

LAND DEVELOPMENT PERMITTING IN TALLAHASSEE, FLORIDA: A TWO-TABLE PERSPECTIVE ON PLANNER'S PREPARATION AND PERSUASION

Nursen Kaya

Postdoctoral Research Assistant
Department of City and Regional Planning
Izmir Institute of Technology
Izmir 35350 TURKEY
Voice: +90.542/3121633
e-mail: nursenkaya@iyte.edu.tr

Bruce Stiffl

Professor of Urban and Regional Planning
Florida State University
Tallahassee, FL 32306-2280 USA
Voice: +1.850/6448522
Fax: +1.850/6454841
e-mail: bruce.stiffl@fsu.edu

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Abstract: Urban planners are often viewed as weak voices of reason in a violent sea of power responsive to speculators, developers and business interests. Planners' influence seems tied to their ability to command information and to foster consensus among interested stakeholders. Indeed, theories of planning in the past twenty years have focused on planners adoption of strategies for avoiding political opposition through collaborative behaviors. Collaboration may, however, be viewed as a negotiated process in which success depends on the ability of the planner to predict, understand, and hold stable the priorities of the agencies and firms with which they work. This is frequently problematic.

Planners bargain at two tables. That is, they must negotiate with adversaries/external organizations while they also negotiate with factions within their own organizations to determine positions. Such two-table circumstances often result in unclear goals for planners, who are also constrained by statutes and other legal impediments to the exercise of public authority. Planners may have difficulty effectively defining whose interests they should be serving. They often have unclear authority, with final adoption of the agreements they negotiate requiring approval of elected or appointed collegial bodies whose views at the time of the ratification decision may be hard to predict.

The paper is based on research examining land permit review processes of the City of Tallahassee, USA. We aim to improve our understanding of whether planners enter permitting decisions with the knowledge they need to negotiate effectively, and are influential in steering applicants toward desired objectives. The research involves general documentation of land permit review programs and procedures in the community of 150,000, together with detailed analysis of 6 case studies of land permit review, including small development site plans, subdivision plat filings, planned unit development applications, zoning variance application, and sign ordinance variance applications. In each case, after review of formal applications and file documents, researchers observed public meetings of planning staff and applicants, internal agency staff meetings, and interviewed staff, applicants and interveners.

Findings assess the effectiveness of planners in managing the two tables required to negotiate land development permits, point toward the impact of the second table in facilitating or limited the success of planners in achieving city policies, and suggest operational procedures that might help planners to better serve city policy.

Keywords: Permitting, Planning permission, Land Regulation, Negotiation

Introduction

Urban planners are often viewed as weak voices of reason in a violent sea of power responsive to speculators, developers and business interests. Planners' influence seems tied to their ability to command information and to foster consensus among interested stakeholders. Indeed, theories of planning in the past twenty years have focused on planners' adoption of strategies for avoiding political opposition through collaborative behaviors. Collaboration may, however, be viewed as a negotiated process in which success depends on the ability of the planner to predict, understand, and hold stable the priorities of the agencies and firms with which they work. This is frequently problematic.

The City of Tallahassee, Florida, is a fast-growing state capital with land area of 96 sq. miles and population of 150,000. Its 20.1% population growth in the decade of the 1990s places it second in population growth rate among the ten largest Florida cities. The city's 25.3% increase in households in the 1990s also placed it second among the ten largest Florida cities. In 2000, Tallahassee had government expenditures of \$1,437 per capita (third among the ten largest Florida cities). (U.S. Bureau of Census 2000) The city government processes land development and building permits for approximately 1500 residential units and commercial projects each year, involving applicant fees in excess of \$5 million (Herman and Favors 2003). In recent years, developers and city leaders have expressed frustration with complexity of the regulatory process, length of time required for review in many cases, consistency of decisions, and associated costs (Herman and Favors 2003).

The current study seeks to understand Tallahassee's process of development review from the vantage point of permit agency staff, in order to understand how the formal requirements, organizational context and multi-objective nature of governmental priorities influence permit program effectiveness and efficiency. We aim to improve understanding of whether permit agency staff enter permitting decisions with the knowledge they need to represent city interests effectively, and whether they are influential in steering applicants toward desired objectives. We also seek to assess whether the local government backs up its permit staff once permit terms are agreed to by the staff and the developers. The hope is to suggest professional work patterns that hold promise for enhancing staff's ability to promote reason in plan making and implementation.

