



Testimony for the Joint Policy Hearing of the Senate Republican & Democratic Policy Committees

Economic Development and Jobs in Pennsylvania

Monday, April 11, 2016

Pamela Shupp, Vice President, Greater Reading Economic Partnership (GREP)

Representing the Pennsylvania Economic Development Association (PEDA) as President

Distinguished Chairs and members of the Committees, I am Pamela Shupp, Vice President of the Greater Reading Economic Partnership, a public-private 501c(3) non-profit organization dedicated to facilitating economic development growth in Berks County, Pennsylvania. We are the primary point of contact for business attraction, retention, and growth. However, I am here today as the current President of the Pennsylvania Economic Development Association (PEDA).

PEDA is the statewide association of local, state, corporate and non-profit economic development professionals.

PEDA's mission is to promote sound economic development policies, provide leading-edge economic development education and nurture an effective statewide economic development network to foster the economic growth of the Commonwealth.

PEDA's membership is comprised of over 300 individual economic development professionals representing the array of the alphabet soup of economic development in the Commonwealth. This membership includes economic development corporations (EDCs), Local Development Districts (LDDs), Small Business Development Centers (SBDCs), Ben Franklin Technology Partners (BFTP), and Industrial Resource Centers (IRCs). It also includes county and regional economic developers, state government economic development employees, utility and transportation executives, industrial development authority directors, operators of industrial and technology incubators, chamber of commerce executives, municipal directors of community and economic development, engineering and construction executives, economic development finance professionals, commercial and industrial developers, and local, county and state elected officials.

In my thirty year career, I personally have been involved in many aspects of community and economic development and my depth of experience is not unique in world of PEDA. Many of my colleagues also have substantial experience and backgrounds. We have administered an

array of federal, state and local loan and grant programs, all with their own unique sets of requirements for the borrower. We have implemented business attraction and business retention strategies and programs. We have collaborated with any and all economic development partners to bring meaningful support to the business community. In doing so, there is something that we have learned and that is: not everyone wants government money. Though there is a real value in the prospect of a retooled and enhanced recruitment and job retention incentive toolkit, not every company interested in locating or expanding their business wants a business loan from the state – no matter what the interest rate. Whether it is an issue of timing, already having adequate capital in hand, or not being able to meet the job creation or other threshold requirements, not everyone wants or can utilize state financing.

So, what is one of the best incentives that Pennsylvania can offer companies? I would suggest that a streamlined, predictable, and coordinated permit review is one of, if not the most meaningful incentives that can be offered.

For several years, PEDDA has been discussing streamlining the permitting process as an important step for the Commonwealth. Excessive permitting timelines and onerous regulations – associated with various state agencies – result in increased project timeframes and costs, impairing economic growth and job creation. Due to the uncertainty caused by these increases, investment and related jobs are often sacrificed and Pennsylvania communities' competitiveness is negatively impacted.

It is not about cutting corners and ending up with projects that violate established ordinances. It is about a clear and consistently applied permit review process that is of benefit to everyone.

Permit applications that are analyzed and considered more efficiently and effectively afford a reasonable degree of comfort and certainty that the timing and expenses associated with the permitting processes will be more predictable.

Streamlining the permitting process and expediting collaborative inter-agency review for high priority economic development projects raises the level of economic prosperity in all our communities. It keeps us competitive – no incentive money involved.

In addition to permitting, I would like to give another example of the challenges facing Pennsylvania when we are competing with other states. I would like to take a few moments to cite the experience of our colleague Frank Zukas, President of the Schuylkill Economic Development Corporation.

In the summer of 2015, the Governor's Action Team (GAT) engaged in a site selection effort code named Project Black Ops, to locate a new manufacturing operation in northeastern Pennsylvania, along the Interstate 81 corridor, with a competing site across the New York state line near Binghamton. The company's corporate headquarters are located in Philadelphia so this was a PA based company.

Details of the project included construction of a 350,000 sf manufacturing facility, creation of 138 full time jobs made up by 120 hourly workers and 18 management positions, a projected annual payroll in year one of \$6,975,000 plus a benefit package projected to cost \$2,790,000 with an overall capital expenditure budget of \$104,759,500.

