

DUE DILIGENCE

Controlling Permits and Fees

Site selection checklists often include items such as available labor and proximity to a customer base, but the potential cost of permitting and fees demands that these considerations rank highly on any checklist.

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ASK ANY CEO or CFO to list the most significant location factors involved in his or her company's next expansion or relocation, and you will likely read a list including factors such as cost of labor, transportation expenditures, proximity to customers, quality of life, and state and local incentives. One category that is sure to be missing from the list is permits and related development fees. Why? For the most part, permits and related development fees are generally not considered primary location factors — they do not typically sway a company's choice to locate in one community over another.

Unforeseen Hurdles

So why make a big deal about permits and fees? Because they can significantly impact the cost and timing of your next project. Take, for example, a recent project constructed in an urban area of a Western state. A major company with more than 500,000 square feet of warehouse/distribution space needed to expand a 30-year-old facility by 400,000 square feet. The company purchased adjacent land and hired architects and engineers to prepare the necessary plans. When the facility manager approached the city, he was told that — in addition to the standard building permit fees — the company would be charged a \$450,000 development-impact fee and a \$250,000 tap-on fee for sewer and water. Citing a backlog of building plans for other projects, the city said it could not specify when the plans would be reviewed and a permit issued. In fact, the company was told that it would take at least eight weeks for the first review. The city indicated that if there were any problems with the plans after corrections were made, the plans would be put at the bottom of the pile for subsequent review.

By this time, a considerable sum had been spent to purchase the land and develop drawings of the building and site. The company had no time to pursue other options. City officials knew that the project had to be located within their community, leaving the company no leverage to negotiate the excessive fees or demand faster reviews. The company was forced to pay \$700,000 in fees and, due to considerable permitting delay, construction began two months behind schedule.

Situations like the one described above occur because permits and fees are generally considered secondary location factors and consequently receive little or no consideration during the planning stages of most projects. Depending on the project, a company may also be responsible for obtaining state and federal environmental permits before moving forward with construction. By the time permits are explored, however, companies have often made their final location decision and have shifted their focus toward site preparation and construction. Any problems that surface at this point only add cost and delay the project.

While in some areas fees are inexpensive and permits are readily obtained, many communities (especially in large urban settings) can have building-permit, tap-on, and impact fees that run into the high six figures or more. Communities can take months to process applications and make companies endure lengthy planning-board and city-council meeting reviews. Even in situations where the community favors the project, board meetings and reviews can drag on for six months or more. In Northern climates, these hurdles can easily delay construction by an entire building season.

In many cases, excessive fees can be difficult to identify. Be cautious of claims that a site is “fully developed” or “shovel ready” for construction. Such claims usually only mean that the site has the necessary utilities and roads in place. They do not guarantee that the site has been zoned to meet all of your company's specific requirements. For example, a project may require zoning variances or may not fit exactly into the community's definition of light-industrial designated for the selected site. “Shovel ready” does not guarantee that there are no excessive development fees, tap-on fees, or that permitting will progress quickly and inexpensively.

Reducing Time and Dollars

The time to address permits and fees is at the beginning of a project, before a finalist location has been selected. Questions about permits and fees should be raised with community and state officials concurrently with issues such as available sites, infrastructure improvements, job-training grants, and tax concessions. At this stage, an experienced negotiator can reduce or eliminate most permitting fees and receive commitments for expedited permitting approvals, both at the local and state levels. At the very least, a consultant can identify opportunities and uncover any trouble areas that might cause delays.

The spirit of competition between two potential locations will often prompt a community or state to put fast-track priority on a project to change zoning or have permits approved. Communities will feel an obligation to offer concessions in order to remain in the running on a project. During this stage of negotiations, politicians for the state, community, and county can provide support to a company's plans and help overcome any bureaucratic hurdles that might be looming. It is amazing how quickly zoning changes and permitting can be completed when the mayor and governor are anxiously pursuing a company's jobs and investment.

Eliminating costly fees and guaranteeing a speedy process for permits and zoning issues can create significant value for businesses. Permit- and fee-based incentives are up-front incentives that directly impact the bottom line in the critical first year of a project. Such up-front incentives will have a greater impact on corporate decision-making than long-term concessions, despite the fact that long-term incentives might have slightly higher overall values. When a community offers up-front incentives, it is letting the company know that community leaders have a probusiness attitude and are willing to go beyond what other communities typically do to attract business. Permit-based incentives, especially fast-tracking, are "low cost" alternatives that communities can offer in an effort to remain competitive.

The key to any successful incentive negotiation is to create a competitive atmosphere. State and local officials must sense that they are in a competitive situation in order to justify granting any type of incentive. Whether or not a company is truly looking at multiple locations, the best time to negotiate permits and development-related fees is in the beginning stages of a project. Once a company has committed to a community (and a public announcement has been made), executives may find that the local support that was so abundant during the negotiation process has dried up, and the company may be left to deal with permits and fees on its own. It is essential that all issues relative to permitting and fees be resolved and documented before the company commits to a specific location.

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