

1998

Florida's Expedited Permit Review Process: Streamlining the Development of Florida's Economy

Carolyn Raepple
1@1.com

Follow this and additional works at: <https://ir.law.fsu.edu/lr>



Part of the Law Commons

Recommended Citation

Carolyn Raepple, *Florida's Expedited Permit Review Process: Streamlining the Development of Florida's Economy*, 25 Fla. St. U. L. Rev. 301 (1998) .
<https://ir.law.fsu.edu/lr/vol25/iss2/8>

This Article is brought to you for free and open access by Scholarship Repository. It has been accepted for inclusion in Florida State University Law Review by an authorized editor of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

FLORIDA STATE UNIVERSITY LAW REVIEW



FLORIDA'S EXPEDITED PERMIT REVIEW PROCESS:
STREAMLINING THE DEVELOPMENT OF FLORIDA'S ECONOMY

Carolyn Raepple

VOLUME 25

WINTER 1998

NUMBER 2

Recommended citation: Carolyn Raepple, *Florida's Expedited Permit Review Process: Streamlining the Development of Florida's Economy*, 25 FLA. ST. U. L. REV. 301 (1998).

FLORIDA'S EXPEDITED PERMIT REVIEW PROCESS: STREAMLINING THE DEVELOPMENT OF FLORIDA'S ECONOMY

CAROLYN RAEPPLE*

I. INTRODUCTION.....	301
II. SUMMARY OF THE 1997 LEGISLATION.....	302
III. HOW THE NEW EXPEDITED PERMIT REVIEW PROCESS WORKS	304
A. The Project Description Form	304
B. Certification of Project Eligibility	305
C. Pre-Application Meeting	306
D. Statements of Permittability	307
E. Filing Completed Applications	308
F. Summary Hearing Process.....	308
IV. STANDARD FORM MEMORANDUM OF AGREEMENT TO BE ADOPTED.....	309
V. BENEFITS OF THE EXPEDITED PERMIT REVIEW PROCESS.....	309
VI. CONCLUSION	312

I. INTRODUCTION

In 1996, the Florida Legislature reorganized the state's economic development structure by creating an expedited review process for state and regional agency permits.¹ As part of an ongoing effort to encourage economic development and to create high value jobs for its citizens, the 1997 Legislature refined and expanded Florida's ninety-day permitting process by giving local governments the option to voluntarily participate in the expedited permit review process.² This process will substantially expedite the review of all state, regional and, if they choose to participate, local government permit applications for qualified projects.³

This Article explores this new regulatory process. Part II of this Article addresses the changes made by the 1997 Legislature. Part III of this Article details the manner in which this new process works by discussing the various new procedures available to economic development projects. Part IV examines the standard form Memorandum of Agreement that is to be drafted by the Governor's Office of Tourism,

* Shareholder, Hopping Green Sams & Smith, P.A., Tallahassee, Florida. B.B.A., 1976, Florida International University; J.D., 1981, Florida State University.

1. See Act effective July 1, 1996, ch. 96-320, § 148, 1996 Fla. Laws 1504, 1677 (codified at FLA. STAT. § 403.973 (Supp. 1996)); see also Fla. S. Comm. on Com. & Econ. Opp., CS for SB 958 (1996) Staff Analysis 1 (Feb. 20, 1996) (on file with comm.). The 1996 expedited permit review process was part of a larger bill that, among other things, replaced the state Department of Commerce and the Florida International Affairs Commission with Enterprise Florida, Inc., the new Florida Commission on Tourism, and the Office of Tourism, Trade and Economic Development. See generally ch. 96-320, 1996 Fla. Laws at 1504.

2. See Act effective Oct. 1, 1997, ch. 97-28, § 2, 1997 Fla. Laws 170, 173 (amending FLA. STAT. § 403.973 (Supp. 1996)).

3. See *id.*

Trade, and Economic Development (OTTED). Part V discusses the benefits to Florida's economy that are expected due to the more streamlined permitting process. Finally, Part VI concludes with a few observations on the impact of the expedited review process.

