

*City of San Diego*  
*Assessment of the*  
*Development Services*  
*Department*

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## **I. INTRODUCTION**

MAXIMUS was engaged to perform this organizational assessment in preparation for the work of the City Council Budget Review Working Group, which will focus its attention on the Development Services Department (DSD) during preparation of the Fiscal Year 2005 budget. The decision by the City Council to examine the department was precipitated by a DSD request to increase the fees it charges to applicants (that request was approved by the City Council in May 2003), and by concerns on the part of applicants, community groups, and the Municipal Employees Association (MEA) that the department is not operating as efficiently or effectively as it should.

### **A. SCOPE OF THIS ASSESSMENT**

This assessment does not constitute a full-scale management audit. Its scope was limited by the need to complete a report in time to provide input to the Budget Review Working Group. The Consultant's charge upon undertaking this study was to produce a fairly brief report that focuses sharply on issues identified in the analysis. Owing to time constraints, this assessment has sought to identify and focus on the most critical issues raised by customers and other interested parties, and recommend measures to correct any shortcomings in the department's performance.

#### **1. Coordination with ZBMR Study**

To avoid duplication of effort, the scope of this study has been coordinated with a parallel assessment of DSD being carried out as part of the Zero-Based Management Review (ZBMR) Project, under the direction of Nonprofit Management Solutions. As a result, some issues that might otherwise have been addressed in this report will be covered by the ZBMR analysis.

#### **2. DSD's Mission**

DSD's core mission is to implement City policies and regulations consistently, apply them even-handedly, and move each project through the process as quickly as possible. If a project satisfies the City's regulations, it should be approved expeditiously. Otherwise, the applicant should be given a clear and complete statement of the changes necessary for approval. The applicant is the department's customer. Other members of the community, whether they are neighbors, environmentalists, community groups, or members of the general public have the right to participate in the approval process for certain types of permits. Those rights are defined in the regulations governing development in San Diego. Where public involvement is provided for, all relevant information about the project should be made available, and the opinions of interested parties should be fully considered.

## **B. SUMMARY OF ISSUES**

The issues identified in this assessment are summarized below. Issue identification was based largely on interviews with City Council members, Planning Commissioners, representatives of community groups, interested citizens, and applicants, as well as managers and staff from DSD and other City departments. More than 40 interviews were conducted, either in person or by phone, for this assessment. In addition, the consultant reviewed results of a mid-2003 employee survey conducted by DSD in conjunction with the Municipal Employees Association.

### **1. Applicant Concerns**

The most common applicant concerns about the development review process in San Diego are listed below:

a. Long Turnaround Time. The most frequent complaint about development review is that application processing takes too long.

b. Inconsistency and Unpredictability. Some applicants who are dissatisfied with the review process report that the following problems delayed approval and increased their costs:

- Incorrect information was provided by staff, or applicants got conflicting interpretations from different staff members, resulting in extra review cycles
- New requirements were added after multiple review cycles (late hits).
- Reviewers from different disciplines imposed conflicting conditions.
- Inspectors overruled plan checkers or required changes in work approved by other inspectors.

c. Excessive Costs. Some applicants oppose the use of the open-ended deposit account system, where the cost of processing depends on the amount of time charged to the project by DSD staff. They contend this system subjects the applicant to uncontrolled fees and creates an incentive for the department to drag out the review process to increase revenue. Concerns about processing cost are most significant for small businesses and homeowners. For most developers, review time is a much bigger issue.

d. Poor Staff Attitude. Some applicants report incidents where a DSD staff member was disrespectful, condescending, or rude.

### **2. Stakeholder Concerns**

Paradoxically, while some applicants think DSD makes the development review process unnecessarily slow and difficult, representatives of community and environmental organizations contend the department has, in certain cases, disregarded environmental

impacts, development regulations, and/or community plan policies in their zeal to move projects through the process and get them approved.

### **C. ANALYTICAL APPROACH**

As indicated in the previous paragraphs, applicants and stakeholders tend to have conflicting views of where DSD needs to improve its performance. That contradiction illustrates that perceptions of the department's efficiency and effectiveness may be influenced by an individual's role in a particular project.

The Consultant interviewed both applicants and stakeholders about their experiences with the development review process in San Diego. Many of those interviewees were selected because they had previously voiced complaints about the efficiency of the review process and/or their treatment by DSD staff. Quite often, the department has a different interpretation of the events in question. Rather than attempting to judge where the fault lies in past controversies, this study uses those cases as indicators of possible shortcomings in the system and proposes measures to minimize future problems. Specific concerns will be discussed in subsequent sections of this report.

## **II. DEVELOPMENT REVIEW IN SAN DIEGO**

Development review in San Diego is a vast enterprise involving voluminous, complex regulations, numerous specialized disciplines and large volumes of applications. In recent years, the Development Services Department has issued well over 30,000 building permits annually for projects valued at roughly \$2 billion. For Fiscal Year 2004, the department has an authorized staff 538 and a budget of \$56 million. The following sections describe the review process and the department in more detail.

### **A. REGULATORY ENVIRONMENT**

The impact of the City's regulations on development review is being addressed by the ZBMR project and is not specifically part of the scope of this assessment. However, the regulatory environment is unavoidably an issue in any assessment of DSD's performance. This report provides some background on San Diego's regulatory framework to acknowledge that those requirements can add complexity, time, and cost to the review process, even for some relatively simple projects.