The incentive package offered by New York state and the local economic development agency totaled over \$18 million as compared with Pennsylvania's package, which totaled \$6.5 million. The primary difference between the two offers was that New York state's approach was to look at the capital expenditures, total payroll and the specific location within the state where this project would take place and to gauge those impacts over a 10 year period, utilizing tax credits over that 10 year time frame based on an annual performance test measuring the continued impact of those jobs on the state and the local community.

By contrast, Pennsylvania's incentive programs are tied to prescribed formulas which are limited to a maximum of three years, ignore the actual new payroll in how they are calculated and provide no incentives which take into account capital investment, especially in this case, a manufacturing facility located in a rural economy.

The point being is that there is an absolute need for the administration, in concert with the legislature and the local economic development agencies which manage economic development projects in the field, to take a hard look at retooling the Pennsylvania recruitment and job retention incentive programs as they relate to those in our neighboring states and the methods of underwriting the cost of those programs. Flexibility needs to be built into whatever revised schedule of incentives may come out of this much needed effort. Investment tax credits can pay for themselves over time whereas our current mix of incentives rely on budgetary line items which can feel the pressures of a lean budget cycle.

PEDA understands that many current economic development programs could have substantially more positive impact with additional financial support or structural changes. However, we recognize that a state budget that strikes an appropriate balance between fiscal responsibility and strategic economic growth is challenging. But we are looking to positively influence and provide feedback on what is most meaningful in business attraction and retention. So this year, when we engaged our membership to determine legislative priorities, the priority that was listed last year as the third legislative priority, became number one.

IMPROVEMENT OF THE REGULATORY CLIMATE IN PENNSYLVANIA

Permitting timelines and regulations associated with PA DEP, PennDOT and other state permitting agencies related to the land development process can result in increased time frames, substantial costs and delayed or deterred economic growth and job creation in our communities.

PEDA supports improved coordination and a streamlined permitting process along with an expedited and collaborative inter-agency review especially as it relates to high priority economic development projects.

The remainder of the priorities include enhancing Pennsylvania's local economic development delivery system, critically needed public and private infrastructure, workforce training, and support for international business development, all of which are geared toward achieving greater economic prosperity, and making the Commonwealth competitive in the global economy.

I would now like to introduce Michael Baxter.

My name is Michael Baxter; I am the president of a commercial real estate firm located in Monroe County Pennsylvania. I have been in the commercial/industrial real estate business for more than 35 years. Through my business and my volunteer activities as a board member of the Pocono Mountains Economic Development Corporation (PMEDC) as well as our regional economic development marketing group, Penn's Northeast, I have been active in a variety of initiatives to attract new investment and new businesses to our community and the region.

Since the beginning of my career the process of establishing and locating a new business in the state of Pennsylvania has become increasingly more difficult, and time-consuming. In addition to real estate services my firm also provides management services for existing residential, commercial and industrial properties. We see first-hand the difficulties businesses have in dealing with the myriad of requirements when relocating or expanding.

In 2011, PMEDC conducted a survey of New Jersey and New York-based development companies for the development of our marketing plan. We purposefully visited companies that had been involved in projects in Pennsylvania in the past. The results of this survey indicated a significant decline in interest in investing in Pennsylvania. The primary reason given by our interviewees was that it simply had become too difficult to acquire project approval and permits in a reasonable and cost-effective timeframe. To quote one of the corporate real estate executives from New Jersey, with whom we met, "It just takes too long to get in the ground in Pennsylvania."

Our experience with the survey confirmed our impression that the perception of the permitting process in the Commonwealth of Pennsylvania was having a significant impact on our potential to attract investment. In response, we organized a subcommittee of PMEDC, known as C.A.R.E. (Citizens Against Regulatory Excess), for the purpose of generating awareness of the problem, mapping out an action plan and becoming proactive in an effort to effectuate change. Since 2011 more than 300 people have participated in programs sponsored by CARE pertaining to streamlining the permitting process.

CARE and our volunteers have enjoyed a modicum of success in raising awareness of the issue. Our interaction with a number of municipalities has resulted in incrementally improving the

experience of some specific projects. We have established a dialogue with the regulatory community in order to build a common understanding of the problem and the need for change

We have publicly supported initiatives taken on by the Monroe County Planning Commission to implement uniform subdivision and land development ordinances (SALDO) on a multi-municipality and regional basis and worked cooperatively with them to delineate the positive benefits that their initiatives have had on business growth and job development. At numerous levels we have engaged our legislative delegation and have been involved in providing input and comment on various initiatives within the state legislature.