II. SUMMARY OF THE 1997 LEGISLATION

In establishing an expedited permit review process, the Legislature intends to encourage the expansion and to facilitate the location of economic development projects offering new high wage jobs. The goal of the legislation is to strengthen and diversify Florida's economy while preserving the vigorous substantive permitting requirements that protect Florida's environment.⁴ In exchange for benefits to the state's economy, the Legislature has provided qualified projects with a dramatic streamlining, consolidation, and coordination of the permit review process.⁵ While the process does not alter applicable substantive standards,⁶ the reduced paperwork and time savings afforded qualified projects should translate into an economic advantage as projects become operational more quickly and with less effort than under the normal, piecemeal permitting scheme.⁷

In addition to expanding the scope of the expedited permit review process, the 1997 legislation added local government comprehensive plan amendment approvals to the process;⁸ reduced the minimum job creation eligibility threshold from twenty-five jobs to as few as ten;⁹ and called for the preparation of a single, coordinated project description form and checklist, urging agencies to reduce the paperwork burden on applicants.¹⁰ It also exempted projects reviewed under this process from interstate highway level-of-service standards for concurrency purposes,¹¹ and eliminated the need for development of regional

4. See *id.* § 2(1), 1997 Fla. Laws at 173.

5. See discussion *infra* Part III.

6. Variance and waivers from state and regional agency rules can be obtained pursuant to section 120.542(2), Florida Statutes, which provides:

Variations and waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness.

FLA. STAT. § 120.542(2) (1997). To the extent any waiver or variance is available in a permit, license, or local development order, they will be addressed as part of the expedited permit review process. See ch. 97-28, § 2(2)(d), (8), 1997 Fla. Laws at 173, 175.

7. See *infra* notes 25-27 and accompanying text.

8. See Act effective Oct. 1, 1997, ch. 97-28, § 2(1), 1997 Fla. Laws 170, 173 (amending FLA. STAT. § 403.973(1) (Supp. 1996)).

9. See *id.* § 2(3)(c), 1997 Fla. Laws at 174 (amending FLA. STAT. § 403.973(2) (Supp. 1996), codified at FLA. STAT. § 403.973(3)(c) (1997)).

10. See *id.* § 2(11)(d), 1997 Fla. Laws at 176 (amending FLA. STAT. § 403.973(6) (Supp. 1996), codified at FLA. STAT. § 403.973(11)(d) (1997)).

11. See *id.* § 2(12)(b), 1997 Fla. Laws at 176-77 (amending FLA. STAT. § 403.973(6) (Supp. 1996), codified at FLA. STAT. § 403.973(12)(b) (1997)).

impact (DRI) review for certain qualified projects.¹² In addition to these changes, a significant time savings was added for qualified projects whose agency permits are challenged by third parties.¹³ All such challenges must be handled under an expedited summary hearing process and consolidated into a single hearing to the extent feasible.¹⁴

To implement the expedited permit review process, numerous state and regional agencies entered into a Memorandum of Agreement (MOA) on April 20, 1997.¹⁵ The MOA details the actions to be taken by state and regional governmental officials to ensure that each project receives coordinated review and oversight by those agencies with jurisdiction over a project. The OTTED has primary oversight responsibility for the expedited review process and will make the initial determination of whether a project will be eligible for streamlined handling.¹⁶ The MOA accommodates the participation of local governments in the process and invites federal agencies to participate as well.¹⁷

Under the MOA, state and regional agencies agreed to serve on regional permit action teams established by the OTTED, and to inform the OTTED and the project coordinator of issues which, if not resolved, could lead to a delay or denial in the issuance of a permit.¹⁸ Furthermore, in addition to processing their own permits within the required ninety-day timeframe, agencies agreed to work closely with local governments as appropriate.¹⁹

State and regional agencies also provided for the waiver or modification of forms, fees, procedures, and time limits to achieve expedited final agency action.²⁰ Agencies have agreed to educate their staff about

12. See *id.* § 1(2)(d)(1)(c), 1997 Fla. Laws at 171 (amending FLA. STAT. § 380.06(2)(d)(1) (Supp. 1996), codified at FLA. STAT. § 380.06 (2)(d)(1)(c) (1997)).