The issue of regulatory complexity relates more to land use policies and regulations than to construction codes, which are essentially the same all over California. However, San Diego undoubtedly deals with bigger and more complicated construction projects than many cities, which in itself adds to the difficulty of the administering the construction codes.

San Diego's Land Development Code contains a fairly large number of base zones (about 77), but the regulations contained in those zones are mostly straightforward. The complexity comes into play through the interaction of basic zoning regulations with 13 overlay zones, 18 planned district ordinances (PDOs), and roughly 48 community plans. In San Diego, relatively simple projects, like residential additions, may require discretionary<sup>1</sup> permits such as Coastal Development Permits, Site Development Permits, or Neighborhood Development Permits that involve public notice and a hearing. When a local community is intensely interested in a project, public involvement can increase the time required to process the permit (e.g. through information requests and appeals), and the cost to the applicant. Another measure of complexity is the fact that DSD has defined more than 200 different review "templates." Each template represents a different combination of review steps that are required to approve a particular project.

The nature of San Diego's regulatory environment has two implications for the development review process. On one hand, it tends to increase the department's workload relative to the number of projects reviewed, and on the other it may account for a certain amount of applicant frustration irrespective of how efficiently the department processes an application. It can be difficult for applicants, especially those not experienced in development and construction, to distinguish between delays caused by staff errors or inaction and extended processing needed to satisfy the City's regulations. Later in this report, we will propose measures to address that issue.

## **B. DEPARTMENT ORGANIZATION**

The Development Services Department is organized into eight divisions, which are listed below with common acronyms and a brief summary of each division's responsibilities:

- Management - overall management and policy planning
- Support Services – administrative, financial, and information systems support
- Information and Application Services (IAS) – customer information and screening, limited plan check services, permit issuance, records management
- Project Management (PM) – project submittal, management of discretionary and some complex ministerial projects, single point of contact, noticing

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<sup>1</sup> There are two types of discretionary projects: [1] those that require legislative action by the City Council (e.g., zone change or general plan amendment) and [2] those that require quasi-judicial action by the planning commission, board of zoning appeals, or a hearing officer (e.g., tentative subdivision map, conditional use permit, variance, site development permit). Quasi-judicial actions involve interpretation of policies and regulations and may involve the imposition of conditions. Ministerial projects are those that do not involve discretion (e.g., approval of construction permits). Generally, if a ministerial project meets code requirements, it must be approved.

- Land Development Review (LDR) – plan review and field inspection to enforce land use policies and regulations and development standards
- Building Development Review (BDR) – plan review to enforce construction and fire codes
- Inspection Services - field inspection to enforce construction codes
- Solid Waste Local Enforcement Agency (LEA) – enforces federal and state solid waste laws and regulations; not involved in development review

The Development Services Department incorporates disciplines that traditionally are assigned to separate departments. In particular that applies to LDR, which is responsible for environmental, land development, engineering (including traffic, water and sewer), and landscape design reviews, and to BDR, which is responsible for both construction code and fire code reviews. Some types of planning reviews are still done by the Planning Department.

Consolidation of these functions into a single department was intended to facilitate one-stop service and eliminate organizational impediments to smooth processing of development applications. Few cities have gone as far as San Diego in implementing this organizational strategy to streamline development. Bringing these functions together in a single department is theoretically the best way to overcome conflicting priorities and structural impediments to effective communication and coordination in development review. The trade-off is that consolidation of review functions creates distance between some review disciplines and their associated operating departments--for example, between wastewater reviewers and the department that operations the wastewater system.

### **C. PROCESS 2000**

In addition to consolidating development review functions, the City launched “Process 2000” or “P2K,” in an effort to reduce the confusion and frustration experienced by many applicants in navigating San Diego’s complex development review process and regulations in the past. Three key aspects of P2K were:

- To institute a project management system, under which an assigned project manager would serve as a single point of contact for an applicant and coordinate processing of all permits related to that applicant’s project
- To develop a comprehensive, automated project tracking system (initially dubbed “El Niño,” and now known as “PTS”) to improve information management and enhance communication and coordination among participants in the development review process. PTS replaced a variety of manual and single departmental systems and is designed to track and manage projects across all disciplines through the entire development review and permitting process.

- To develop a comprehensive geographic information system (GIS) that would make available to reviewers on desktop computers all mapped information needed to process applications.

According to a timeline provided by the department, planning for P2K began in 1993. The Development Services Department was initially formed in 1995 with staff from the Planning Department, the Building Inspection Department, and Neighborhood Code Compliance. In 1997, the first project managers were hired for a pilot project, and engineering staff (water, sewer, civil, subdivision review, public improvements review, and land surveyor) moved to DSD. Also in 1997, fire code inspection and plan review staff from the Fire Department moved to DSD.

By 1998, project management was fully implemented for all new discretionary projects. In 1999 the project submittal team was formed. Planning was a division of the department from 1999 to 2001, but is now a separate Department. The updated land development code was adopted in 2000. Phase I of PTS was implemented in June of 2001, but the system was not implemented throughout the department until 2003. Some modules are still under development, but the most critical modules are in place. Elements of the GIS system, such as updated zoning maps, also are still under development.

As this chronology shows, DSD and the procedures used in development review have evolved over time. That evolution continues today, and some aspects of the effort that began with the initial designs for Process 2000 more than ten years ago were only recently completed or are still underway.