But the problem persists. On a daily basis we confront examples that require us to seek better solutions within the permitting process in order to assure job growth and prosperity for our region and the Commonwealth of Pennsylvania.

Recently, a small firm developed a 2-acre site within PMEDC's business park. The proposed building was a small, 7,000 square-foot facility. By the time the company achieved their final approval to commence construction they had expended more than \$130,000 in engineering, fees and permitting costs...which was considerably more than the cost of acquiring the land. It is likely that, had the principals of this firm understood the potential costs of permitting the site, they would not have pursued the project.

Over the last four years, we have seen projects that could have created many jobs for our community select sites in New Jersey due to time-consuming and onerous municipal approval processes. A specific example is a case where a manufacturing firm desired to purchase a vacant existing building in a manufacturing zone where their proposed use was permitted by right according to the zoning code. However, the township's ordinance also allowed for a potential conditional use hearing, which they exercised. When confronted with an additional 90-to-120-day process, compared with the opportunity of obtaining an immediate occupancy permit from a municipality in New Jersey, the company determined to forgo the conditional-use hearing process and moved to New Jersey.

The examples I have provided you with today are real-world. For our collective futures and those of our children we need to pull together to address this problem and enhance Pennsylvania's reputation as an excellent place in which to do business.

Let me turn the rest of our time over to Chuck Leonard, Executive Director of PMEDC.

My name is Chuck Leonard. I presently serve as Executive Director of PMEDC in Monroe County, Pennsylvania, and I have spent my entire professional life within the state of Pennsylvania totaling more than 35 years; first in Harrisburg then in Williamsport and finally in Monroe County. I am a Past President of PEDDA and I am presently the Chairman of PEDDA's Permitting and Regulatory Reform Committee.

Pennsylvania's permitting process has become a significant impediment to successful economic development and small business growth. Pennsylvania is losing investment as a result of complex rules, multiple agency reviews and disparate requirements across municipalities.

Our process is so lengthy and expensive that medium to small businesses are unable to build their own equity by developing real estate, and large firms are encouraged to seek out alternative locations where the process is more efficient and less time consuming. Michael Baxter already has identified some examples of the problems we have witnessed in our community.

The following is a list of permits and approvals that must be pursued or obviated in the process of developing real estate within the Commonwealth of Pennsylvania.

Local Approvals and Permits

1. Subdivision and Land Development Plan Approvals
2. Zoning Approvals
 - a. Zoning Variances
 - b. Conditional Use Approvals
 - c. Special Exceptions
 - d. Rezoning
 - e. Substantive Challenges to the Validity of the Zoning Ordinance
 - i. Challenges brought before the Zoning Hearing Board
 - ii. Challenges brought before the Governing Body (the Curative Amendment Process)
3. Storm Water Management Plan Approvals
4. Sewage (Act 537) Approvals
5. Building Permits
6. Uniform Construction Code Compliance Process

State Approvals and Permits

1. NPDES Permits for Discharges of Storm Water Associated with Construction Activities (Federal requirement delegated to DEP)
2. Water Obstruction and Encroachment Permits (e.g. Federal Chapter 105 permits per delegation agreement with DEP)
3. Sewage (Act 537) Approvals
4. NPDES Permits for Discharges of Sewage and Water Quality Management (Phase II) Permits
5. Public Water Supply Permits
6. Pennsylvania Historical and Museum Commission (PHMC) Review
7. Pennsylvania Natural Diversity Inventory (PNDI) Review
8. Highway Occupancy Permits

Federal Approvals and Permits

1. Section 404 Clean Water Act Permits
2. National Environmental Policy Act (NEPA) Review
3. Endangered Species Act Review
4. MS4 compliance (Municipal Separate Storm Sewer Systems - for certain communities)

Other Permits

1. Discharge/extraction permit from Basin Commission (>10,000 gpd).
2. Approval of "Industrial" storm water permits.
3. Miscellaneous approvals

Please have a look at the provided flowchart detailing the current subdivision and land development approval process as is presently driven by the Municipal Planning Code. If there is any misunderstanding pertaining to why a company from outside of our state would find our process onerous I believe that this flowchart answers the question. Note that the MPC, if followed to the bitter end, allows for a permit timeframe of 540 days! But this is only part of the story. Each of the approvals listed above has its own process that can induce delay, discourage development and, ultimately, deter the creation of jobs for Pennsylvanians.