Permit staff are often likened to line-level adjudicatory officers, responsible to determine whether a given proposal does or does not meet the requirements of the Land Development Code (Tallahassee Ordinance No. 04-O-100 (2004)). The reality is more complex and subtle. Staff are helpful in guiding applicants to understand the regulations and to prepare applications that are likely to be seen as permissible. They may offer advice on a wide range of matters in response to applicant questions. They manage processes for funnelling regulatory input and guidance from a broad group of other city agencies. They administer settings for giving voice to citizen and stakeholder opinion. And, when applications are appealed or transferred to other decision venues, they provide decision support to the responsible elected or appointed officials.

The research involves general documentation of Tallahassee's land development permit review programs and procedures, analysis of six land permit review case studies and brief reporting of eight additional cases. The cases reviewed include small development site plans, subdivision plat filings, planned unit development applications, zoning variance applications, and sign ordinance variance applications. In each case, after review of formal applications and file documents, researchers observed public meetings of planning staff and applicants, and internal agency staff meetings. We also interviewed staff, applicants and other involved individuals.

Our analysis underscores the complexity of the land permitting context: in terms of the number of actors involved, the diversity of projects proposed, and the diversity of objectives under consideration. We see the permit staff as facing a sometimes ill-defined set of responsibilities with multiple avenues to be perceived as having failed. Overall, we believe that the extent to which staff succeed is a tribute to their preparation and diligence, and to the well administered structure within which they work. Our recommendations suggest minor modifications in the City's permit processing procedures. Broader findings suggest that the potential for staff success in the land permitting context is tied to fuller appreciation of the role of permit staff as consensus builders within government and to their needs for well articulated municipal priorities.

Two Tables

Permit staff who seek to represent local governments in discussions with private sector petitioners engage in various behaviors, often including those of negotiator and mediator (Forester 1987). In working with permit applicants, in addition to enforcing regulatory provisions, they often attempt to influence applicants into greater conformance with government policy directions. In doing so, they are negotiators. In helping applicants to respond to demands of neighbors and other stakeholder groups, they may adopt behaviors resembling those of mediators. Both of these groups of behaviors may be thought of as taking place at an inter-organizational bargaining table at which the local government is one actor, the permit applicant is a second, and there may be any number of additional actors representing other stakeholders.

Permit staff may also negotiate or mediate with factions within their own governments. Various administrative sub-divisions in the government may have differing views of what should happen in a given instance. Sometimes this is because of different spheres of operation (e.g. fire v. occupational safety), but it also may reflect different professional or political orientations (e.g. general counsel v. environmental protection). In addition, input from elected officials or from oversight bodies may not coincide directly with the mandates of previously enacted regulations. The process of consensus building among components of the local government may be thought of as an intra-organizational bargaining table at which the permit agency is one actor, other executive agencies are other actors, and there may be additional actors representing elected officials or oversight bodies.

Such two-table circumstances often result in unclear goals for public agency representatives (Colosi 1983, 230), who may also be constrained by statutes and other legal impediments to the exercise of public authority. They may have partial authority, with final adoption of the agreements they negotiate requiring approval of elected or appointed collegial bodies whose views at the time of the ratification decision may be hard to predict. As a result, decisions are often delayed and may not maximize goal achievement. (Stiftel 2001)

Two-table contexts are not unique to government. They may be seen in negotiations involving all complex organizations and even in some simple ones where individual or informal objectives, or at least perceptions of them, are at odds with formal organizational ones or where the strategic implications of organizational objectives are subject to disagreement. Walton and McKersie (1965, 281-351) coined the concept of two-table negotiations in their landmark study of labor management disputes, contrasting external conflict with the internal conflicts which often accompany it among both management and rank and file workers. In the forty years since Walton and McKersie voiced these ideas, a generation of scholars have documented and elaborated the phenomenon. Negotiations involving complex organizations are described as layered (Ancona, Freidman and Kolb 1991, 155-183; Dilts, Karim and Rassuli 1990, 49-60), involving both external and internal dimensions (Fischer 1989, 37-41; Simkin 1986; Maggiolo 1971) and boundary spanning (Pruitt 1994; Hunter and McKersie 1992, 319-330; Wall 1977), subject to role conflict on the part of negotiators (Pruitt 1994; Adams 1976, 1175-1199), and to hierarchical control expectations (Kenny and Kahn 1989; Lax and Sebenius 1986).