#### **D. OTHER CUSTOMER SERVICE INITIATIVES**

The department has adopted a variety of other practices intended to improve customer service. The following are some examples:

- Unlike San Diego County and many other cities in the region, DSD offers over-the-counter plan check for most tenant improvements and other small projects.
- DSD offers formal preliminary reviews and documents the results.
- DSD provides Saturday service for homeowners and issues permits online (SimplePermits), by fax, and by mail for projects that do not require a plan check.
- DSD makes extensive use of its Web pages to provide helpful information to customers
- DSD offers a large selection of well-designed informational handouts, and has produced videos to educate home remodelers and other customers.

- DSD recently initiated a series of meetings between staff and customers, to gain a better understanding of customer issues.

#### D. BENCHMARK COMPARISONS

One way of assessing an organization such as DSD is to compare it with other similar organizations. MAXIMUS collected information on development review organizations in four other progressive Western cities (Phoenix, Portland, Seattle, and San Jose) with levels of development activity in the same general range as San Diego. Table 1 presents selected data for those comparison cities. Some useful ratios derived from the data are shown in the lower part of the table. Data are for Fiscal Year 2002-03.

Table 1  
City of San Diego Development Services Department - Comparison with Other Cities

	San Diego	Phoenix	Portland	Seattle	San Jose
	Development Services Dept.	Development Services Dept.	Development Services Bureau	Department of Planning & Dev.	Planning, Bldg. & Code Enf.
Other departments involved in development review >>>	Planning	Planning (processes applications for land use permits)	Planning, Transportation, Environmental Services, Fire, Parks, Water	Transportation, Public Works, Fire, Water, Environmental Services	Public Works, Transportation, Environmental Services, Fire
2003 Population	1,275,000	1,395,000	550,000	572,000	925,000
FY 2003 Permit Valuation	\$ 2,005,330,000	\$ 2,250,000,000	\$ 962,100,000	\$ 1,200,000,000	\$ 850,000,000
Authorized Staff (All Dev Services)	455	407	N/A	N/A	N/A
Authorized Staff (Current Plann'g/Building)	390	348	266	275	267
FY 2003 Budget (All Dev Services)	\$ 43,688,661	\$ 41,450,000	N/A	N/A	N/A
FY 2003 Budget (Current Plann'g/Building)	\$ 34,400,000	\$ 33,816,000	\$ 27,430,000	\$ 36,000,000	\$ 21,600,000
Land Use Permits	562	995	880	660	2,500
Environmental Documents	857	N/A	N/A	N/A	N/A
New Single-Family DU	2,511	7,300	N/A	N/A	N/A
New Multi-Family DU	5,605	2,500	N/A	N/A	N/A
No of Residential Permits	9,157	N/A	5,570	N/A	N/A
No. of Commercial Permits	2,376	N/A	3,600	N/A	N/A
Number of Construction Permits (All)	32,282	35,600	41,170	23,000	32,000
Construction Inspections	181,658	277,600	165,000	80,000	227,000
Construction Inspection Staff	82	83	95	70	66
Current Pl/Bldg Budget as % of Valuation	1.72%	1.50%	2.85%	3.00%	2.54%
Current Pl/Bldg Staff per \$M Valuation	0.19	0.15	0.28	0.23	0.31
Average Valuation per Permit	\$ 62,119	\$ 63,202	\$ 23,369	\$ 52,174	\$ 26,563
Land Use Permits per \$M Valuation	0.28	0.44	0.91	0.55	2.94
Inspections per \$M Valuation	11,039	8,105	5,831	15,000	3,744
Inspections per Inspection Staff	2,215	3,345	1,737	1,143	3,439

Note: Data for FY 2003

Of the comparison cities, Phoenix was by far the closest to San Diego in terms of City population, annual construction valuation, number of permits, organizational structure, staff, and budget. It was not possible to get comparable budget figures for all development review functions in cities where review functions are scattered among several departments. Consequently, we extracted combined data for the current planning and building functions to allow for budget comparisons. Phoenix had the lowest ratio of current planning and building budget to total valuation at 1.5%, but San Diego was a close second with 1.72%. The other cities ranged from 2.5-3.0%.



This comparison suggests that DSD's overall cost effectiveness is quite good. Considering the effect of coastal zone regulations, CEQA, and local development policies and regulations on San Diego's process, it may well be the most cost effective of the cities in this comparison.<sup>2</sup> San Diego had the smallest ratio of land use permits to valuation among the cities in this sample, but that comparison is not necessarily meaningful, because San Diego consolidates multiple permit types into a single project application. Annual inspections per building inspector were substantially lower in San Diego than in Phoenix and San Jose, but much higher than in Seattle. However, as with land use permits, the numbers used to calculate those ratios may be based on different methods of classification and counting.

The information in this section provides some background on how the Development Services Department compares with development review organizations in similarly-situated cities, in terms of organization, staffing, budget, and permit volume. Beyond those broad indicators, it is hard to make meaningful judgments based on that information—in part because so much depends on the regulations being implemented by each entity. We have not attempted to compare performance measures for these cities, even where they were available, because such measures are even less amenable to reliable comparisons than the data presented here.

### **III. RECOMMENDATIONS**

Over the last ten years, the City has committed considerable resources to improving the efficiency, predictability and user-friendliness of the development review process. However, our interviews with some very unhappy applicants make it clear that there is more work to be done.

