

October 2012

# Streamlining the Entitlement Process for Transit-Oriented Development

Best Practices Summary

*Setting Ideas in Motion*



**Regional  
Transportation  
Authority**

# Introduction and Overview

## Entitlement Process:

*The legal method of obtaining the necessary approval(s) for the right to develop property for a specific use.*

In real estate development, the entitlement (or approval) process is the legal method of obtaining the necessary approval(s) for the right to develop property for a specific use. Approval is based on many factors including the proposed use, previous use and surrounding uses, conformity with the current zoning ordinance, or a request to amend the zoning ordinance to allow the proposed use.

Complicated, ill-defined and time-consuming approval processes are often a deterrent to private developers. More often than not, the entitlement process for a proposed development may require a developer to navigate many layers of governmental and public approval including staff review, various boards and commissions, public input, and legal review. Delays and uncertainty can cause significant increases in development costs, which in-turn may affect the eventual product cost and project feasibility. For every month a development is not under construction, a developer is losing potential sales revenue.



**TOD Plan**

As part of the **Regional Transportation Authority's** increased focus on implementing the recommendations found in past Transit-Oriented Development (TOD) planning studies, we are working with local municipalities to identify specific barriers and provide recommendations to streamline their entitlement process, thereby making investing in the community more attractive to potential developers and other investors. This streamlined process can be applied broadly, or be specific to TOD projects within the station area (and viewed as an incentive to pursuing TOD projects). Streamlining the process could include adjusting and reducing the submittal and review requirements and period for development proposals, as well as the timeline for governing body review and comment.

## Transit-oriented development (TOD):

*A sustainable form of development that encourages compact, mixed-use, pedestrian-oriented, high quality development at and around rail and bus stations and corridors that increases ridership to the system, supports long-term system capacity, promotes livable communities, and has the potential to generate additional funding for transit through sales tax revenue. TOD areas are defined as the half-mile radius from rail stations and quarter-mile radius from bus stations and corridors.*

# Regulatory Barriers to TOD Implementation

## 1. Restrictive Land Use Policies

Many zoning ordinances in the Chicago Region restrict TOD by not allowing the height, density and setbacks needed for proper TODs. Restrictive land use policies not only prohibit TOD, but also encourage auto-oriented development patterns that separate uses by type and discourage compact development. Discouraging TOD through outdated zoning ordinances will deter developer investment because changing zoning regulations on a parcel-by-parcel basis is a time-consuming effort.

### *Solution:*

Amending zoning ordinances to include TOD overlay districts, form-based regulations and planned-unit development (PUD) processes help streamline the approval process. This will allow for TOD, and attract investment by providing a way to expedite the approval process for proposals adhering to the regulations.

## 2. Inconsistent and Redundant Practices

Before construction can occur, a developer must receive approval from various municipal departments, boards, and/or commissions, each of which regulates a certain aspect of development. This may include land use and design (zoning, plan commission), utilities (engineering department), and compliance with building codes. Quite often each department has their own application requirements and administrative processes which may contradict each other. Submitting plans to multiple departments with different requirements and processes can cause a developer to spend an increasing amount of time and money in order to receive the appropriate approvals for a development. Lengthy and complex processes can not only stall development proposals, but cause some of them to never be built.

### *Solution:*

Rather than requiring developers to visit and submit plans to multiple offices, some municipalities combine services to one department. Providing one location for developers to submit proposals for permitting, licensing, plan review and other development approval services can simplify the approval process and enable improved coordination and communication among municipal staff.

## 3. Streamlined Public Process

Public involvement in any proposed development is important. However, long public comment periods may extend the pre-construction period beyond what may be financially feasible for the project. Municipalities are encouraged to set up a streamlined public process that allows adequate public involvement, yet is not repetitive or time-consuming causing extensive delays between meetings. Similar to other types of construction delays, extensive time in between meetings can increase pre-development costs and affect the eventual market price of the product.