To a company seeking a new site, the cost and time delay that this list can cause often appears overwhelming. It is not enough to suggest that all states have permitting problems that cause delay to development projects. Some states with which we compete for investment have made significant changes that have helped them expediting the approval of job creating developments.

Rationalizing all of these disparate requirements into a streamlined efficient permitting initiative appears impossible. However, there are a variety of tweaks and improvements that can be made and will contribute to the incremental improvement of Pennsylvania's process. (And... Other States have done it ... notably Rhode Island and New Jersey).

Over the years, PEDDA has been actively engaged in a variety of initiatives targeted at reforming the permitting process. We recognize that there are many stakeholders that have an interest in any change that might be implemented.

Three years ago, the Pennsylvania State Planning Board of Pennsylvania's Department of Community and Economic Development convened a task force that included a broad cross-section of stakeholders including municipal officials, developers, regulators, appropriate state agencies, and others, including PEDDA, for the purpose of reviewing the permitting process as delineated by the Municipal Planning Code. A detailed analysis and survey preceded the formation of this task group and provided the empirical basis for the commonly held belief that our burdensome permitting process in Pennsylvania is broken.

This task force, in spite of many strong disagreements among the participants, generated a number of excellent suggestions that the legislature should support. If pursued vigorously, these reforms could literally reduce the permitting process in Pennsylvania by months... possibly many months. We urge you to review these recommendations and consider their implementation. I have provided the “Recommendation Summary Matrix” from the draft report of the Permitting Task Force in addition to our written comments. Included, you will find a revised flowchart representing the new process timeline in the event the recommendations from the study are adopted. The benefits of reform seem eminently clear in this example (540 days maximum to 195 days!).

It is time for Pennsylvania to change the permit review paradigm from one of a “back and forth” exchange of engineering plans and enforcement, to “compliance assistance.” This is not a policy that can be implemented independently by the Department of Environmental Protection (DEP) or PennDOT... It must become the policy of the Assembly and the Administration.

PEDA has on many occasions over the years supported increasing funding to assure adequate staffing at the variety of permitting agencies but particularly DEP and PennDOT. Adequate staffing is critical to the efficient administration of the permitting process. We must remember that a clean and efficient permit issuance is often the first defense against disruptive lawsuits from those elements that might not be receptive to growth.

We applaud the successful implementation of Penn Dot’s online permit review process. We are hopeful for similar success at the Department of Environmental Protection.

As we work together to improve the climate for investment and job creation within the Commonwealth of Pennsylvania we urge that cautious consideration be given to balancing opportunities for public participation and transparency, on one hand, and the rights of property owners and investors, through the zoning code, on the other. All of the permitting processes that we have mentioned have a public participation process. Some of them already require public hearings. Any initiative to add an additional public hearing or other mechanism to provide for more opportunities for public participation is redundant and will add time and delay to an already burdensome process.