Given the sheer size of the Development Services Department, and the number and variety of projects passing through development review in San Diego, it is not possible in a brief assessment for an outsider to absorb and analyze all of the information relevant to this type of study. DSD has no shortage of detractors, but the department also has its share of letters from customers effusively praising the performance of some staff members. Trying to determine who is at fault in past cases where applicants feel they were badly treated by the department would be difficult and, for our purposes, not an efficient use of limited resources. Instead, this report focuses on strategies intended to minimize such problems in the future.

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<sup>2</sup> The 2003 budget figures do not reflect DSD's increased budget following approval of fee increases by the City Council. Everything else being equal those increases would not change San Diego's relative position in terms of current planning and building budget to total valuation.

Two themes underlie the recommendations presented below: (1) improving accountability and (2) empowering customers. Most of our specific recommendations are intended to advance one or both of those objectives. Over a period of years, the Development Services Department has adopted most of the practices generally thought to characterize the best development review organizations. Despite those efforts, DSD is not perceived in the community as a consistently high-performing organization. Recent budget strains and delays in the rollout of PTS have not helped, but a lack of tools and resources should not be a major constraint in the future. As we see it, what is needed now to help DSD reach its potential, is to improve the customer service culture of the organization by enhancing accountability throughout the department and empowering customers to hold the department and individual staff members responsible for meeting their commitments.

## **A. ORGANIZATIONAL CHANGES**

### **1. Retain DSD as a consolidated development review department**

a. Discussion. Many of the problem areas discussed in this report exist to a greater or lesser degree in other development review organizations. Over the last ten years, the City has invested a great deal of effort in creating a model development review organization and process. Though apparently making all the right moves, the Development Services Department still has many critics. In our opinion, there is no inherent reason why the DSD cannot perform up to the expectations of its customers a very high percentage of the time. Despite considerable anecdotal evidence about frustrated customers, we don't really know how often it fails to do so at present. According to the Assistant Director of DSD, about 80% of respondents to customer "pick-up" surveys report generally positive experiences in dealing with DSD. The reliability of those results is unknown, and will not be tested in this study. An independent customer survey to be conducted in the next few months by another consultant will shed more light on overall levels of customer satisfaction. Ongoing customer satisfaction monitoring is needed and will be discussed later in this report.

b. Conclusions. Some observers appear to believe that the issues surrounding DSD are so intractable they cannot be solved within the framework of the existing department. In terms of overall organization, one obvious alternative is to break up the department and return its component functions to the departments from which they came. That would represent a return to a system that proved unsatisfactory for San Diego in the past—the very situation consolidation was intended to cure. With respect to improving development review, that approach would be counterproductive.

Another possibility would be to outsource some functions of DSD. Many smaller cities, including several in San Diego County, contract for planning, engineering, and/or building safety services. Some cities contract out entire functions, while others out-

source plan checks for certain types of projects, or use consultants to assume some workload during periods of heavy development activity. Limited outsourcing might make sense to help DSD meet peak demand in some areas. However, given the volume of applications processed by the department, there is no private company on the scene that could take on anywhere near the department's entire workload. Willdan, the largest company in the state that provides comprehensive development review services (building, planning, and engineering) has fewer employees than DSD, and they are scattered over 15 locations. In theory, the City might contract with an outside entity to create a private sector version of DSD, but aside from the immense practical difficulties, it would be a huge gamble with no guarantee of success.

In our opinion, a consolidated development review department is the best overall framework for efficient and effective development review. Full-scale outsourcing is not a feasible alternative, so the most realistic approach is to identify the steps the City needs to take to realize DSDs potential as a model development review agency.

## **2. Reorganize the Discretionary Review Process So That Reviewers are Assigned Geographically**

a. Discussion. Organizing and managing discretionary project review is inherently challenging, because the needs of a given project can vary along so many dimensions, including:

- The number and types of reviews involved
- Project size and type
- Project location (e.g., in coastal zone, on a steep slope, in a planned development district)
- Permit type
- Customer type
- Level of community involvement

The Land Development Review Division alone provides the following types of reviews: environmental, planning, civil engineering, water, wastewater, geology, transportation and traffic, subdivision map checks, and landscape design. Discretionary permit review may also require input from Building Development Review, including fire code issues and fire access, and the Planning Department may need to address community plans, historic preservation, multi-species conservation, and facilities financing. Any number of other entities may also have an interest in a particular project. Some of the possibilities include community planning groups, the coastal commission, the port district, the school district, CalTrans, SDG&E, telephone and cable television companies, and other city departments such as police and parks and recreation. There are others, as well.

Because discretionary review can involve so many players, someone must have overall responsibility for managing a project to coordinate the reviews, resolve conflicts, and ensure that the work is completed on time. (Some ministerial projects also become very complicated, creating a need for project management.) Traditionally, in most cities, management of discretionary project review has defaulted to “current planning” staff, because the required permits come under the zoning or land development code. As part of Process 2000, DSD created a separate project management function to take on that responsibility and to provide a single point of contact for the customer. DSD project managers also prepare staff reports and resolutions, and make presentations to approving bodies.

Not everyone believes the project management system is working well, and we are concerned that having project management in a different division from the key review disciplines may be diffusing authority and responsibility in a way that limits accountability for outcomes. But that issue is part of a larger question about the most effective way to organize the discretionary project review process.