### *Solution:*

Encouraging developers to adhere to the zoning ordinance (without requesting variances) can not only streamline the approval process, but allow for a streamlined public involvement.

# Benefits of a Streamlined Entitlement Process

## For Municipalities:

A streamlined entitlement process, especially for TOD projects, will increase administrative responsibility in a municipality and decrease the potential for multiple reviews of the same plan. If staff has a clear understanding of the TOD zoning regulations and the process by which they are empowered to approve aspects of a proposal, the governing bodies (zoning board of appeals, village board, and city council) will have more room on agendas for special uses, variance requests, and other municipal matters.

The direct and indirect costs that stem from delays during the approval process can ultimately affect the consumer's price for a home. In order to keep these costs down, it is in the municipality's best interest to expedite the approval process.

## For Developers:

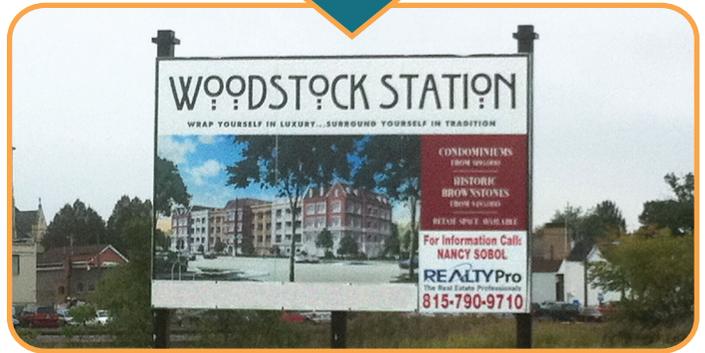
Developers will see pre-construction cost savings with a streamlined process; approvals will take less time, which directly relates to a decrease in the amount of time a piece of land sits vacant, not collecting property taxes. A clearly-defined process will allow developers to "put their best foot forward" from the beginning if they would like an expedited approval process. If a developer chooses to propose a project as-of-right, the process to approve the project should be completed in a relatively timely manner. By expediting the development process, developers can construct, market and sell a project at a faster pace, allowing them to move on to the next revenue-generating project.

## Impacts on TOD

By creating a streamlined entitlement process for TOD projects, municipalities can realize quicker implementation of TOD Plans by attracting development at a faster pace. This will bring much-needed tax revenue to the TOD area, additional residents to use area amenities, and add ridership to existing transit service.

## Impacts on TOD

A streamlined entitlement process for TOD projects would not only attract development, but it would attract development at a faster pace than in non-TOD locations. If a TOD project can receive all necessary approvals in a timely and efficient manner, the project timeline will be shorter and activity will be generated in the TOD in a shorter timeframe. This will bring increased revenues to the TOD area, including additional ridership on transit services.



# Tools to Streamline the Entitlement Process for TOD

## Zoning

To allow for TOD, a municipality can create a special TOD zoning designation, change existing zoning classifications, require review through the planned unit development process, or create special design standards to be applied to TOD areas. The creation of an overlay zone is one such common example of the application of design standards to existing zoned areas, as opposed to changing or revising current zoning classifications. As its name implies, an overlay zone is placed on the zoning map over an existing zoning district(s). The overlay zone modifies, eliminates, or adds regulations to the base zoning designation by effectively controlling land use without increasing the complexity of zoning regulations.