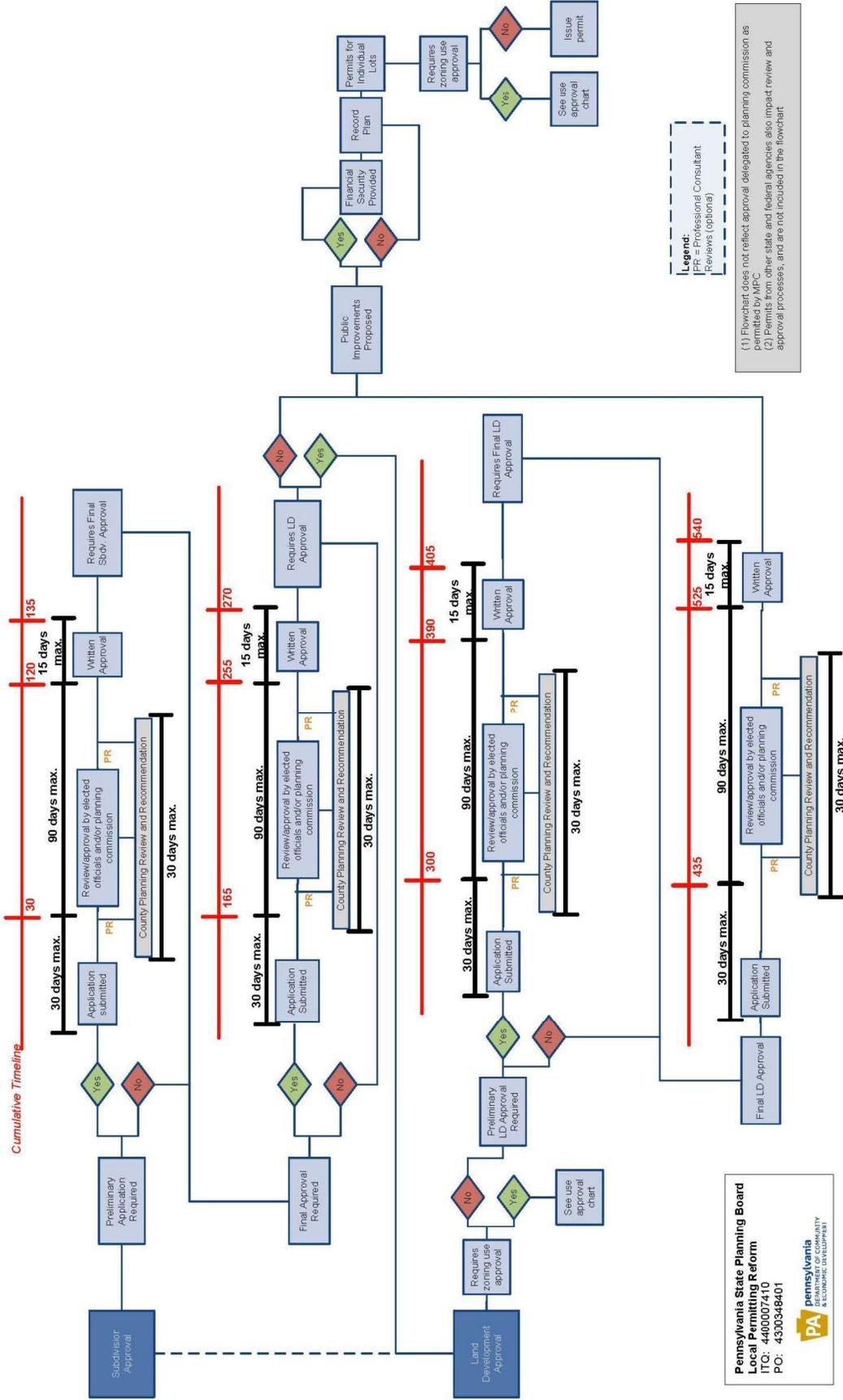
If we can be successful in reforming permit approval in Pennsylvania and reducing the time it takes for investors and projects to achieve project commencement, we all stand to benefit.

Empirical analyses have found significant positive benefits to communities where permit acceleration takes place and adverse economic impacts for areas that have slow and inefficient permitting protocols. A detailed study of the permitting process’ impact upon development conducted by the American Institute of Architects some years ago delivered the following findings, among others:

- A three-month acceleration in permit approval on a 22-month project cycle would make a project more financially attractive and could determine whether the project is undertaken at all.
- Higher rents for all tenants are caused by permitting delays.
- Improving permit processes can attract investment from areas outside a local community.
- Accelerating the permitting process can permanently increase local government revenues.
- Increasing construction spending caused by more efficient permitting processes will provide broader economic benefits.

We wish to thank you for the opportunity to be with you today. We are hoping as you review your plan of action that we might be included in further discussions. Thank you.