At present, when a new project is submitted, project submittal staff, using pre-defined templates, determine what types of reviews are needed. The project is entered into PTS, and shows up as a new project for each assigned discipline. A supervisor in each discipline then assigns the project to a reviewer. A project manager is also assigned. The advantage of this system is its flexibility in managing workloads. In theory, projects are assigned on the basis of availability and, when appropriate, specialized knowledge. (In employee surveys and in a brief questionnaire we circulated to staff, there were some complaints about unfair workload allocations.) The disadvantage is that there are no established review teams. It becomes difficult and inefficient for the project review team to meet as a group, because each reviewer (and project manager) belongs to a number of these ad hoc review teams. The number of potential combination is large and the scheduling logistics are too burdensome. Similarly each reviewer may have conflicting priorities, but since the reviewers are not all working on the same set of projects, priority conflicts are more difficult to resolve. The success of the project in meeting timelines and resolving conflicts depends heavily on the project manager, who has no supervisory authority over the reviewers. Undoubtedly, there are skilled project managers who make the system work much of the time, but the system itself has inherent disadvantages.

The opposite extreme would be a system in which each reviewer is assigned to a multi-disciplinary review team, with the team supervisor having both supervisory authority over team members and responsibility for the team’s performance. That system would provide the clearest alignment of authority and responsibility, but it would mean that reviewers from some disciplines would report directly to a supervisor from another discipline--a situation that is fraught with difficulties. Furthermore, it would still be necessary for teams to share resources in cases where a particular discipline does not

have enough staff to assign different individuals to each team. So at best, this would be a hybrid system.

**b. Conclusion.** Perhaps the best alternative to the current system is to assign reviewers in each discipline to geographic areas, in a way that allows them to work in more stable teams. (Project managers are already assigned by geographic area.) Using that approach for reviewers would alleviate some of the problems with the current system. It would facilitate more consistent team interaction and allow reviewers to become familiar with issues relevant to particular areas, including the requirements of community plans and the concerns of local communities. In the coastal zone, geography coincides with the requirement for a particular permit type (the coastal development permit), which is a further advantage. That type of synergy may be available to a lesser extent in other areas. The disadvantage in this type of system is some loss of flexibility in managing workloads, but that can be ameliorated by the way geographic areas are assigned and by having some floating staff.

Now we return to the question of whether it makes sense for project managers to be separated organizationally from the review disciplines. Project management is an integral part of the review process and we would not design the organization the way it exists today. Ideally, we believe, the project managers should be part of the same division as the review staff. Nevertheless, the kinds of organizational changes needed to integrate project managers into LDR and/or BDR would be complicated and could be detrimental to the department's performance for some time. No organizational structure is perfect. Ultimately the success of the review process depends on how well it is managed. On balance, it seems reasonable to leave project management where it is for now, while the department implements other measures recommended in this study.

### **3. Proceed with a Merger of Building Development Review and Inspection Services into a Single Division**

**a. Discussion.** Good communication and cooperation between plans examiners and field inspectors is essential to an efficient and effective building safety operation. Stories about inspectors making field changes to approved plans are commonplace in San Diego. In some cases inspectors have reportedly made negative comments to contractors about plans examiners. Obviously, that sort of comment is damaging to the department's reputation. It also suggests internal management, communication and accountability issues. This situation has existed for years, and is unlikely to be resolved as long as BDR and Inspections are in separate divisions.

It is certainly desirable for inspectors to be diligent in enforcing the code, but inspectors cannot have the authority to overrule plan checkers independently. If an inspector believes approved plans do not meet code requirements, that disagreement should go back to BDR to be reviewed. Such problems should be resolved cooperatively, but BDR must have the final say.

b. Conclusion. The department is in the process of merging BDR and Inspections into a single division. That action has been under consideration for some time, and should be completed as quickly as possible. Ideally, DSD should find a way for plan checkers and inspectors to be co-located as much as possible. Face-to-face interaction and informal information exchange may be the most efficient way to minimize conflicts between the two groups. BDR has been conducting a limited cross-training program where some plan checkers are assigned to work in Inspection Services for a period of time.

Another organizational change under consideration by the department at this time is the reassignment some site development review staff (e.g., zoning, civil engineering, landscape review) full-time to Building Safety to streamline building permit reviews. That would be another positive development.

#### **4. Consider Other Organizational Realignment: Move Project Submittal to Information and Application Services; Move Over-the-Counter Plan Check to the Building Safety Division.**

a. Discussion. If the department should decide to integrate the project management function into the review divisions, project submittal, which is now part of the Project Management Division could not stand alone as a separate division. Project submittal would fit very well into the Information and Application Services Division which is the initial point of contact for most applicants, and which issues all permits once a project is approved. Another change that seems to make sense in purely organizational terms is for over-the-counter plan check to move from Information and Application Services to the Building Safety Division, which has primary authority for enforcing the construction codes.

b. Conclusion. These realignments are less critical than the others recommended in this report. However, because the reassigned units would remain intact, these realignments could probably be accomplished with relatively little disruption. Department management should consider whether, when, and how they should be implemented

### **B. MANAGEMENT INFORMATION & PERFORMANCE MEASURES**

The project tracking system captures a tremendous amount of information on each project reviewed by the department. The system can be used in a variety of ways to manage the review process, measure performance, and keep customers informed. PTS allows supervisors to assign projects, allocate hours, and check assigned workloads of individual reviewers. Using review templates, the system establishes target completion dates. It also provides a complete history and real-time status of a project. In short, PTS is a state-of-the-art project tracking system that provides powerful tools for managing the review process in detail.