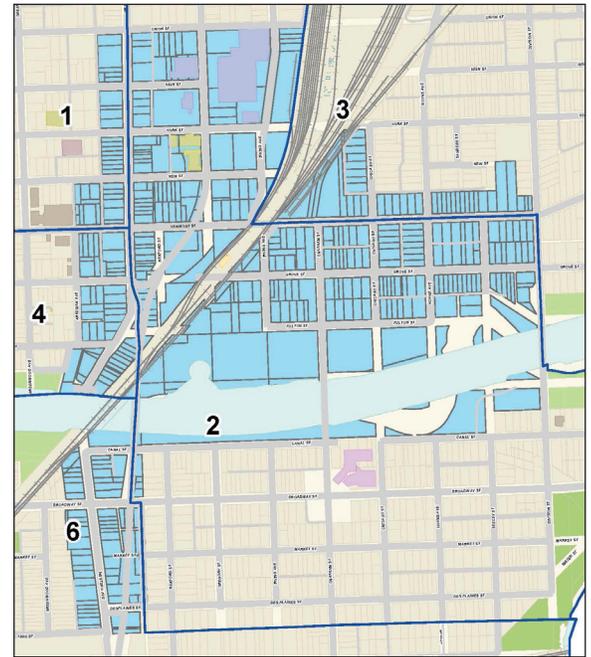
Clearly-defined TOD land control regulations minimize uncertainty for developers, minimize opportunities for variances and special uses and maintain the community's design, form and character goals for their TOD area. Additionally, transit-supportive ordinance updates may minimize administrative confusion by outlining all standards, requirements and guidelines. Encouraging developers to build "as of right" (complies with all applicable zoning regulations and does not require a special permit or variance) will expedite this process, but only if the TOD zoning regulations are realistic and match the desires of the private development industry.



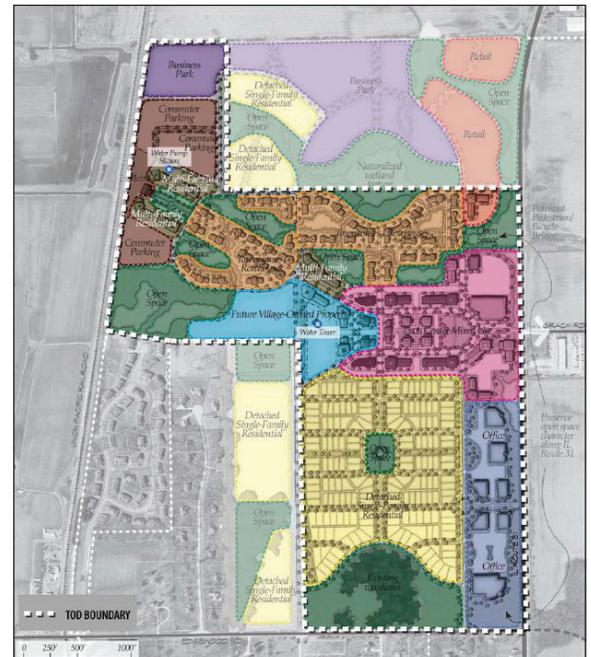
Manhattan TOD

## “As of Right”:

*Complies with all applicable zoning regulations and does not require a special permit or variance.*



Blue Island TOD



Prairie Grove TOD

## Developer Incentives to Attract TOD

### Parking Reductions

Reducing the minimum parking requirements or setting maximum parking requirements in and around transit areas can lower the construction costs of development. Less parking also encourages transit use by making it less convenient and more costly to drive. The RTA recently released a Parking & Access Strategies Report as a resource for municipal officials looking for innovative strategies to support multi-modal access to their transit station and TOD area. The Report outlines various strategies to manage parking in a TOD area. The full report can be found here: [www.rtachicago.org/initiatives/land-use-transit-oriented-development.html](http://www.rtachicago.org/initiatives/land-use-transit-oriented-development.html)



### Density Bonuses

Increased density allows a developer to take advantage of greater economies of scale by building more units within a building footprint. Allowing higher densities near transit maximizes the amount of people with access to transit services, encouraging more use. Creating compact, pedestrian-friendly neighborhoods can also provide support to the local economy by increasing the need for local retail/commercial amenities.