At the same time, government agencies face unusually difficult tensions between external and internal conflicts. Goal setting in government is problematic in ways that the private sector seldom suffers from. Authority may be divided among several or many agencies, or within an agency between hierarchical leadership and collegial oversight bodies (such as elected or appointed commissions or boards)(Sullivan 1984, 34). Government agencies may view their 'adversaries' in non-adversarial terms as citizens, taxpayers, and landowners, confusing their objective set even further. Negotiators representing public agencies often lack the ability to speak with certainty about what their agency will or will not do, having to seek ratification from those with formal authority. Indeed, they sometimes find that the collegial body that has formal authority may later want to divorce itself from the proposed agreement for emerging political reasons and may do so in ways that chastise the negotiators. Private entities bargaining with government agencies have the luxury of privacy of their strategies, while their public counterparts find their own tactics fully described in the morning newspapers following a meeting which is open to the media by requirements of law or as a result of requests made under freedom of information requirements (Dukes 1996; Schneider 1988).

In his widely-cited study of international conflict, Putnam (1988) applies the two-table concept to international treaty negotiations. At the national level, "domestic groups pursue their own interests by pressuring the government to adopt favorable policies and politicians are seeking power by constructing coalitions among

these groups" (p.434). At the international level, "national governments seek to maximize their own ability to satisfy domestic pressures which minimizing the adverse consequences of foreign developments" (p. 434). According to Putnam's analysis, simultaneous discussions at domestic and international "tables" are subject to reverberations within domestic politics which make the two levels dependent on one another. Alliances between internal factions in one country with like-minded factions on the opposing side may lead to further difficulties in keeping tactical information private and in maintaining cohesiveness behind positions taken. Patterson (1997) uses this form of analysis to explain policy shifts that occurred during the Uruguay Round of GATT¹ talks and Paarlberg (1997) shows cross-national faction coalitions to have been instrumental in the outcome of agricultural policy reforms in the U.S. and Europe during the early 1990s. Others have examined the role of public opinion in constraining government behavior in international negotiations, even suggesting that the more difficult role for international negotiators relates to their inter-relationship with domestic constituencies. (Trumbore 1998). Mo (1995) goes on to suggest that savvy international negotiators attempt to manipulate public opinion in order to exert pressure on their adversaries. These applications of two-table thinking to the international context reveal the considerable role that public and stakeholder group opinion plays in government agency negotiations and can be transferred to the domestic government context.

The world of the urban planner is one of constant tension between internal and external tables. Planners negotiate city plans amidst an interplay of agencies, stakeholders and neighboring jurisdictions, policies with other government agencies, permits and site plans with petitioners, exactions with developers and partnerships with both sister governments and private firms (Healey, Purdue and Ennis 1995; Forester 1987; Blakely 1994). In each of these contexts, the planner walks a tightrope between the often ambiguous directives of his or her agency and the conflicting interests and pressures of adversaries, intervenors, and interested publics.

The planner-negotiator's effectiveness at balancing the tension of internal and external tables will depend on many factors. Central among these will be:

- (1) clarity of objectives agreed upon by the jurisdiction or agency;
- (2) planner-negotiator's authority to commit the jurisdiction/agency;
- (3) degree of process control held by the planner-negotiator;
- (4) capacity of the planner-negotiator to control information flows;
- (5) existence and significance of statutory advantages given to petitioners and intervenors;
- (6) planner-negotiator skill and experience;
- (7) agency workload and resources; and
- (8) divergence of interests between representatives and agencies.