## **1. Complete the Design and Development of Management Reports and Performance Measurement Reports in PTS.**

a. Discussion. PTS makes a great deal of information available instantly to managers and supervisors in DSD. For example, it is possible to review the status of a specific project and determine what signoffs are still needed, or to look at the number of projects assigned to a particular project manager on a given day. That capability is very useful, but effective management also requires that appropriate management information be summarized and reported periodically. One important type of report involves performance measures by unit and type of activity. Another is a summary of assigned workloads and project completion rates for individual reviewers and project managers. BDR assigns and tracks workload internally by allocated project hours, which is an excellent practice. LDR and Project Management do not have access to similar data at present. Given that DSD operates as an enterprise fund, workload management and staffing requirements should be tracked closely at all times.

DSD has been collecting monthly performance measurement data for several years. Typical performance measures show the percentage of cases completed within a stated number of days for a particular activity—e.g., 80% of residential structural plan checks completed within 8 days. The percentage thresholds range from 80% to 90% (or 95% in the case of next day inspections). It is not obvious why the percentage targets were set as low as 80% for some activities. We would prefer to see the department set realistic target times that can be achieved in at least 90% of cases, so that customers have realistic expectations.

Over the last year, the design of some performance measures has been refined in consultation with the Technical Advisory Committee. One very useful addition is a measure of the number of resubmittals required before a project is approved. The time required to do a review doesn't mean much if that review is incomplete and new requirements are added in the next review cycle. We would go further and have PTS flag any project that is still in review after 3 submittals so a supervisor can investigate the situation.

The existing quarterly reports on performance measures cover something like 150 measures, and run to almost 40 pages. That level of detail is useful within divisions, but difficult for anyone else to digest. The department is working to design a much briefer summary report that presents performance data for each discipline. That report will be useful in highlighting trouble areas—we recommend it be issued monthly.

Many development review organizations prepare monthly reports on development activity for a 12-month period with comparisons to previous years. BDR provides detailed monthly data on permits and valuation by type. On the discretionary review side, there are conflicting reports circulating in the department regarding the number of discretionary permit applications received by the department over several years. That

discrepancy needs to be resolved and PTS reports designed to make the information available monthly.

**b. Conclusion.** PTS captures so much data that the information must be carefully screened and summarized to provide useful management reports and performance measurement data. DSD has done considerable work on refining performance measurements, and the new report being designed is in a more useful format. Our primary recommendation in that regard is that a summary of performance data be published monthly. The most important non-financial management reports that still need to be developed are those that would allow detailed workload management by discipline.

### **3. Complete the Software Needed to Make Project Status Information Available on the Internet.**

**a. Discussion.** One important feature of PTS that remains to be implemented is the capability for customers to check project status on the internet. That capability, which improves customer service and helps reduce staff workloads is becoming fairly common in development review organizations.

**b. Conclusion.** DSD is developing the software needed to make project status available on the internet, and will soon be ready to implement it.

## **C. TRAINING**

A well-trained staff is critical to efficiency, effectiveness and customer service in a development review organization. Training in DSD has been reduced by budget constraints over the past two fiscal years. In fiscal years 2000, 2001, and 2002, the department spent an average of almost \$900,000 or something like 2% of its budget on training costs.<sup>3</sup> The bulk of that money went for labor costs related to in-service training. In FY 2003, total training expenditures were reduced to \$579,000, and the FY 2004 budget allocates only \$40,000 for training, although that does not appear to include labor costs for in-service training. The department does not have an overall training plan, but has recently started to develop one. Some divisions do have training plans for particular purposes.

Given the limitations of this study we will not attempt to address training broadly. Rather we want to deal with training issues related to some of the most frustrating aspects of customer interactions with DSD—unpredictable requirements and multiple resubmittals. Our interviews with customers revealed a common feeling that reviewers in LDR tend to impose conditions that are unreasonable, unjustified, or amount to pointless nitpicking. In the latter category are things like rejecting plans for petty reasons such as omitting a “not-to-scale” note on a vicinity map (it is self-evident that vi-

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<sup>3</sup> At least 3% is recommended by the National Commission on State and Local Public Service (Winter Commission) as reported in *Municipal Benchmarks*, David M Ammons, Sage Publications, Thousand Oaks, 1996.



cinity maps are not to scale). In one case, a reviewer reportedly required an irrevocable offer of dedication for additional street right of way in connection with a permit for a residential addition in an older neighborhood where it was generally agreed there was no chance the street would ever be widened.

As we mentioned earlier, we don't know the circumstances surrounding some of these reports. Some may be based on the letter of the law, even if they make no practical sense. Others may reflect a lack of knowledge of the law. The following recommendations are intended to reduce the number of inappropriate requirements imposed on discretionary permit applications.

