information about the applicant and application that is required throughout the process so that it only has to be entered one time. From this, create a consolidated application form that has most of the information about the applicant and the project that will be needed for planning board, zoning board, or other local board approval.
5. Be sure that all applicants who are applying for approvals, like building permits, that are Type II actions, exempt from environmental impact review, are required to fill out only those parts of the consolidated application needed to determine that the action is a Type II action. If the application is for a building permit or other administrative approval, then the information required for that permit must also be completed in addition. Where necessary create extra forms to solicit additional information needed for particular types of permits, such as variances or special use permits.
6. Have the local legislative body create its own Type II list that adds additional actions to be considered as Type II list actions. (See section on SEQRA streamlining below.)
7. Meet with each permit issuing and advisory board to ask the members to identify any steps, standards, or other aspects of their work that seem unnecessary or unnecessarily frustrate the application process. What legitimate complaints have they heard from applicants appearing before them? Consider whether the schedule of meetings for all local boards ensures the smoothest possible sequence of most applications.
8. Based on this review, complete a set of preliminary recommendations for revising the review and approval process to eliminate inefficiencies.
9. Hold one or more meetings of all of the local permit issuing and advisory boards and involved staff during which these inefficiencies are discussed, recommendations evaluated, and final recommendations agreed to. If outside assistance is required to manage this process or for hardware or software costs, or other expenditures, include a budget for them in the recommendations.
10. Based on 1-9 above and the analysis of the Environmental Impact Review processes below, work with the local legislature and local counsel to implement the recommendations.

Streamlining Point: Consolidated Form and Intake Interviews

To streamline the application process, staff should prepare a consolidated form that collects as much of the required application information as possible in one document. The consolidated form should include the required EAF, which must be filled out under state regulations for Unlisted and Type I actions. Where local design review or historic review is required, separate sheets should be added to this form to gather information required under locally legislated design or historic district guidelines After preparing this consolidated form, municipal staff should use it in some form of intake interview to help guide applicants through the approval process.

Streamlining Point: Central Permit Information Desk with One-Stop Permitting

Communities should create a central permitting office that manages all permit applications and approval processes. A process manager should handle the intake of all applications, manage any work sessions or guide sequencing of approvals, schedule and manage cut-off dates and public meetings, and guide applicants through the approval process. The process manager should ensure that the steps involved in the approval of the application incorporates all local requirements, as well as federal, state and county processes, which are discussed in workshops or roundtable meetings.

Streamlining Point: Expanded Online Resources

Communities should create an online permitting system that provides electronic permit applications and submittals for sophisticated applicants, as well as any guidelines and helpful information that local staff produces. Applicants should be able to submit required plans and other documentation electronically. Further, the online system should facilitate board coordination and communication by alerting boards immediately to newly submitted applications and providing internal results for projects that come before boards.

Streamlining Point: Pre-application Workshops and Roundtables

Local law should require a pre-application workshop or meeting with all relevant staff of the community to evaluate the project and examine the road map for approval. Workshops should be mandatory for commercial or non-residential projects, larger residential subdivision and site plans, and projects that involve more than one board. During these workshops, City staff should help applicants identify required approvals and map out the proper sequence for these approvals, ensuring efficient coordination between boards. In addition, City staff should provide applicants with more technical assistance for various application requirements and help them complete all applications properly. Through voluntary negotiations in the workshop, project changes can be effected that will reduce the time needed to review the project in the formal application process.

In addition, communities can offer a regularly scheduled monthly roundtable for smaller, residential project applicants and other interested landowners to attend on a voluntary basis. This roundtable can offer general information and help familiarize attendees with the

City's approval processes. These should be scheduled so that both staff and designated representatives from all boards can attend.

Streamlining Point: Clear Road Map of Approval Process

To help applicants navigate the project review and approval process, communities should create and distribute "road maps" that clearly delineate all process steps. These roadmaps should reflect appropriately sequenced board approvals that result in the most efficient process for applicants and should include county, state and federal processes.

Streamlining Point: Training for Local Board Members

Trained boards help create a smooth process. To ensure board members are prepared to perform project reviews and approvals, communities should certify that each serving board member has completed a training program. The program should train board members on the streamlining strategies created, help board members understand their unique functions within the overall system, and cover the rules for approvals, public participation, and ethics. To facilitate inter-board communication, communities can schedule periodic meetings of board chairs and require members from all boards to attend at least one annual training to discuss board interactions.

<center>**SEQRA Review**</center>

Under the State Environmental Quality Review Act (SEQRA), local land use boards must conduct an environmental analysis before they approve a project. This applies to any planning board, zoning board of appeals, and architectural review board or commission that is required to issue a permit. Applicants for land use approvals must attach to their applications a short or long Environmental Assessment Form (EAF), depending on the type of action, as defined by SEQRA regulations..

<u>Exempt, Type II Actions</u>

Under state SEQRA regulations, actions are classified either as Type I, Type II, or Unlisted Actions. Type II actions are exempt from environmental impact review. Type II actions, according to State regulations, include maintenance or repair involving no substantial changes in an existing building; replacement, rehabilitation or reconstruction of a structure or facility; construction or expansion of a single-family, a two-family or a three-family residence on an approved lot; construction, expansion or placement of minor accessory structures; certain area variances; and official acts of a ministerial nature that involve no exercise of discretion, including building permits and historic preservation permits. State regulations permit localities to add actions to the Type II list as long as they do not qualify as Type I actions or exceed listed Type I thresholds. An example of a local action that can be safely added to a local Type II list is a demolition permit.