13. See *id.* § 2(13), 1997 Fla. Laws at 175, 177 (codified at FLA. STAT. § 403.973(13) (1997)). As with their participation in the expedited permit review process, local governments may choose to have appeals of their final decisions considered through the summary hearing process. See *id.* § 2(7), 1997 Fla. Laws at 175 (amending FLA. STAT. § 403.973(2) (Supp. 1996), codified at FLA. STAT. § 403.973(7) (1997)).

14. See *id.* § 2(13), 1997 Fla. Laws at 175, 177.

15. See Memorandum of Agreement (Apr. 20, 1997) (on file with the Exec. Office of the Gov., Office of Tourism, Trade and Economic Dev., Tallahassee, Fla.) [hereinafter MOA]. In addition to the Office of Tourism, Trade and Economic Development, the departments of Environmental Protection, Community Affairs, Transportation, Agriculture and Consumer Services, Labor and Employment Security, the Game and Fresh Water Fish Commission, all regional planning councils, and all water management districts are parties to the existing MOA. See *id.* at 1.

16. See FLA. STAT. § 380.06 (15) (1997)).

17. See MOA, *supra* note 15, at 3.

18. See *id.* at 4.

19. See *id.* at 3.

20. See *id.* at 2. However, it is important to note that “[s]uch time limits and waivers of or modifications to procedural rules shall not be applicable to permit applications for federally delegated or approved permitting programs, whose requirements would prohibit or be inconsistent with such time frames, waivers or modifications.” *Id.*

the expedited permit review process, to encourage staff to identify projects that may be eligible for expedited review, and to refer potential applicants to the program.²¹

Under the 1997 legislative changes, local governments can, at their option, formally enter into a project-specific memorandum of agreement to address their participation in the expedited review process.²² To that end, the OTTED is directed to develop a model memorandum of agreement for use in developing project-specific memoranda of agreement.²³ Significantly, among the local development permits and orders covered by the expedited permit review process, are the otherwise time-consuming and costly DRI approvals and local comprehensive plan amendments.²⁴

The 1997 Legislature considered the substantial time savings to be enjoyed from local government participation. For example, the Legislature determined that approval of a local comprehensive plan amendment normally takes between 157 and 217 days.²⁵ In comparison, if the local government chooses to participate in the expedited review process, any necessary amendment to the local government comprehensive plan can be acquired within ninety days.²⁶ This time savings results from the coordination of state, regional, and local government approvals. Additional time savings may result from the changes in the expedited review process because it waives the twice-a-year limitation on local comprehensive plan amendments.²⁷

A timeline for Florida's expedited permit review process is shown in Appendix 1. Greater detail regarding each step within this timeline is provided in the following discussion.

III. HOW THE NEW EXPEDITED PERMIT REVIEW PROCESS WORKS

A. The Project Description Form

To qualify for expedited permit and local comprehensive plan amendment review, a project must create at least 100 jobs,²⁸ or create at least fifty jobs in an enterprise zone, in a county having a population of less than 75,000, or, in a county having a population less than 100,000 which is contiguous to a county having a population of less

21. See *id.* at 3.

22. See FLA. STAT. § 403.973(4) (1997).

23. See *id.* § 403.973(5); see also discussion *infra* Part IV.

24. See FLA. STAT. § 380.06(2)(d)(1)(c) (1997).

25. See Fla. S. Comm. on Comm'y Aff., CS for SB 1154 (1997) Staff Analysis 6 (Mar. 26, 1997) (on file with comm.).

26. See FLA. STAT. § 403.973(6) (1997).

27. See *id.* § 403.973(12)(a).

28. The term "jobs" is defined to mean permanent, full-time-equivalent positions, excluding construction jobs. See *id.* § 403.973(2)(b).

than 75,000.²⁹ Moreover, on a case-by-case basis, the OTTED may certify as eligible those projects that create at least ten jobs and receive a favorable recommendation for expedited review by the local government where the project will be located.³⁰

In order to be considered for eligibility, the applicant must complete a Project Description Form (PDF), and file it with the OTTED.³¹ When the OTTED receives a completed PDF, it notifies all agencies involved with the MOA and the local government with jurisdiction that a project is under consideration, and provides each agency with a copy of the PDF.³² The OTTED will also notify the applicant, any sponsor of the project, and the MOA signatory agencies of the project's eligibility.³³