Clarity of Objectives: Public agencies are multi-objective organizations, often unable or unwilling to systematically prioritize among goals for reasons including lack of understanding of issues among leadership and purposeful obfuscation to minimize political fallout of explicit choices (Lindblom 1959). Even when priorities are known to agency leadership, it may not be possible or practical to explain these to planner-negotiators in sufficient clarity to guide negotiations. Most unsettling from the planner-negotiator point of view, is that sometimes when priorities are known and are communicated, decision-makers may later reverse priorities in response to changed characteristics of the political environment. But, sometimes, it is the planner-negotiator who is the source of the difficulty: agency leadership may know or may be capable of describing priorities, but the planner-negotiator may not do sufficient internal homework to discover or fully understand these.

Authority to Commit: Planner-negotiator authority is often limited. Processes for ratification of agreements may not themselves even be explicit. Upcoming changes in administration or future elections may mean that the agency leadership itself may not be around to implement proposed agreements. Representatives of other parties understand that the planner-negotiator cannot ensure ratification of the agreement by commissions or agency leadership or implementation by future administrations with the result that adversaries are reluctant to give up position in exchange for weak promises of *quid pro quo* on the part of the agency. Other parties may even try to bypass the planner-negotiator by seeking direct communication between their own leadership and the agency/jurisdiction leadership, potentially leading to assumption of authority by leadership.

Process Control: Negotiations may or may not be informal parts of larger processes that can not be controlled by the planner-negotiator, leaving petitioners and intervenors with few assurances that even the process will be predictable. Lay boards and commissions, court judges, and agency leadership all may issue determinations that

¹General Agreement on Tariffs and Trade

alter the process or set aside what were claimed to be fixed procedural steps. The more routine the procedural landscape, the more control over it which rests with the planner-negotiator, the more likely that other parties will trust the planner-negotiator to be able to deliver on promises.

Information Control: Parties may be unwilling to reveal information unless they have reasonable assurances that this information will be treated confidentially by those they reveal it to. Agency planner-negotiators, working as public employees and subject to freedom of information laws, open meetings laws and other intentionally democratic practices may have difficulties providing such assurances; indeed they may have explicit statutory prohibitions against such confidentiality. If information is critical to achieving successful negotiated outcomes, as the negotiation literature often maintains it is, lack of information control by public planner-negotiators may undermine negotiation effectiveness.

Statutory Advantages to Petitioners/Interveners: Many laws and practices exist which are intended to level the playing field between government, which is perceived as powerful, and citizens, who are perceived as weak. Eminent domain condemnation procedures, permitting procedures and other formal processes may contain provisions limiting the time a government agency may have to respond to a petitioner action, awarding court costs to petitioners as a matter of course, or otherwise limiting the discretion of the government agency. Obviously, although often justifiably, such provisions weaken the planner-negotiators ability to obtain the outcomes his or her agency wants.

Planner/Negotiator Skill and Experience: Negotiation requires both procedural and substantive knowledge. Certain personality traits may also contribute to effectiveness. Needless to say, the more experienced the planner-negotiator the more effective he or she is likely to be. (Shaw 1988)

Workload and Resources: Government agencies are often under immense pressures of caseload and often operate under budgets which are insufficient to permit the fullest attention to detail, both of which can reduce negotiation effectiveness (Sipe and Stiffler 1995).

Divergence of Interests: Planner-negotiators may have interests of their own which diverge from those of their agencies. These may include ideological interests or interests in demonstrating success as employees or as professionals which require behaviors that do not directly correspond to those that are most likely to achieve the objectives of the agencies they represent.

Two-table theory suggests that land permit agency staff are in the midst of a complex combination of interactions among external and internal actors that make it difficult for the staff to know exactly what objectives they are supposed to be working toward, what priority to assign to each of these objectives, how far they can and should go in imposing their objectives on petitioners, and how to cope with challenges that arise not only from petitioners and intervenors, but also from sister staff and from elected and appointed officials within their jurisdiction. Of course, not all these pressures will be significant in every permit application review. Effective permit agencies will have developed procedures and guidelines that shield line staff from the most common two-table pressures.

