

STREAMLINED PERMITTING – HELPING BUSINESS COMPETE SUCCESSFULLY

Growing businesses that are looking to expand their facilities can encounter a bewildering array of options and obstacles when making such a critical decision. Shall I develop where I am currently located? Move to a neighboring community? Move overseas?

There is a host of factors that come into play with a business expansion decision. Availability of skilled labor, availability of sites, cost of doing business, taxes and government incentives are often cited as important considerations.

There are other factors that often fly under the radar that may be equally or even more important. The area's quality of life is frequently the most important consideration, if only because the executives making the location decision usually end up living there as well.

But in the business world, where time is money, the speed in which a new facility can be planned, permitted and built is also a critical consideration. And in Massachusetts, where we have worked so hard to shed the label of "Taxachusetts," our track record on the timing issues is less than stellar.

In 2006, the state legislature took a stab at addressing this issue by passing "An Act Relative to Streamlining and Expediting the Permitting Process in the Commonwealth." This long title introduces a new law designed to expedite permitting of larger commercial and industrial developments in the state. Spearheaded by Westport's State Representative Michael Rodrigues, the Massachusetts legislature overwhelmingly voted for the law, which includes a number of features designed to address the speed of permitting for commercial and industrial development by state and local agencies.

The new law only addresses the speed at which developments are addressed – not the quality or impact of the proposed development. The intent is to get the system to deliver a yes or no answer to a development proposal in a timely fashion, rather than a prolonged maybe. To quote the law, the overall goal is to: "Reduce unnecessary delays and create certainty and predictability as well as promote an efficient and timely appeals process." Lowering review standards to get a quicker answer is not an option here – removing the duplications and inefficiencies in the review process is the overall goal.

At the state level, the law creates a Massachusetts Permit Regulatory Office whose director serves as a permitting ombudsman for the state. The law also assigns permitting specialists within the 5 regional offices of MassDevelopment, creates an Interagency Permitting Board comprised of 10 state agencies, and directs the Massachusetts Highway Department to adopt regulations for access to state highways. There are statewide judicial and regulatory revisions as well.

The reforms do not stop at the state level, although local changes are trickier because Massachusetts is a home rule state, with 351 separate municipalities that are essentially autonomous entities which set their own development rules with their zoning and permitting procedures. This is the area where the Southeastern Regional Planning and Economic Development District (SRPEDD) will be working with the cities and towns of Southeastern Massachusetts to evaluate and reform their practices.

SRPEDD will be evaluating the review and permitting procedures in each of the region's communities as part of a statewide survey. SRPEDD will then be offering technical assistance to the cities and towns to make changes, which can come in many forms.

One local option is to adopt the expedited permitting process outlined in revised Chapter 43 D. This program enables cities and towns to designate parcels as Priority Development Sites for which all permit reviews and final decisions shall be completed within 180 days of a determination that an application is complete. Parcels that are zoned for commercial or industrial development and are capable of the development or redevelopment of a building of at least 50,000 square feet gross floor area are eligible. The Mayor, City Council or Town Meeting (whichever are applicable) and the state Interagency Permitting Board must approve these sites. A municipality that opts to participate in this program may also apply for a technical assistance grant of up to \$150,000 to do the planning and set up the processes.

If a community chooses not to follow the Chapter 43D route, SRPEDD is prepared to assist them with a variety of improvements that might include bylaw changes, a handbook of permit requirements, creation of local coordinating processes, or simply better procedures for communication among local boards and committees. For example, there are situations where the local planning board, conservation commission and highway department can review proposals simultaneously in a coordinated manner rather than one after the other.

The goal of this effort is to get better development in better locations by saying YES in a timely manner. The flip side should be to discourage bad development in bad locations by giving a firm NO, also in a timely manner. If all the pieces of this law function as intended, the net result will be better for everyone.

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