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PRACTICE DEVELOPMENT REVIEW



Development Review as Economic Development

By Michael Blue, FAICP

Development review is more than just a series of perfunctory steps to run a project through prior to approval.

Done well, it is an economic development tool for a community to attract and secure desirable development, implement plans, and add to the local tax base. Conversely, an unpredictable development approval process can discourage development that the community wants. It can lead to difficulty in implementing plans and create the impression that the community is not a good place to do business.

We've all been to a meeting like this: The planning and zoning commission is on its third review meeting of a major retail develop-

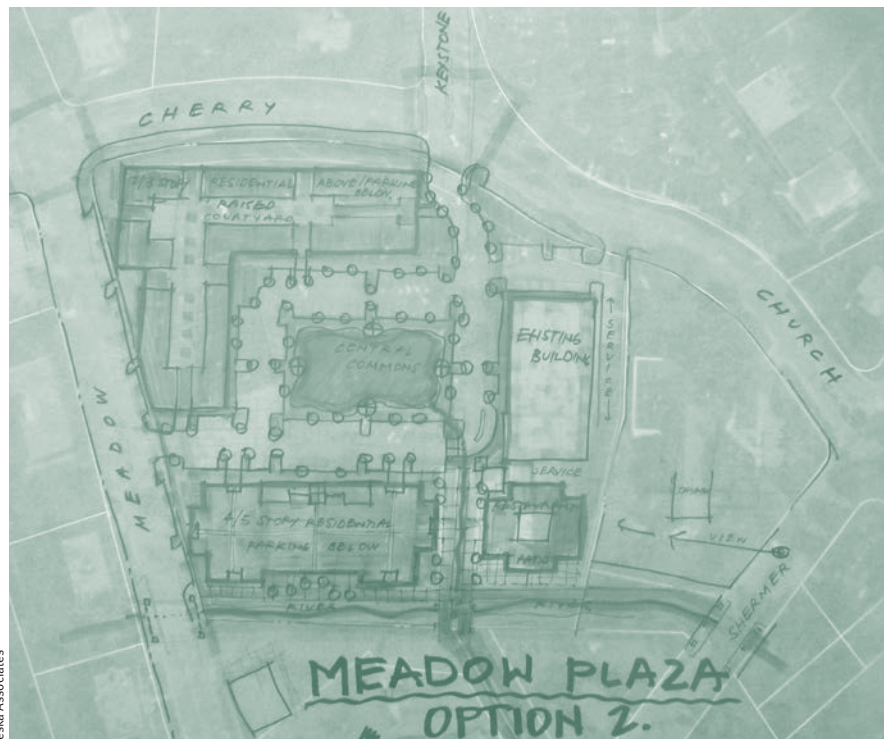
ment on the main commercial corridor in town. The staff has worked with the developer to understand city codes and expectations, and the proposal has begun to reflect those needs. In keeping with the outline of the staff report, the commission has dutifully considered land use, zoning, site plan and circulation, traffic, landscaping, signage, lighting, light fixtures, and now, building materials. The discussion has gone as expected so far, with the commission requesting "just a couple more" details on types of plant materials and a bit of discussion

over which of the light fixture styles was most appropriate.

Then the commission turns its attention to the awnings. The signage on the awnings for the project's anchor tenant was within code and the color was the company's usual red. One of the commission members suggested that while the awning was the company's standard and was in context with the overall building, perhaps a different shade of red would be more attractive, maybe even a maroon. A second commission member chimes in that maroon is much too dark, and that something more vibrant, perhaps leaning toward orange, would be better. The debate on which shade of red was best for the awning rages on for 45 minutes. To resolve the matter, the chair suggests that the applicant return to the next meeting with three samples of shades of red they would like to propose for the commission to evaluate and then adds that it is now too late to make any formal decisions.

The aftermath of the meeting is predictable. The applicant is frustrated because there is a corporate deadline to start construction that this "hurdle" will delay. He will tell the planner how the whole project is now in jeopardy and that all those people who warned him not to build in this town were right! A call from the mayor or city administrator wanting to know what happened is also likely since this is a project the community wants.

Development review is an essential element of municipal operations, and when done well, it provides an opportunity for planners to bring a great value to the communities they serve. The process should always improve marginal developments and reject those that are inappropriate, but it should not be the stumbling block that inhibits desirable outcomes.