Current Subdivision and Land Development Approval Process

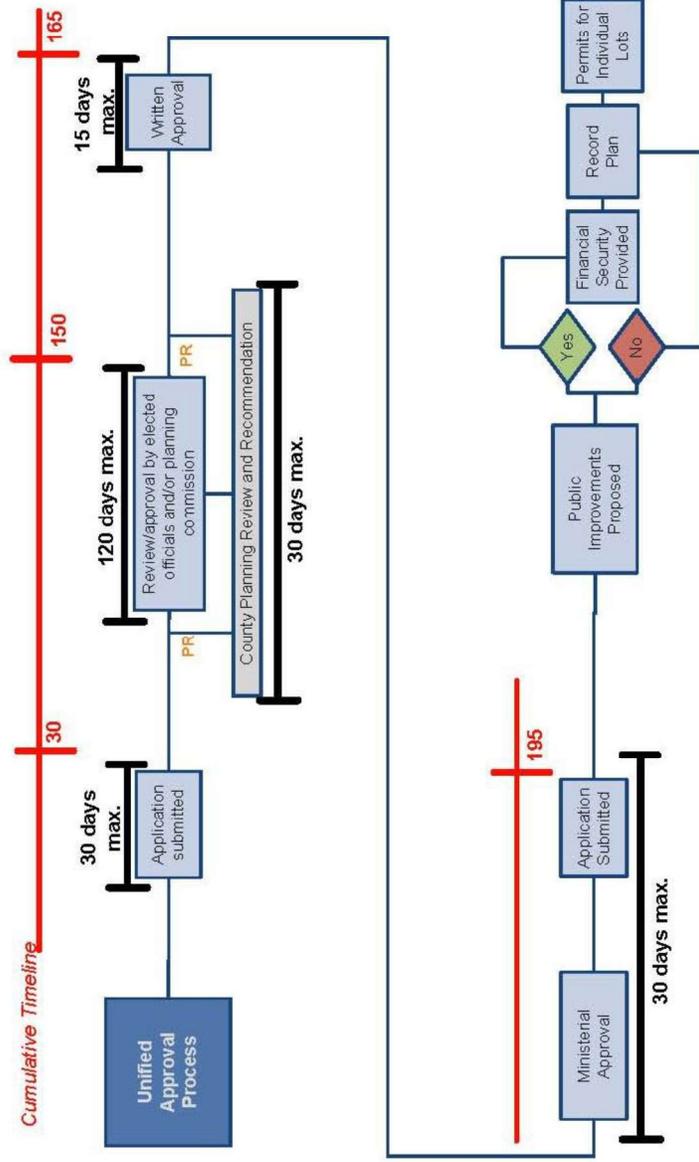


Pennsylvania State Planning Board
Local Permitting Reform
ITC: 44007470
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PA pennsylvania
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