B. Certification of Project Eligibility

The OTTED makes the determination of whether the project is eligible to proceed under the expedited permit review process.³⁴ For projects that do not meet the 100/50 job requirement, the OTTED examines economic impact factors, including the project's proposed wage and skill levels relative to those existing in the project area, the amount of capital investment, the number of jobs made available for persons served by the WAGES program,³⁵ and the project's potential to diversify and strengthen the area's economy.³⁶

When the OTTED determines that a project is eligible, the project may proceed through the expedited review process.³⁷ If the project is not eligible for expedited review, the project may continue through the regular permitting process.³⁸

29. See *id.* § 403.973(3)(a)-(b). Originally, only counties having a population of less than 50,000 were eligible for the expedited review process. See *id.* § 403.973(9) (Supp. 1996). The 1997 amendments increased the population requirement to include counties with a population of less than 75,000. See Act effective Oct. 1, 1997, ch. 97-28, § 2(3)(b), 1997 Fla. Laws 170, 173 (amending FLA. STAT. § 403.973(2) (Supp. 1996), codified at Fla. Stat. § 403.973(3)(b) (1997)); see also Fla. H. R. Comm. on Govtl. Rules & Regs., CS for CS for SB 1154 (1997) Staff Analysis 5 (May 16, 1997) (available at Fla. Jt. Legis. Mgmt. Comm., Div. of Legis. Library Servs., Tallahassee, Fla.). The increase added two counties, Highlands and Putnam, to the list of 31 counties already eligible. At present, Florida counties with a population of less than 75,000 include Baker, Bradford, Calhoun, Columbia, De Soto, Dixie, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Nassau, Okeechobee, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, Walton, and Washington. See BUREAU OF ECON. & BUS. RES., U. OF FLA., 1995 FLORIDA STATISTICAL ABSTRACT 7-9 (29th ed. 1995).

30. See FLA. STAT. § 403.973(3)(c) (1997).

31. See MOA, *supra* note 15, at 3.

32. See *id.*

33. See *id.*

34. See FLA. STAT. § 403.973(15) (1997).

35. See *id.* ch. 414.

36. See *id.* § 403.973(3)(c)(1)-(4).

37. See *id.* § 403.973(15).

38. See *id.* § 403.973(14).

Specifically excluded from expedited review are projects funded and operated by a local government within its own jurisdiction.³⁹ Other projects explicitly excluded from eligibility are: solid waste, biomedical waste, and hazardous waste projects; electrical power production projects, unless the production of electricity is incidental to the project; mining and oil or gas production projects; and oil, petroleum, natural gas, or sewage pipelines.⁴⁰

C. Pre-Application Meeting

The new law requires regulatory agencies to participate in a pre-application review process designed to “reduce permitting conflicts by providing guidance to applicants regarding the permits needed from each agency and governmental entity, site planning and development, site suitability and limitations, facility design, and steps the applicant can take to ensure expeditious permit application and local comprehensive plan amendment review.”⁴¹

Within fourteen days of the OTTED eligibility certification, an initial interagency meeting is conducted between all participating agencies and the local government with jurisdiction over the project.⁴² This initial meeting, at which the project is discussed and the project-specific memorandum of agreement is developed, may serve as the pre-application meeting for the applicant.⁴³ When necessary, subsequent meetings may be conducted to accommodate a participating local government’s inability to meet the public notice requirements for executing a project-specific memorandum of agreement within the fourteen-day timeframe.⁴⁴ In no event, however, will the meetings extend beyond forty-five days of the OTTED’s determination of eligibility.⁴⁵

At the pre-application meeting, the applicant is given guidance regarding additional incentives available to projects that provide a net ecosystem benefit.⁴⁶ Potential incentives include long-term permits; conceptual permits that enable applicants to receive financing that can be readily converted into construction permits; assistance with surface water, stormwater, and wastewater management systems; and assistance with waste reduction and pollution prevention.⁴⁷ Other im-

39. See *id.* § 403.973(17)(a).

40. See *id.* § 403.973(17)(b).

41. *Id.* § 403.973(11)(c).