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- ➡ Development review processes should add value to the community by evaluating proposed developments in light of topics important to the community.

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About the Author

Michael Blue, FAICP, is a principal with Teska Associates of Evanston, Illinois, a firm providing public- and private-sector clients with services related to planning, landscape architecture, site design, economic development, and community engagement. He worked in the public sector for 15 years as a community development manager for Mount Prospect, Illinois, and Highland Park, Illinois, focusing in both locales on development review and approval, long-range planning, and policy related projects. As a consultant, Blue has prepared numerous long-range plans, development impact studies, and public participation efforts. For much of his career, he has been active in the American Planning Association at the local, state, and national levels, and he is currently the Planning Officials Development Officer for APA Illinois.

THE WARNING

Elected and appointed officials, planners, and other development process participants can become comfortable with their communities’ zoning approval processes. However, we must realize that just because a process worked in the “old” economy, prior to the mid-2000s, it will not necessarily function well today. Well-capitalized builders and developers who feel they can put a project in the ground on spec and then attract tenants are rare, if they exist anywhere. Communities are faced with a new range of development and financial challenges. For these reasons, it is time to revisit approval processes and find the next set of best practices to ensure that development review tasks and requirements add value to our communities.

THE CHARGE

A development review processes should incorporate three essential themes:

- The process must be predictable to the applicant, elected and appointed officials, other departments, and the public in order to assure the best outcomes.
- Each step in the development approval process must add value to the process, the development, and the community.
- The process must ensure open and continuous communication to the applicant, elected and appointed officials, other departments, and the public.

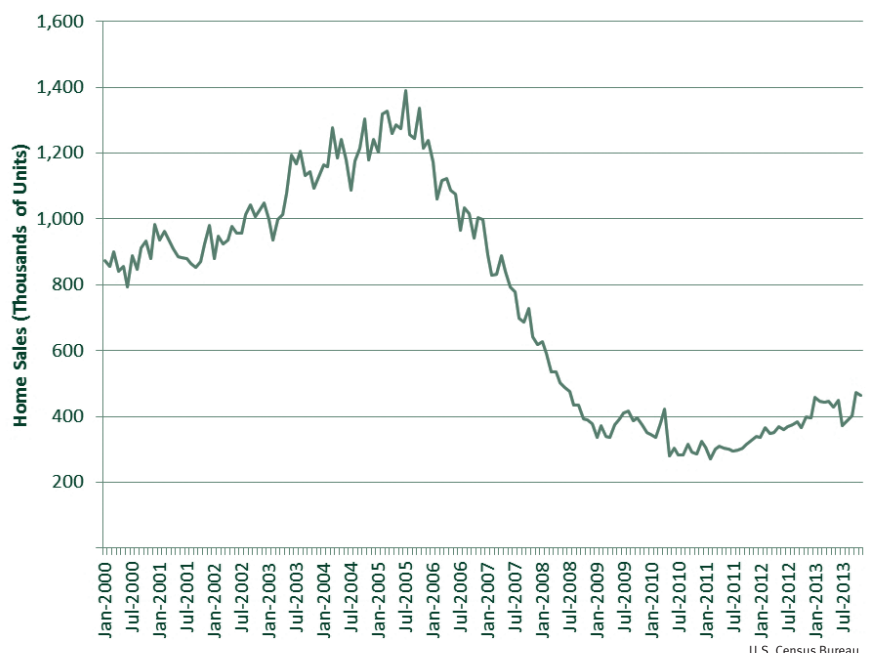
Communities should audit their processes in light of these three themes. But remember, the purpose is not just to do “more with less” or to streamline a process. Yes, efficiency and timely review are important, but we must be

careful that streamlining is not just doing the same work in less time. A faster development review isn’t necessarily a better review. Rather, the question should be to look at the aspects of the review and determine if they advance the community vision. Did the commission need to review awning colors (or, for that matter, landscape and lighting, which could be defined in a code and approved administratively)? If the answer for the community is yes, these are important elements that must be considered by a formal body, and the community should continue to do so. However, if items of limited significance are being reviewed or approval

through a commission process isn’t essential to enhancing development, they should be eliminated, made administrative, or set to meet clearly defined code standards. This is the type of process streamlining that will save time and money for the community by focusing effort on the issues that matter most and making it a more attractive place to pursue development.