### Reduction of Permitting Fees

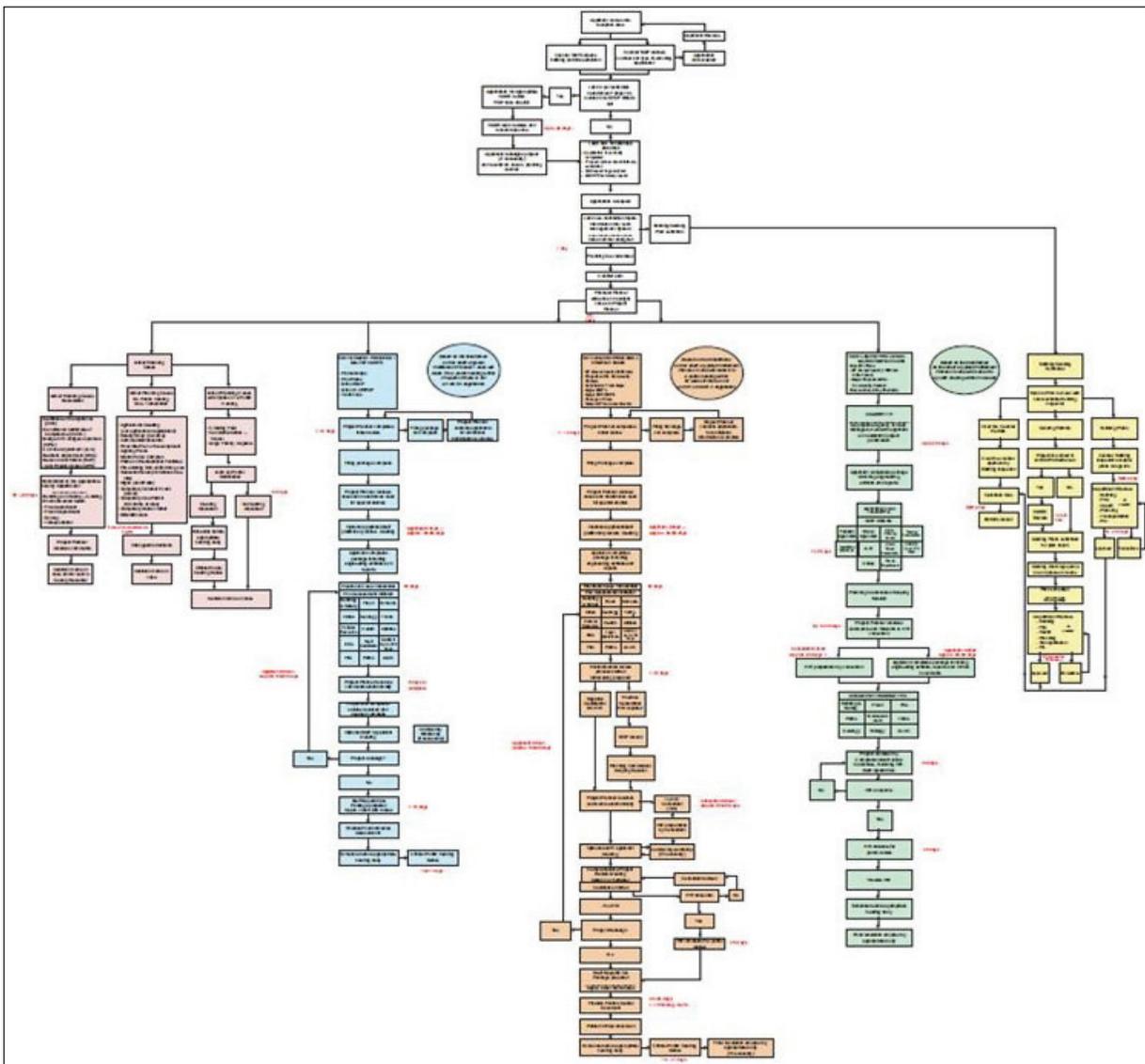
TOD projects often require increased permitting and impact fees to ensure that the municipality has adequate financial resources to provide utilities and services. Many municipalities offer a reduction or waiver in fees if developers include an affordable housing component to TOD projects, provide streetscape improvements to the area surrounding the development, or provide additional amenities requested by the municipality. Offering a reduction or waiver of certain permit and impact fees is a negotiating tool that can benefit both the municipality and developer.