Land Development Permitting in Tallahassee

Tallahassee's land development follows policies of the Tallahassee-Leon County Comprehensive Plan adopted in 1990 and regulations set forth in the city's Land Development Code (Tallahassee 2004). The system is widely seen as among the more complex in Florida, involving separate reviews for concurrency, subdivision, site plan, environmental features, building permitting and occupancy. The present study is focused on the subdivision and site plan review processes, which use six independent review tracks, depending on the status of the project as subdivision or site plan, the zoning district involved, and size of proposed development (see Tables 1 and 2).

As would be expected from the overall high rates of growth, the amount of permit activity is substantial. In fiscal year 2003, permits were issued for 1,236 one- and two-family dwellings, 1,757 multi-family units, and 133 commercial projects (Herman and Favors 2003). The subdivision and site plan review processes that are the focus of this study represent much smaller numbers, however. In calendar year 2004, applications were made for 41 subdivisions and 103 site plan reviews. These 144 applications resulted in 120 approvals (83%) and 7 denials (5%), with 5 applications (3%) withdrawn and 18 applications (13%) still pending.

In recent years, city officials have expressed concern at the length of time required for review of applications, the complexity of the process, application costs and cost timing, consistency of reviews, and the degree to which the system facilitates attainment of urban densities. Staff have conducted studies exploring these concerns, the City Commission has held workshops discussing them, and various process changes have been adopted. (Herman and Favors 2003; 2004a; 2004b; 2004c)

Subdivision and Site Plan permitting is the responsibility of the city's Growth Management Department, including a Land Use and Environmental Services Division with responsibility for concurrency, subdivision, site plan, and environmental management reviews, as well as variances to zoning, and a Building Inspection Division with responsibility for building permitting and occupancy certificates. The Department has a staff of 73, headed by a Director, Land Use Administrator, Land Use and Environmental Services Administrator, and Senior Team Leader.

Within the Land Use and Environmental Services Division are three Development Teams with responsibility for specific geographic areas of the city: Northeast, Northwest and South. Each of these teams has five staff: two planners, one civil engineer, one engineering technician and one environmental inspector. A fourth, Senior Team, is responsible for applications from government organizations. Depending on which of the six review steps and eight tracks are appropriate to a particular application, the process may be heard by an Architectural Review Board, Planning Board, Board of Adjustment and Appeals and/or the City Commission, and it may involve participation by governmental staff from the Tallahassee-Leon County Planning Department, Public Works Department, Utilities Department, Economic Development Department, Police Department, and/or Fire Department.

The eight tracks for permit review are labeled Type A, Type B, Type C, Type D, Limited Partition, Preliminary Plat, Zoning or Sign Variance, and Zoning Amendment. Type A reviews are conducted for smaller residential and commercial developments, redevelopment of existing facilities, expansion of mobile home parks and changes of occupancy. Specific thresholds for size depend on the zoning district in question (see Table 1 for specifics). Type B reviews are for larger residential and commercial developments, and new mobile home parks; and may be required for any proposal involving unique location characteristics. Type C reviews concern new schools. Type D reviews concern creation of new historic or canopy road districts, planned unit developments (PUDs) and several categories of project given specific status under state law: Developments of Regional Impact, and Florida Quality Developments. Limited Partitions involve subdivision of parcels on existing streets up to a maximum of ten lots and certain smaller parcels on the urban fringe. Preliminary Plats involve larger subdivisions. Zoning Amendments involve proposed changes to land-use zoning.

Regardless of type, review begins with assessment of compliance with zoning conducted by GMD and, if approved, results in a Land Use Compliance Certificate. Then, with the exception of single unit residential applications, adequacy of public facilities is assessed in a concurrency review, leading to a Preliminary Certificate of Concurrency. Separately, an environmental features inventory takes place, looking for the presence of wetlands, water features, certain forest features, endangered species and sink holes. The process for the next step, site plan review, depends on type.

Type A applications are reviewed by GMD staff, with input as necessary by other city departments. It is not unusual for Type A applications to be discussed with applicants prior to first submission of an application at a "Pre-application Meeting". Once an application is submitted, sufficiency must be determined within five days; applicants have 30 days to remedy insufficiencies. A so-called "Type A Meeting" provides for face-to-face discussion between applicant and staff, after which GMD has ten days to render a decision. Should a revised plan be called for, applicants ordinarily have 90 days to submit the revision, after which a second Type A Meeting may take place. GMD staff routinely discuss Type A applications at a staff meeting one day prior to scheduled Type A Meetings.