THE CAVEAT

Is this about tossing out the way communities have conducted development review and starting over? Absolutely not. The steps in development review that reflect the unique values and



➔ Figure 1. Single-family housing sales, January 2000–November 2013.

needs of the community should continue. And while it should go without saying, the purpose is not about accepting development the community neither wants nor needs, nor is it about assuring large profits to an applicant. The objective is to strike a balance in approval processes so as to smoothly facilitate quality development outcomes for the community and its residents.

WHY IS THIS IMPORTANT NOW?

To state the obvious, the world of development, and therefore development approval, has changed over the last several years from what it was prior to the Great Recession. Figures 1 and 2 for new home sales and building permits reflect the very familiar trend line of peaking in the middle part of the last decade, falling sharply, and now returning (slowly) to an upward trend. But even as the economy begins to gain traction, it is important to ask: Will it ever be 2005 again in the development world? Can communities expect or count on that pace of development returning? Communities cannot rely on securing tax-base support from desired development at the pace they did 10 years ago. That economy is past. The way in which development is done has changed, and development approval practice must reflect that reality. It must be thought of as part of the community's economic development toolbox.

The Development Business Has Changed

Figure 3 (showing the familiar pattern and an uncertain 2013) indicates annual rates of private construction in the U.S. Anecdotal stories heard at building counters reflect that while developers are out there looking to take on projects, capital is hard to find and is impacting the number of projects being initiated. Not only will developers be limited by access to capital, but they will be more likely to seek public financial participation. More to the point of this discussion, developers will be more risk averse and less likely to pursue development where the approval process is unpredictable.

Development Approval and Economic Development Have Changed

The capacity of municipalities to regulate and support development has been threatened and impacted by state referenda on property rights and Supreme Court cases such as *Nollan*, *Dolan*, and *Kelo*. These challenges have not gutted the role of municipalities in developing their communities, but they do give communi-

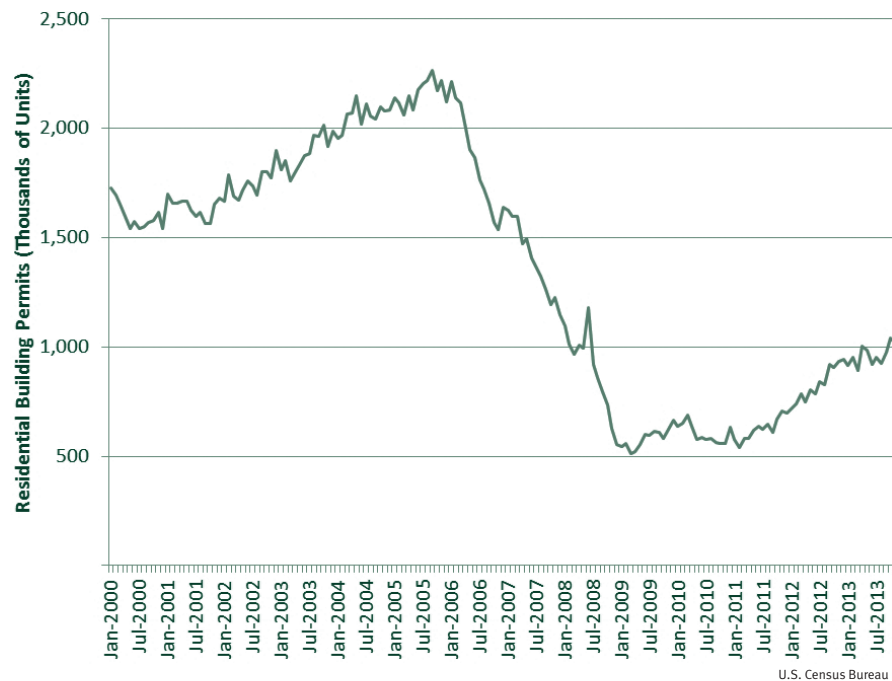


Figure 2. Residential building permits, January 2000–November 2013.

ties reason to be cautious. In this environment, a sound and predictable development approval process becomes an even more valuable economic development tool.