# Simplify the Process

By reducing the amount of text in a zoning ordinance that describes the submittal and approval process to clearly-outlined flowcharts or checklists, a municipality can mitigate confusion and misunderstanding. Flowcharts and checklists are not only helpful for developers; municipal staff would have a simple guide available quickly without spending time searching through the zoning ordinance for the proper approval process.

## Example of a Typical Complex Entitlement Process



The above process is complex, confusing and unclear. A complicated process that has many layers and no clear, direct path to approval may deter developers and cause administrative staff to spend additional time processing and tracking submittals.

## Example of a Streamlined Process for TOD

The City of Blue Island adopted a new zoning district for their TOD area on June 12, 2012. This new district, entitled the Uptown Transit-Oriented District, includes a streamlined approval process for TOD projects. This checklist is to be used by developers to determine the approval process for their proposed project.

	Administrative Review	Historic Preservation Commission	Plan Commission	Zoning Board of Appeals	City Council	Estimated Approval Time
New Development/Redevelopment	■		■		■	2 months
Major Reconstruction/Addition	■		■			1 month
Change of Use	■					1 month
Change of Owner	■					1 month
Site Improvement (Landscape, Parking)	■					1 month
Outdoor Dining	■					2 weeks
Signs	■					2 weeks
Large Signs & Murals on Existing Buildings	■		■			2 weeks
Internally Illuminated Signs	■		■			
Awnings & Canopies	■					2 weeks
Lighting	■					2 weeks
Facade Improvements	■					1 month
Collective & Shared Parking	■					1 month
Parking Waiver	■		■		■	6 weeks
Variation	■		■		■	2 months
Special Use	■			■	■	2 months
Zoning Change/Amendment	■		■		■	2 month
Subdivision Plats	■		■		■	2 months
Local Landmark Buildings	■	■				1 month

■ Review and Recommendation   
 ■ Public Hearing   
 ■ Final Approval

This approval process for TOD projects is clear, concise, and allows administrative staff to approve certain projects based on their adherence to the zoning regulations.

# Examples of Streamlined Entitlement Processes

## Los Angeles, CA

### Los Angeles Enacts Streamlined Entitlement Process:

The Multiple Approvals Ordinance aims to minimize the confusion, uncertainty, and delay often resulting from the current system of individualized entitlements review by encouraging a comprehensive review of proposed projects and streamlined processes for analyzing the merits of proposed projects requiring multiple discretionary approvals. All section references below are to the Code as amended by the Multiple Approvals Ordinance.

- Requires concurrent filing
- Clarifies and coordinates procedure
- Establishes uniform expiration dates
- Entitlements approved in conjunction with other approvals

Significance to developers: If a developer or other applicant for multiple approvals can file for all approvals at the same time, then the Multiple Approvals Ordinance may create more consistency in the entitlements process and save time and resources by eliminating redundant procedures. Moreover, the synchronization of extensions and expiration periods may provide more certainty as to the life of certain entitlements and help developers create manageable development schedules.

([http://www.martindale.com/zoning-planning-land-use-law/article\\_Pircher-Nichols-Meeks\\_1525256.htm](http://www.martindale.com/zoning-planning-land-use-law/article_Pircher-Nichols-Meeks_1525256.htm))

## Sunnyvale, CA

Sunnyvale, California pioneered the idea of a “one-stop shop”, opening its One-Stop Permit Center in 1985 after interviews with local business leaders, property owners, and developers revealed the need for a better-coordinated and streamlined regulatory approvals process. The Center is staffed by members of the Community Development, Public Works, and Public Safety Departments, who provide an array of services including plan checks, permitting, and licensing.