### **1. Ensure that All Reviewers and Project Managers are Familiar with the U.S. Supreme Court's *Nollan* and *Dolan* Decisions.**

a. Discussion. One applicant we interviewed applied for a permit for a new house on a canyon lot in an older neighborhood. The project required a neighborhood development permit and one of the conditions was a requirement to dedicate a wider easement for a City sewer line on his property at the bottom of the canyon. His house was not connecting to that sewer line, and had no effect on it. Assuming the basic facts are accurate, (we consider this report reliable), the dedication requirement would violate the U.S. Supreme Court rulings in *Nollan v. California Coastal Commission* (1987) and *Dolan v. City of Tigard, OR* (1994). In those cases, the Court ruled that such exactions violate the "taking clause" of the Fifth Amendment, unless they are imposed in direct response to impacts created by the project. In *Dolan*, the Court placed the burden of proof on local governments to "make some sort of individualized determination that the dedication is related both in nature and extent to the impact of the proposed development."<sup>4</sup> That heightened scrutiny applies whenever government requires any dedication of land, including easements, as a condition of development approval. According to a reviewer comment in PTS, the dedication requirement was imposed to meet City standards. Obviously, those standards cannot be applied in cases where they violate the U.S. Constitution, and the reviewer's comment did not come close to constituting an "individualized determination" that the dedication was justified. We encountered other cases where questionable dedication requirements were imposed.

b. Conclusion. There is a time-honored tradition, not unique to San Diego, of conditioning development to dedicate, or pay for, something the approving authority wants, irrespective of whether it is related to the project in question. The City should ensure that review staff thoroughly understand the legal constraints on development exactions and make the appropriate determinations before imposing such exactions.

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<sup>4</sup> From "*Dolan v. City of Tigard: The Supreme Court's Rough Proportionality Standard is Still Rough Around the Edges*," Fran M. Layton and Susannah T. French, California Environmental Law Reporter, August, 1994.

## **2. Ensure that All Reviewers, Project Managers and Members of Approving Bodies Are Familiar with the Permit Streamlining Act.**

a. Discussion. California’s Permit Streamlining Act (Govt. Code § 65920 *et seq.*) establishes procedural requirements and time limits for acting on certain types of “development permits”—specifically, quasi-judicial approvals such as conditional use permits, tentative maps, and site development permits. If the City does not act on an application within the designated time limits, the project can be deemed approved by operation of law. The Act establishes a 30-day time limit for determining whether an application is complete. Then, once the environmental determination is complete, the City has 60 calendar days to act on a project that does not require an Environmental Impact Report or 180 days to act on a project that does require an EIR. If the City fails to act within the designated time limit, the applicant has two possible remedies. The first is a civil law suit to compel action by the City. The second is to provide public notice that the project will be deemed approved if the City does not act. If that notice is given, and the City does not act within 60-days, the project is deemed approved. In cases where required hearings have been held and no action taken, the project would be deemed approved whenever the original 60-day deadline expires.

Aside from the time limits, the Act also requires that the City publish a list of all application requirements for such permits. Once an application is submitted, and meets those published submittal requirements, the City may not require additional information that was not on the list. Applicants may voluntarily waive the time limits, but the City may not require such a waiver as a condition of application, and may not disapprove an application simply to comply with the time limits of the Act.

In addition, the Act requires the City to notify applicants of the time limits established for review and approval, and of their right to distribute public notices to keep the process moving. The City needs to implement notification procedures and set up the necessary reports in PTS to track the deadlines specified in the Act.

b. Conclusion. The Permit Streamlining Act provides applicants with important protections. DSD should take steps to make sure that all reviewers and project managers are thoroughly familiar with the Act, and that submittal requirements and applicant information are in compliance. DSD should ensure that hearing officers, zoning board members and planning commissioners are aware of the time limits imposed by the Act, and deadlines should be shown in staff reports. PTS needs to be programmed to track PSA deadlines and flag projects that are in danger of exceeding the designated time limits.

### **3. Require all Reviewers to Identify a Specific Source of Authority for any Submittal Requirement or Permit Condition.**

a. Discussion. It is good practice to require reviewers to identify the specific source of authority (e.g., statute, code section, or published standard) for any submittal requirement or permit condition. That practice helps remind reviewers of the limits of their authority and allows both applicants and approving bodies to check on the validity of conditions. Both reviewers and reviewing bodies (other than the City Council) must be mindful that they do not make policy—they merely interpret and apply it.

b. Conclusion. From what we have seen, DSD seems to follow this practice in general. It should be mandatory, and appropriate training should be provided to reviewers and project managers.

### **4. Train Reviewers and Project Managers to Take the Initiative in Adjusting Conditions that Serve No Useful Purpose**

a. Discussion. If DSD wants to improve its image with the public, there is no better place to start than to have reviewers take the initiative in adjusting conditions that serve no useful purpose. From the kind of nit-picking mentioned earlier to potentially significant regulations that don't make sense in a particular case, such requirements represent a great source of frustration to applicants and provide no advantage to the City. Here are two examples of the wrong approach. In a case reported to us, a landscape reviewer attempted to impose a condition on a discretionary permit, but was overruled by a supervisor. Later, when the project was submitted for a building permit, the reviewer attempted to impose exactly the same condition once again, which delayed the project and required the applicant to engage in a battle to have the condition removed. In a case discussed earlier, where engineering required a right of way dedication for a residential addition, the applicant protested to a deputy director. The deputy director agreed with the applicant, but later, when the case came before a hearing officer, the dedication requirement was still attached to the permit, and the applicant acquiesced rather than delay the hearing.

b. Conclusion. We understand that reviewers may not have the authority to make these adjustments in some cases, but if a condition makes no sense in a particular situation, the reviewer should seek approval to eliminate it. The Assistant Director has indicated that the project review system in DSD is designed to move such issues quickly up the ladder to the level at which they can be resolved. That procedure is normally initiated by the applicant, but in a model development review organization, useless requirements should be addressed proactively by reviewers and project managers. Beyond that, the department should be aggressive in identifying outdated or poorly written code sections that cause such problems, and propose amendments to correct the problem.