Streamlining Point: Enough information must be obtained from each applicant to determine whether a Type II action is involved. The short EAF can be used for this determination.

Type I and Unlisted Actions:

Type I actions meet certain established thresholds and are more likely than others to have a significant adverse environmental impact. Unlisted Actions are neither exempt nor Type I actions. Applicants whose projects are Unlisted must submit the short EAF; Type I actions require submission of the long EAF. With regard to Unlisted and Type I actions, the local land use board must make a determination of significance, that is, whether the project is likely to have a significant adverse environmental impact. If that declaration is negative, a "neg dec," no further environmental review is required. Where that declaration is positive, a "pos dec," a full Environmental Impact Statement must be prepared. The time and expense involved with a full EIS are significant. If a pre-application workshop is held regarding an application, the project may be modified so as to remove any adverse environmental impacts so that a neg. dec. can be issued, completing the SEQRA process.

For larger-scale redevelopment projects that are located in compact, mixed-use neighborhoods, municipalities can adopt a local SEQRA regulation that allows lead agencies to declare that such projects presumptively have no significant adverse impact on the environment. On a per capita bsis, projects that house or provide work places for households seeking to live and work in certain urban areas:

- Use less potable water,
- Disturb less vegetated land, habitat, and wetlands,
- Produce less stormwater runoff, flooding, erosion, and sedimentation,
- Create less groundwater and surface water pollution,
- Consume less construction materials and the resources and energy needed to manufacture them,
- Produce buildings that consume less energy in operations,
- Reduce vehicle miles travelled,
- Lower the consumption of fossil fuels by vehicles, and
- Reduce carbon emissions.

Since SEQRA involves a balancing of social, economic, and environmental impacts, a generic environmental impact statement done for the adoption of such a local regulation, can show all of these positive impacts and justify the presumption that they do not have significant adverse impacts on the environment.

Streamlining Point: The time and costs saved by larger-scale redevelopment projects that do not have to prepare an Environmental Impact Statement are extraordinarily significant. A project where no impacts are found to rebut this presumption and which does not have

to prepare an EIS, will be more affordable and feasible, providing places to live and work for many households who would otherwise be commuting long distances and living and working in much less sustainable neighborhoods.

Streamlining Point: The information required on the EAF forms is normally enough for the local agency to make a determination of significance. Much of that required information duplicates information that is required by law for various board approvals, such as variances, site plan and subdivision approvals, and special permits. One method of reducing the paperwork burden on applicants is to remove from other required forms the information that is required on the EAF.

Streamlining Point: For an agency that is not a permit agency, but rather an advisory board, its review does not require an environmental analysis. Information contained on the EAF may be helpful in its decision-making and relevant to its advice on environmental review as an involved agency. Caution is necessary to be sure advisory boards do not delay decisions in an effort to make an environmental impact determination of significance of their own.

Streamlining Point: Coordinated Review

Under state SEQRA regulations, when a project requires two or more permits, the SEQRA review can be coordinated, with one of the involved agencies taking responsibility as "lead agency" and the others reporting any environmental concerns to it. Under a coordinated review the lead agency performs the full environmental review and makes the determination of significance. Alternatively, where two or more boards are involved in permitting the action, the review can be uncoordinated, with each agency conducting a review of all possible environmental impacts. If any one of the agencies determines that the project may have a significant adverse impact, a pos dec, then the review must be coordinated, with one agency taking lead agency status. If the project is a Type I action, the review must be coordinated with one lead agency.

Streamlining Point: In creating the initial road map and advising an applicant regarding the required process, it is important that an early decision be made regarding the coordination of the environmental review of two or more permitting agencies. Obvious inefficiencies can result where two or more boards are performing separate environmental reviews. Where one permitting agency issues a pos. dec., a coordinated review should be required an all cases.

Conditional Negative Declarations:

State regulations permit agencies to use a conditional negative declaration for Unlisted Actions where a full EAF is submitted and where a coordinated review is completed. For actions with significant impacts below Type I thresholds, a conditional negative declaration (CND) can impose mitigation conditions without requiring the applicant to complete a full EIS.

Streamlining Point: Using the CND for Unlisted Actions can be an important streamlining strategy, since it prevents the applicant from the time and expense of doing a full EIS. By using a pre-application review process to advise the applicant how to reengineer the project to avoid adverse environmental impacts can set the stage for a CND.

Reduced Burdens in New EAFs and Other Forms
The new EAFs will impose new burdens on applicants to provide information that is often easily available to staff but hard to find for applicants, particularly those who do not regularly apply for land use approvals.

Streamlining Point: Local staff should review EAF provisions to see what new information it requires and whether the staff can be helpful in filling in some parts of the form for unsophisticated applicants. For example, the new short EAF asks whether a project involves connection to public water or sewer or is adjacent to public transit. Additionally, it asks whether a project is located in an environmental justice community of concern as defined by the Federal EPA. Staff should maintain and provide to applicants relevant maps that help them determine these locations. Further, staff should provide GIS mapping online to help applicants answer other EAF questions.