Public Finance Has Changed

Established revenue sources to communities have been reduced. In addition, local govern-

ments all over the country are dealing with having lost, or the risk of losing, funds from state and federal sources. Further, municipalities are facing challenges imposed by funding pension responsibilities; the table below shows the increasing trend of these payments. As those obligations grow, so will the pressure to find new revenue sources to support them. Again,

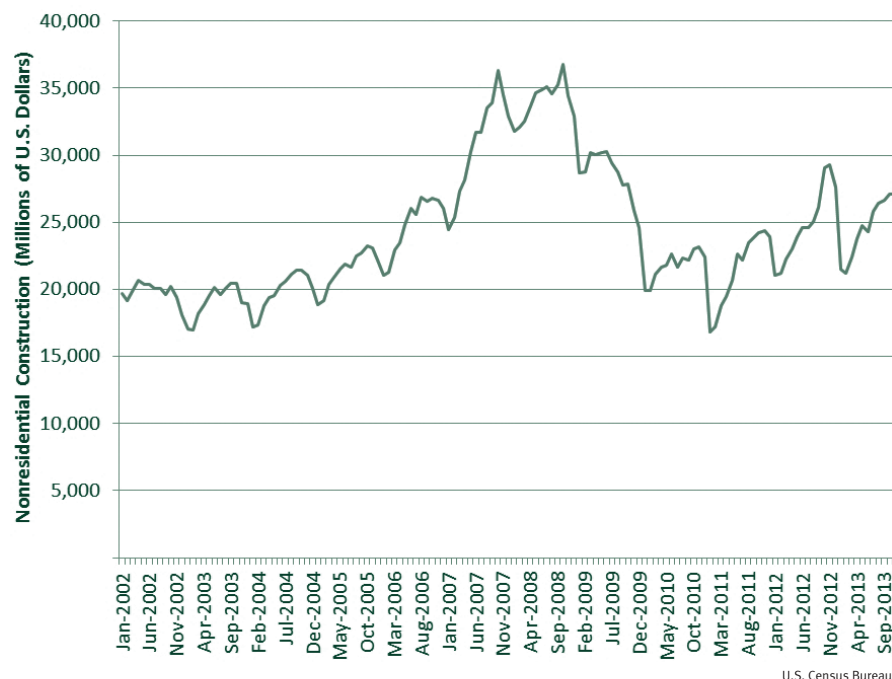


Figure 3. Private nonresidential construction spending, January 2002–November 2013.

the need for attracting desirable development to support fiscal needs becomes an important element of municipal finance.

Government Operations Have Changed

The mantras heard at budget hearings everywhere are the echoes of very real fiscal constraints: “do more with less,” “consolidate,” “share services,” “outsource,” “think like a business,” etc. These concepts have merit, but at some point (and many places are already there) budget reductions are cutting bone, not fat. A number of communities set staffing levels based on average, or typical, operations. In areas that do not have a year-round construction season, maintaining staff needed during a busier summer season allows for “catching up” or project work during the winter. Communities unable to carry staff in this way may move to third-party services for peak times. No matter how communities address the budget and staffing challenge, it is important to maintain the emphasis on quality development review. Too often the concern in light of budget constraints is how to do development review faster, but the question should be how to do it better.

THE WARNING SIGNS

So how do you know when the process isn’t functioning optimally and you need to look at serious change? Keep your eyes open for some warning signs:

A Lack of Understanding or Respect for the Process

The approval process is not always going to be smooth. It is inherently a negotiation and

may well be contentious. But it does not need to be mean spirited or belligerent; it doesn’t have to be cops and robbers. If there is a lack of trust, communication, or respect at meetings between staffs and applicants, realize that this is not normal and acceptable. It is time to find and eliminate the cause of a caustic working relationship.

In addition, some applicants will go through the motions of the approval process with little regard for staff review or commission evaluation. This approach may be a political calculation by the applicant in the hope that a desire for their project by the community negates the need for in-depth vetting through a public process. This is not the case and should be a warning sign. A deliberative process that seeks and applies concerns brought up by the staff, commissioners, and public input creates a thoughtful deliberation and brings a well-reasoned recommendation to the elected officials. Further discussion at that stage isn’t a problem, but officials should be working from a foundation established in the process.