## **D. MANAGEMENT OF DEPOSIT ACCOUNTS**

a. Discussion. Fees for discretionary permit reviews in DSD are now charged almost entirely using deposit accounts. Applicants are required to deposit money in the account when the application is accepted, and staff (both reviewers and project managers) charge the account for time spent on the project. If the account runs low, the applicant is required to keep replenishing it until the review is complete. Many other cities use similar systems for certain types of permits where costs can be unpredictable due to the characteristics of individual projects. There is a danger that this system can be abused, so cost controls are very important. To some extent the present system is misleading because applicants may assume that the initial deposit is based on an estimate of the cost of processing the project. In fact, it should be, and we recommend that, as soon as it is feasible, estimated review costs be added to each review template.

At present, there are two types of problems with deposit accounts. On one hand, billing statements to applicants don't contain enough information to allow any assessment of the reasonableness of the charges. On the other hand, information on current balances in deposit accounts is not available to staff in a timely manner, so accounts can easily be overdrawn. That creates potential financial liabilities and excess paperwork for the City and thwarts effective management of those accounts by reviewers and project managers.

b. Conclusion. A new billing statement has been designed that will provide considerable detail regarding charges to the account, including the name of each staff member charging the account, the number of hours charged, and the purpose of the charge. Applicants who are paying by the hour, have a right to know exactly what they are paying for, and the redesigned billing statements provide the kind of information needed to hold individual staff members accountable. The new billing statement should be implemented as soon as the proper procedures are put into place. The other measure we recommend is that project budgets be established in advance with a certain number of hours allocated to each reviewer, and supervisor approval required in advance for any overruns. BDR already uses that system. PTS apparently is designed to handle the budgeting of time. This safeguard should also be implemented as soon as practicable.

## **E. CUSTOMER EMPOWERMENT**

The most frustrating part of development review for many applicants is the sense of powerlessness they experience because they don't understand the regulations, they don't really know how the system works, and they don't know whom to turn to if they get bad information or feel they are being treated unfairly. Those issues are particularly acute for inexperienced applicants dealing with discretionary permits, (San Diego's regulations require discretionary permits for many projects that would be ap-

proved administratively in other cities) but we have heard the same frustration expressed by several experienced architects who feel the discretionary approval process is generally unpredictable and unfair. Professional builders and developers who submit large projects have more resources and usually have people who understand the process and know the staff, but they are often just as frustrated and perhaps more reluctant to complain for fear of retribution by staff. They know there are ways a vindictive staff member can delay a project, and they have too much at stake to take a chance.

This set of recommendations focuses on giving customers the information they need to understand their rights and responsibilities in the process, and effective procedures to follow if they believe they aren't getting a fair shake.

## **1. Appoint a Customer Service Manager**

a. Discussion. DSD has proposed hiring an Ombuds person to assist customers and help guide them through the process. That is a good idea, but it should go further. We recommend appointing a Customer Service Manager, who would provide customer assistance, develop customer service programs, do ongoing customer surveys, and serve as a sort of “inspector general” with the ability to investigate customer complaints about the process or staff members. To be effective, the person must report directly to someone at the highest levels of the department, or better yet above the department level. That kind of independence is important to overcome the fear of retribution that prevents many applicants from complaining or criticizing the department. This function may eventually require more than one person. We recommend that the Customer Service Manager be dedicated to this function, and not be assigned conflicting responsibilities.

b. Conclusion. Creating this position would increase accountability among staff, but it could also go a long way to defuse problems before they become acute. It is not uncommon that customers are dissatisfied because they have incorrect information about a project. With PTS, it is possible to know exactly the status of a project at any time. Providing a centralized “complaint bureau” that can correct those misperceptions, would be a plus for the department.

## **2. Develop a Customer Bill of Rights.**

a. Discussion. Another step the department should take to empower applicants and hold employees accountable would be to develop a customer bill of rights and a publication that explains the process in non-technical terms (avoid “discretionary” and “ministerial” for example) and explains the reasons why so many different types of reviews may be required for seemingly simple projects. Among other things, the bill of rights should explain the Permit Streamlining Act, and how it applies to certain types of development permits.

b. Conclusion. The Customer Bill of Rights should be given to each applicant, and made available on the department's web site. In addition to listing the applicants rights, it should specify what remedies are available and whom to contact to for assistance. The Department's "Guaranteed Second Opinion" program is a small step in this direction.

### **3. Conduct Ongoing Customer Surveys**

a. Discussion. DSD is contracting with a consultant to conduct extensive customer surveys. Once those surveys are complete, the department should look into ways to conduct ongoing customer surveys. In addition to the other duties discussed above, the Customer Service Manager should be responsible for those surveys. Ideally every applicant should be encouraged to fill out a brief survey when a project is closed out. The DSD staff is looking into ways that could be done over the internet. In cases where the brief survey indicates concerns, a more detailed follow-up survey could be used to get the kind of specific information needed to identify patterns and take corrective action.

b. Conclusion. The highest level of performance cannot be achieved all at once—it must be reached through a process of continuous improvement. Getting honest feedback from customers is essential to that effort. The department must be open to that feedback, and customers must feel comfortable giving it. Honest criticism is the best source of information on what is working, and what is not. Seeking out that information can help improve the relationship between the department and its customers.