Type B applications require review by a wider range of staff and have more formal notice and meeting requirements. These often begin with Pre-application Meetings convened by GMD. Submitted applications are distributed to representatives of four city departments that staff the Development Review Committee (DRC): Economic Development, Planning, Public Works, and Utilities. Sufficiency must be determined within five days, and once sufficiency is determined the matter is put on the meeting schedule of the DRC, with various public notice requirements. Sometimes a Post-application Meeting is held after distribution of the application to DRC members but prior to the DRC Meeting. The DRC Meetings themselves follow formal rules precluding general statements by applicants and public, but allowing questioning of applicants or applicant's agents by

DRC members. Members of the public who attend are allowed to make comments specifically in response to these questions. DRC findings must be communicated to applicants within five days following the meeting. Should a revised plan be called for, applicants ordinarily have 90 days to submit the revision. Ordinarily, GMD staff discuss Type B applications internally at a staff meeting about two weeks prior to the DRC Meeting at which they are discussed.

Type C applications for school developments are processed much the same way as Type B applications, but the DRC makes recommendations rather than decisions after which the application and DRC recommendations are acted on by the Planning Commission, a joint city-county body.

Type D applications are processed much the same way as Type B applications, but the DRC makes recommendations rather than decisions after which the application and DRC recommendations, are considered by the Planning Commission, which issues its own recommendations, and then the matter is decided by the elected City Commission.

Limited Partition Subdivision applications follow a process almost identical to that used for Type A site plans, but there are public notice requirements, and the time limits are slightly different.

Preliminary Plat applications follow a process almost identical to that used for Type B site plans.

Zoning (or sign) Variance applications not connected to site plan reviews are brought to a Board of Adjustment and Appeals after staff review by GMD.

Zoning Amendments involving changes to the land-use map follow the process used for Type D applications. Such amendments are distinguished from Deviations to development standards, involving changes in such requirements as setbacks and stormwater drainage, which are considered as part of the regular site plan review process.

Case Studies

The research team followed six subdivision and site plan review applications considered by the City of Tallahassee during Spring 2005. The cases were selected to represent the range of cases handled by city staff from simple to complex and across as many of the seven review process tracks as was feasible.

The case studies are intended to illustrate the regulatory framework at work in Tallahassee, the nature of the parties involved in the deliberations, and the issues raised in the course of permit review. Our objective is to understand the role of permit agency staff in advancing the City's goals, and the impediments that staff find that may limit their effectiveness.

Each case was followed for a minimum of three months. We reviewed the case's file at GMD, including the original application, revisions that may have been submitted, comments submitted by other City departments or members of the public, and decision notifications. We attended all public meetings pertaining to the case that took place during the period of observation, recording attendance, issues discussed, positions expressed and outcomes. And, we interviewed key actors in each case, usually including at least one representative from each party involved in the case. These interviews sought to gain understanding of what the party wanted to achieve, their reasoning, and their perspective on the reasons the case evolved the way it did.

The six cases studied are:

1. 417 East Park Avenue Condominium-Office Project Site Plan Review
2. Ooten Mixed-use Development Project Site Plan Review
3. T-Mobile/Dixis Communication Tower Site Plan Review
4. Rance Residential Subdivision Preliminary Plat Review
5. Wellington Place Planned Unit Development Rezoning and Subdivision Review
6. Elmwood Estates Limited Partition Subdivision Review

Research staff also reviewed files, attended meetings and interviewed parties concerning ten cases that are not detailed in this report, but which allowed us to gain a fuller understanding of Tallahassee's land permit review processes. These were:

7. Agustus Commons Preliminary Plat Review
8. Crawfordville Trace Preliminary Plat Review
9. Holy Word Outreach Center Site Plan Review
10. Marriott Residence Inn Site Plan Review
11. Miller's Ale House Site Plan Review
12. Rossman Car Dealership Site Plan Review
13. The Village Condominium Rezoning Review
14. Waffle House Retail Project Site Plan Review
15. Wal-Mart Stores East L.P. Sign Variance Review
16. Winchester Downtown Parking Garage Limited Subdivision Review