Development by Litigation

In some cases an approval process will result in litigation. While always possible, the keys to avoiding this outcome are a well-crafted comprehensive plan and set of development policies, practices, and regulations that reflect that plan. In addition, a predictable approval process will lessen the chances of a community being sued by an applicant. Working from the notion that the applicant will most likely proceed if there is a reasonable chance for

success, it is the denial that seems unexpected to them or comes from a late shift in the position of the community that inspires litigation. A predictable process, well communicated and well executed, can help diminish the potential for litigation.

Amending Unnecessary or Inappropriate Requirements

It is essential to know and be able to explain why code requirements exist. Dismissive answers such as “because the code says so” or “because we’ve always done it that way” do not communicate properly to applicants or the community the value of development (and building permit) review. Also, there is efficiency to be found in making sure that every step has a purpose—benefiting both the community and applicants. The question is whether the review requirement adds value to the development and the community. If it does, keep it; if not, look to amend the code.

That said, change for the sake of change (or to give the appearance of progress) has no value. Likewise, a knee-jerk code or policy change in response to a single undesirable outcome (like an unusual sign or odd-sized porch) is not always necessary. But if patterns appear in approvals that are contrary to community desires or a “loophole” is identified that creates unwelcome development forms, communities should be willing to amend local codes to support desired outcomes. The same is true should the need arise to consider updates to the approval process. In making changes, communities should take note that seeking out different perspectives and being open to the changes they propose (even small ones) can improve the process and are appreciated by applicants.

A Reliance on Last-Minute Negotiation

As stated earlier, development includes negotiations. When that negotiation happens is important, and the earlier in the process the better. The ability to be flexible diminishes, for both municipality and applicant, as the process moves forward. A last-minute demand will either be a genuine issue or create a perception of unreasonableness (from either party) and may upend a desired outcome.

A Lack of Internal Communication

In most communities the team that conducts development review is multidisciplinary and from different departments. Communication



➞ Continual and open communication regarding procedures, community expectations, and code requirements are essential to a successful development approval process.

among these groups is essential. A lack of communication will limit desirable outcomes and send the message that the community is not ready to do business.

A Lack of Positive Development Outcomes

Securing desired developments that advance the community's plans, vision, and quality of life is the ultimate aim of an effective development approval process. To ensure this is working, always go back and see how the development turned out. See what the local commissioners, residents, and elected officials think. Not everyone will like every development, but finding that the community is consistently not pleased with outcomes is reason to reconsider how projects are approved.

HOW TO IMPROVE THE DEVELOPMENT APPROVAL PROCESS

If you notice any of the warning signs above,

it's time to start an internal discussion. Identify a point person to talk with staff, commissions, and elected officials to understand what the community needs and wants from the process. Talk to the customers (developers) about their take on the process. Review your development approval steps to see that they add value. You should ask: Why do we do this? Who does it help? Is the cost for review greater than the benefit? Evaluate the system in light of the themes, truisms, and best practices outlined below.

Predictability

The best development approval process will have a defined structure understood by all involved. To facilitate such an outcome, communities should be cognizant of the numerous perspectives in the process and work to create a common understanding of how the process functions.

Certainty versus flexibility. Communities want to know precisely what will be built, who will occupy it, when it will be finished, and what it will look like. Developers want to make many of these determinations later (to be sure the construction material is in stock, negotiate leases over time, change the appearance depending on tenants plans, etc.). There is no way to completely bridge the certainty versus flexibility gap, but the answer is to provide predictability. Approval ordinances, codes, or development agreements should spell out what can change after approval, including what can be signed off on administratively and what will require a new hearing.

Different game for the little guys. Large developers or businesses may have a team of attorneys, architects, traffic engineers, landscape architects, and other professionals to assist with review processes. Smaller applicants will not. They may have never been through an approval before. The process will be full of jargon and intimidating meetings. They will need assistance (and time) from staff to make it through the process. Many communities note a desire to emphasize locally owned businesses as part of their economic development program, and having an approval process they can navigate is a great place to start.

Conduct commissioner training. The community members sitting on various development-related boards and commissions more often than not have no technical training or professional expertise in development review or code preparation. Even the best staff reports cannot make them experts in the field, and many will be unwilling to ask questions they feel are too simple. They are on the commissions because of their interest in and commitment to their community. Further, as residents they will certainly have a keen understanding of the town's quality of life, expectations of community members, local history, etc. While volunteer board members will bring these insights to the commission deliberations, staff can help enhance the efficacy of these boards and commissions by finding the time and opportunity to provide training in commission operations and development review practice.