RECOMMENDATIONS SUMMARY MATRIX				
RECOMMENDATION	EXPLANATION	ISSUES ADDRESSED	ACTION	
REQUIRES LEGISLATIVE CHANGE	Provide Statutory Authorization of Unified Development Ordinances (UDO) and a Unified Approval Process (UAP)	<ul style="list-style-type: none"> • UDO = a single ordinance that contains both zoning <i>and</i> subdivision and land development regulations. • UAP = Intended to establish a consolidated approval process; majority of issues currently considered separately are combined into a single process. 	<ul style="list-style-type: none"> • Consolidates development regulations to simplify, improve, and ease understanding. • Consolidates review and approval procedures. • Reduces the need for cross-referencing. • Reduces instances of conflicting or overlapping regulations or procedures. 	<ul style="list-style-type: none"> • MPC amendment would be necessary to authorize UDOS and UAPs.
	Expand Authority of Specific Plans	<ul style="list-style-type: none"> • Plan for a site or area that details most aspects of development - type, intensity, design, infrastructure, etc. • Development consistent with Specific Plan gets fast track to final approval. 	<ul style="list-style-type: none"> • Recognizes that municipal authorities and state agencies do not have the same statutory approval time constraints. • Can streamline approvals by working out major issues prior to development approval. • Provides predictability for developers who will know where and what type of development is preferred. 	<ul style="list-style-type: none"> • MPC amendment would be necessary to expand use of a Specific Plan into all municipalities and to include residential development.
	Provide Statutory Authorization of Sketch Plans	<ul style="list-style-type: none"> • Developer's conceptual design of end-project. • Does not include detailed engineering, 	<ul style="list-style-type: none"> • Allows developers to take high-level "litmus test" of project's appeal before expensive, detailed plans are designed. • Offers means of reaching early agreement on concept. • Provides predictability that encourages private investment with "buy in" from local officials. 	<ul style="list-style-type: none"> • MPC amendment would be necessary to enable the use of Sketch Plans without vesting legal interest.
	Provide for One Substantive Review Step	<ul style="list-style-type: none"> • MPC authorizes same approval process for both preliminary and final development plans. • Municipality requires extensive engineering at preliminary and final approval w/o substantive differences between them. 	<ul style="list-style-type: none"> • One substantive, detailed review and approval, followed by "ministerial" or administrative approval, will substantially reduce approval time. 	<ul style="list-style-type: none"> • MPC amendment is needed to define the new process and terms. MPC amendment will require date by which local ordinances need to be updated. • Local official/public education will be necessary.
RECOMMENDATION	EXPLANATION	ISSUES ADDRESSED	ACTION	
STREAMLINED OPTIONS (NO LEGISLATIVE CHANGE REQUIRED)	Promote the Use of Tiered Reviews	<ul style="list-style-type: none"> • Tiered Reviews provide for developments that meet certain thresholds to be subject to fewer steps and fewer the reviews in the approval process. • MPC currently allows for streamlined approvals with tiered or scaled reviews. 	<ul style="list-style-type: none"> • Tiered Review improves speed and efficiency for developments that are small or have low impacts. • Frees up time for local government to focus on larger development issues. 	<ul style="list-style-type: none"> • Although Tiered Review is currently authorized in the MPC, additional training and education would expand its use.
	Promote Expedited Review Options Using Third-Parties	<ul style="list-style-type: none"> • Allows for an optional expedited process when requested by the developer or applicant. • Expedited review is done by a consultant that is pre-qualified by the municipality and is outside the "normal" review process. • Review is paid for by the developer/applicant. 	<ul style="list-style-type: none"> • Provides additional capacity and expertise. 	<ul style="list-style-type: none"> • A larger-scale jurisdiction or regional agency with training capabilities could implement and better manage a Third-Party Certification Program. • DCED should provide training.
	Promote the Use of Hearing Officers	<ul style="list-style-type: none"> • Local government-appointed Hearing Officers can be a member of the Board or an independent attorney to listen to cases for the Board. • Can render a decision if it has been delegated to them or make a record and findings for the Board to act on. 	<ul style="list-style-type: none"> • Can reduce approval time by eliminating need to assemble public bodies. • Can provide capacity or expertise that may not exist among a lay Board. • Can improve process efficiency. 	<ul style="list-style-type: none"> • Additional training and promotion of this option should be developed by DCED to expand municipalities' understanding and the use of Hearing Officers.
	Promote Multi-Municipal Cooperation	<ul style="list-style-type: none"> • Multiple municipalities by Intergovernmental agreement can create a single, shared process and structure for development submission, review, and even approval. • Authority already exists under PA Intergovernmental Cooperation Law. 	<ul style="list-style-type: none"> • Cooperation between multiple municipalities on development submission reviews can result in a more efficient, uniform, predictable, streamlined, and inviting environment for private-sector investment. • Shared expertise can save time and money for local governments and developers. 	<ul style="list-style-type: none"> • Voluntary model can be explored. • Training/education should be provided by DCED.
RECOMMENDATION	EXPLANATION	ISSUES ADDRESSED	ACTION	
MULTI-AGENCY REVIEWS	Establish Joint, Local/State Multi-Agency Reviews	<ul style="list-style-type: none"> • Establish Joint Local/State Multi-Agency Reviews convened for projects that meet prescribed thresholds. 	<ul style="list-style-type: none"> • Would coordinate approvals and establish agreed-upon milestones from various state agencies and local governments to advance development approvals. • Coordinated approvals increase efficiency and establish common understanding among stakeholders. 	<ul style="list-style-type: none"> • Could take the form of an executive order, administrative directive, or an interagency initiative. • Could be initiated and facilitated at the county level. • State may define criteria for engaging the process, such as developing a Quick Business Plan advanced to the state and tied to the Comprehensive Plan.

Proposed Unified Approval Process



Legend:
PR = Professional Consultant Reviews (optional)