Case 1. 417 East Park Avenue Condominium-Office Project Site Plan Review

Case 2. Ooten Mixed-use Development Project Site Plan Review

Case 3. T-Mobile/Dixis Communication Tower Site Plan Review

Case 4. Rance Residential Subdivision Preliminary Plat Review

Case 5. Wellington Place Planned Unit Development Rezoning and Subdivision Review

Case 6. Elmwood Estates Limited Partition Subdivision Review

Findings

Tallahassee's Land Permitting System

Tallahassee has a complex land development review process. Development review is multi-faceted and can be lengthy; process requirements may evolve as a proposal develops; staff may not be in a position to advise fully on the necessary procedures until after the application has undergone initial stages of review. Most proposals are managed by seasoned consultants who understand this complex process well and are able to negotiate its turns smoothly. In some instances, however, small land owners or out of town agents may have difficulties predicting outcomes and may make uninformed choices.

The Code governing land development in Tallahassee is wide-ranging, detailed, and subject to misinterpretation. Staff and applicants alike complain that they have difficulty fully understanding the Code's many requirements, especially in light of areas that require subjective judgment. Code complexity is one of the factors leading to longer review times, as staff sometimes cannot make determinations about proposals without consulting the Code at length. In other instances, internal staff discussions or inter-departmental consultations may be required before determinations may be made.

Despite these difficulties, this process serves Tallahassee's policy goals well. Staff are expected to ensure a very wide range of code compliance issues, from stormwater runoff to traffic management, while simultaneously advancing wider objectives such as increased downtown density and job growth. The burden on staff to fully understand a very wide ranging set of requirements and objectives is substantial, yet they negotiate this burden with diligence and care, with the result that requirements are met and objectives advanced. In the wide majority of cases, this appears to take place without acrimony and without significant negative economic consequence to land developers. In some cases, developers enjoy improved designs as a result of public review and discussion of projects with staff.

GMD is organized as a code enforcement agency, with the expectation that proposals are to be reviewed and found in compliance or non-compliance. The reality is more subtle. Staff discuss proposals with land owners, developers and their agents in numerous informal settings, during which they counsel these actors about how to meet code requirements, how to structure proposals that advance city objectives, and how to effectively negotiate the permit process. These informal discussions often result in changes to proposals and/or designs as put forward by applicants.

After proposals have been formally submitted, the review process often leads to suggestions offered to applicants that go beyond the requirements of code. These suggestions may come from GMD staff, but more often originate with representatives of other City departments. These suggestions sometimes improve designs from the perspective of applicants, but alternatively, they may be adopted by applicants in the belief that doing so will cause authorities to look upon the proposal more favorably.

Sometimes City departments may disagree about suggestions, and GMD staff find themselves attempting to work through these disagreements in order to present a unified City position to the applicant. Staff sometimes also find themselves in the middle of discussions between applicants and third parties, often neighboring property owners. Since third parties can have influence: in the case of deviations, veto power; staff's judicious actions to encourage dialogue or to suggest alternatives, sometimes results in agreement where there previously was none. In this regard, staff can plan a mediation role. There is no doubt that the need to accommodate third parties contributes to delays in the review process.

From the broad view, then, GMD staff are expected to be regulators, advisors, negotiators and mediators, in some cases simultaneously. From our perspective, they seem to balance these many functions with a high degree of success, with the result that development in Tallahassee is improved significantly.

As with any process in which human judgment and creativity is at play, there is potential that outcomes of specific applications may vary as a result of the personnel assigned to a case. GMD's internal procedures seek to minimize such variation. All applications are discussed at internal staff meetings, and senior staff play direct roles in all larger and/or controversial cases. We believe that these procedures are successful; that for the most part, results would be substantially the same regardless of which staffpersons are assigned to cases.

Land Permit Review as a Two-table Process

GMD staff take part in two conceptually distinct sets of discussions concerning development permit applications. The first set of discussions involves applicants, their agents, and third parties, most often neighboring property owners. The second set of discussions consists of internal discussions within GMD staff coupled with consultations with representatives of other City departments. These "front table" and "back table" discussions have continuous effects on one another as GMD staff carry out their multiple roles as regulators, advisors, negotiators and mediators.