Communicate the process and expectations. Developers should know early in the process what information, studies, meetings, and approvals will be required. This need not be sugarcoated; it should be realistic. Part of this communication is also to understand the applicant's position (with an open mind). Be



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➡ Desirable developments that implement community plans are the most direct indicator that a development approval process is succeeding.

aware of that position and take time to understand it. However, it doesn't change the need for high-quality development standards to be met. Further, the community planner must maintain a position as supporter of the vision, goals, and processes of the community, but these objectives can be accomplished in a way that keeps the community's process from being an impediment to economic development.

Incorporate community plans. The community's comprehensive and subarea plans must be incorporated into the approval process from the outset of discussions with potential applicants. This establishes community needs and desires as the benchmark for consideration and helps the developer understand expectations. A clearly defined vision will help an applicant focus on that outcome; most applicants will avoid an uphill climb with limited chance of success. When a developer or property owner walks into the planning department and asks what type of development project the municipality wants in a specific location, having a sound, thoughtful answer will encourage appropriate development proposals and discourage projects that are inconsistent with the community's vision.

Establish and communicate meeting protocol. Most residents don't spend a lot of time in public meetings (though they may watch on local cable). An essential element of development approval is to make it a public process. It should make the community comfortable that the review process is not a mere formality. Take a few minutes and explain to the public how the review process works at the beginning of the meeting, or create a simple brochure that explains the process and meeting protocol.

Value Added

Each step in the development review process and each of the codes the process applies must have a specific purpose for advancing the community's vision, comprehensive plan, and quality of life. They need not be limited, easy to address, or common in other towns, but they should have a purpose that can be reasonably explained to applicants, commissioners, elected officials, and residents.

Review steps must add value. As suggested above, program enhancement is about understanding and explaining the purpose of a review task. To be beneficial to the community a task must add value to the process and help make the development proposal better.

Dealing with limited staff resources.

Frequent applicant communications, in-depth technical analysis, and being available to elected and appointed officials can be difficult for planners in communities with limited resources. However, this does not diminish their importance. A review of the approval process should certainly consider how to meet local objectives with limited staff resources.

Little efforts can make a big difference.

Revisiting a development approval process does not require wholesale change, especially just for the sake of change. It may be that an updated explanation or diagram of the process, or consolidating steps, serves the community and applicants well. In addition, involving the development and business community in the evaluation provides value by showing that the community is committed to reviewing proposed development in the most effective manner available.

Communication

Open and continuous communication with applicants, community officials, other staff, residents, and other stakeholders is foundational to all of the concepts described in this article. This point is often forgotten, either because it is so basic or because in some situations it is inconvenient, but no approval process can succeed without this key ingredient.

No surprises. The city manager, public commissions, and elected officials should be well informed (early on) of issues or questions that are likely to be controversial. Likewise, a developer should be made aware of what they may expect in the process; again, it should be realistic and reflect an understanding of previous project approvals.

Communicate early and often in the process. A clear and comfortable path for communication is essential. This must exist between the staff and the applicant and between staff and appointed and elected officials. This can be formal or informal, but it must be present. If you haven't already, consider establishing single points of contact for such communications.

Communicate internally. Organizational "silos" are problematic in many instances. This is certainly the case for effective development review; the process must include discussion among all work groups on a regular basis (this cannot be stressed enough). The process may be led by a planning or community development department, but must involve public works, fire, police, parks and recreation,

corporation counsel, and other internal stakeholders. These groups should meet regularly to assure consistency and be available to the applicant to clarify matters early in the review process.

CONCLUSION

It is not the place of any municipality to swing open the doors and allow development at all costs or to tilt the process in favor of anyone's profit motive. That is not the intent of the concepts raised here. The point is that to conduct development review as if it were 2005—or to use the same process that was in place in 2005—is detrimental to the community. Creating an environment that facilitates a good development process leads to desired outcomes that benefit the entire community; it is a role for which planners are uniquely qualified and should be leading in their municipalities.

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HOW DOES YOUR DEVELOPMENT REVIEW PROCESS AFFECT ECONOMIC DEVELOPMENT?

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