(<http://transitorienteddevelopment.dot.ca.gov/PDFs/TOD%20Study%20Executive%20Summary.pdf>)

## City of Chicago Green Permit Program

Chicago’s Green Permit Program offers an incentive to developers in the form of an expedited permitting process and tailored design and permitting support for projects that meet green building criteria. The program offers two main incentives. The first incentive is that permitting time is reduced to as little as six weeks from the time of construction document submission – approximately half the typical time required. The second incentive is that the program offers a more direct financial benefit in the form of reduced permitting fees. Developers typically pay additional fees for the services of city plan review consultants – up to 100% of these fees are waived for projects that qualify. The program provides a building permit turnaround time of 30 business days, which corresponds to the time between submission of the building permit application with complete drawings and the time a building permit is issued. Program officials note that for large commercial projects, this turnaround time compares to an average of about 90 days for permitting non-expedited projects. The turnaround time is broken down as: two weeks for agency review, two weeks for the applicant to respond to the review, and two weeks to address other issues that arise.

([www.cityofchicago.org/city/en/depts/bldgs/provdrs/green\\_permit.html](http://www.cityofchicago.org/city/en/depts/bldgs/provdrs/green_permit.html))

## City of Wood Dale, IL

The City of Wood Dale recently revised their zoning ordinance by adopting a Unified Development Ordinance (UDO) for the entire City. Within this ordinance is a streamlined procedure for development proposals. Before the UDO was adopted, the approval process could have taken over 1 year. The UDO streamlines this process to 6-9 months.

([http://www.sterlingcodifiers.com/codebook/index.php?book\\_id=691](http://www.sterlingcodifiers.com/codebook/index.php?book_id=691))

## Village of Manhattan, IL

The Village recently adopted a new zoning district entitled the Downtown District. The ordinance outlines a streamlined review process for all new development proposals; any preliminary site plans that have been approved and platted as part of the Village Center Master Plan may be approved by Village Staff.

([www.rtams.org/rtams/planningStudy.jsp?id=291](http://www.rtams.org/rtams/planningStudy.jsp?id=291))

## **Additional References**

### **National Association of Homebuilders**

Streamlining the Development Approval Process

[http://www.nahb.org/fileUpload\\_details.aspx?contentID=18639](http://www.nahb.org/fileUpload_details.aspx?contentID=18639)

### **Transit Cooperative Research Program**

TOD in the United States: Experiences, Challenges and Prospects.

[http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp\\_rpt\\_102.pdf](http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_102.pdf)

### **Tools for Mixed-Income TOD**

<http://www.reconnectingamerica.org/assets/Uploads/tools.pdf>

### **From Barriers to Solutions Best Practices: Urban Centers & TOD in Washington**

[http://www.reuw.washington.edu/research/download/biblio\\_revised\\_v6\\_merged.pdf](http://www.reuw.washington.edu/research/download/biblio_revised_v6_merged.pdf)

### **Urban Land institute**

Entitlements 101– Navigating the Permit Process

<http://www.ulisf.org/south-bay/entitlements-101-navigating-through-the-permit-process/>

### **Los Angeles Enacts Ordinance to Streamline Entitlement Process**

<http://www.pircher.com/resources/legalupdate.php?i=254>

### **PolicyLink (National Research and Action Institute)**

Transit-Oriented Development Tools

[www.policylink.org/site/c.lkIXLbMNJrE/b.5137373/k.E65E/Transit\\_Oriented\\_Development.htm](http://www.policylink.org/site/c.lkIXLbMNJrE/b.5137373/k.E65E/Transit_Oriented_Development.htm)

### **Morgan Stanley**

How Transit-Oriented Development Can Help Get America To Work

<http://www.morganstanley.com/globalcitizen/pdf/report-08102012.pdf>

### **Livable Places**

Encouraging Transit Villages

<http://www.livableplaces.org/policy/todincentives.html>