The formal regulatory process defines the rules under which GMD staff, applicants and third parties interact at the Front Table, at least in terms of statutorily mandated meetings. While some portion of city agency internal discussions may take place during statutorily mandated meetings, the Back Table is by and large, much less constrained. GMD staff discuss cases at internal staff meetings, by phone and by e-mail with representatives of other city departments, and during DRC meetings and other face to face settings.

Much of the function of this Back Table is to ensure that, to the extent feasible, each case is handled fairly in comparison with other cases that may have come before the City. GMD team members contrast cases with similar cases that they have considered in the past. Parallels and distinctions are sought. Collective intelligence is brought to bear on specific cases to minimize the chances that assignment of staff might influence outcomes.

The Back Table is also a place where conflicting policy perspectives are laid out. If the Planning Department thinks a proposal's urban design implications aren't the best, while GMD thinks the proposal meets code, this is recognized and debated, as was the case in 417 E. Park Avenue. If GMD thinks the parking plan could better serve walkability goals, while Traffic believes that all city requirements are met, the Back Table is where the issue is worked through, as was the case with Marriott Residence Inn. If the Police Department's safety concerns are at odds with the urban forest rules, these are discussed, as was done in Miller's Ale House.

In each of the cases cited, however, the debate among City departments took place, at least in part, with applicants present, at Front Table meetings. So, statutorily required meetings with applicants were also settings in which the City debated its own position. The result was that the City was in a weaker position to impose requirements on applicants, who could use disagreement among city departments to their own advantage. In 417 E. Park Avenue, the applicant agreed to vet its proposal before the Architectural Review Board, but knew that the recommendations of that Board would not be binding. In Marriott Residence Inn, applicant was free to

accept or reject GMD's parking design, understanding that this was not a regulatory mandate, but instead a suggestion by staff.

Involvement of the Planning Commission and/or the City Commission in permit decisions has potential to change GMD's role profoundly. We would expect that if GMD staff are seen by applicants as merely clerks who will place proposals before these appointed or elected bodies, that the influence of staff would be greatly reduced. Alternatively, if staff are seen as having the ability to predict the decisions of the collegial bodies by virtue of prior experience, then we would expect that they would retain substantial influence in discussions with applicants.

Since only three of the cases examined in this research involved review by the Planning Commission and/or City Commission, we have little evidence from which to draw conclusions about staff's influence in such cases. We do note that staff were actively engaged in considering the details of these cases, and that applicants did make adjustments to their proposals in response to staff analysis. Our impression is that staff were seen as potential allies in Commission deliberations; that other things being equal, applicants preferred to have staff recommend approval when the matter came before the Planning Commission and/or the City Commission. But, we also note that in the three cases in question, staff were supportive of the proposals in questions.

Conclusions

The Tallahassee land development permit review process is lengthy and complex, resulting in significant time delays in some cases, and leading applicants to the use of consultants familiar with local regulations. At the same time, this process is demonstrably effective in serving the City's wide range of policy objectives and in adding value to private development. The process is administered diligently and even handedly.

City permit-agency staff act in many roles: as regulators responsible to adjudicate code compliance; as advisors who help developers to craft superior proposals; as negotiators expected to champion City policies; and as mediators who help applicants to come to terms with diverse city departments and third parties.

Staff functions as negotiators in behalf of City policy are constrained by the limited settings in which they interact with representatives of other City departments. In the smallest scale cases, permit agency staff control the flow of communication from other departments to applicants, and are in a position to build consensus on the part of city agencies prior to involvement of applicants. But, in the larger or more complex cases, permit agency staff may not learn of diverse departmental views until the same time that applicants learn about them, and these disparate views are all presented to applicants, with the result that the City is less influential over the outcome than it might otherwise be.

There is potential that staff influence would be limited, when staff do not make decisions, but rather make recommendations to appointed or elected collegial bodies that are responsible to make the decisions. This doesn't appear to be the case in the cases we reviewed. Instead, applicants seem to view staff as potential allies in the debates before collegial bodies and are inclined to make changes suggested by staff in order to have staff support when their proposals are decided.

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