42. See *id.* If, after reviewing the PDF, an agency concludes that it has no jurisdiction over a project, it must inform the OTTED in writing before the meeting. See MOA, *supra* note 15, at 3.

43. See MOA, *supra* note 15, at 3.

44. See FLA. STAT. § 403.973(11)(c) (1997).

45. See *id.*

46. See *id.* § 403.973(11)(f); see also MOA, *supra* note 15, at 4.

47. See MOA, *supra* note 15, at 4.

portant outcomes of the pre-application meeting are the development of a consolidated ninety-day time schedule incorporating all required deadlines, meetings, and notices, as well as the identification of any duplicate information requests and strategies for eliminating or reducing such duplication.⁴⁸

While the local government is always invited to the pre-application meeting, its participation is optional.⁴⁹ If the local government chooses to participate in the expedited process, it must indicate the consistency of the project with the local comprehensive plan and the need for any local approvals, including those related to DRIs.⁵⁰ It must also make provision for the consideration of needed local approvals or comprehensive plan amendments within ninety days of the filing of the completed applications.⁵¹

Because pre-application meetings are also conducted for DRIs to identify issues, coordinate appropriate state and local agency requirements, and otherwise promote a proper and efficient review of the proposed development,⁵² the two pre-application meetings for qualified DRIs should be coordinated. Because the participants and agendas for the two meetings are substantially similar, the meetings should be either consolidated or, at the least, conducted seriatim.

D. Statements of Permittability

Within thirty days of the pre-application meeting, each participating agency will provide the applicant with a permissibility statement and identify any "significant permitting issues"⁵³ that may result in delay or denial of agency approval.⁵⁴ Participating agencies whose next regular meeting does not occur within the thirty-day period will receive a limited extension.⁵⁵ An agency's permissibility statement is not binding and is primarily useful to the applicant for evaluating obstacles and opportunities while completing the necessary applications.⁵⁶

When a permissibility statement is received, the applicant can decide whether to use the expedited permit review process. There is no

48. See *id.* Any subsequent modifications to the consolidated time schedule made at this pre-application meeting must be immediately communicated to the OTTED, all participating agencies, and the applicant. See *id.*

49. See *supra* note 8 and accompanying text.

50. See MOA, *supra* note 15, at 4.

51. See *id.*

52. See FLA. STAT. § 380.06(7)(a) (1997).

53. "Significant permitting issues" include any issues which, if unresolved, could result in the denial of a permit or other agency approval. See MOA, *supra* note 15, at 5.

54. See *id.*

55. See *id.* Agencies needing such an extension must notify the OTTED at the earliest opportunity. See *id.*

56. See *id.*

restriction on the time within which the applicant must file the follow-up applications with the agencies and the local government.

E. Filing Completed Applications

Once applications submitted to each permitting agency are complete, final regulatory decisions must be issued within ninety days by all state, regional and, if the local government has opted to participate, local agencies with jurisdiction over the project.⁵⁷ The ninety-day clock begins when the applicant files a completed application.⁵⁸

The only way the ninety-day time period may be extended is if the applicant agrees to a longer time period or if unforeseeable circumstances preclude final agency action within the original time period.⁵⁹ If all agencies grant their approvals and no challenges are filed by persons whose substantial interests are affected by the decision,⁶⁰ development of the project may begin.

F. Summary Hearing Process

If any state or regional agency decisions are challenged, hearings that would otherwise be conducted separately by the agencies are consolidated to the extent feasible.⁶¹ These challenges are funneled into a single forum under the expedited summary hearing provisions of section 120.574, Florida Statutes, with the final order issued within ten days after receipt of a recommended order from an independent Administrative Law Judge (ALJ).⁶² This expedited summary hearing process requires the final hearing to be conducted within thirty days after a challenge is filed, following the parties' informal exchange of documents and witness lists.⁶³ The 1997 changes allow local governments to participate in this process for challenges to their local final approvals.⁶⁴ When a local government chooses to participate in the summary hearing process, review of the local government's decision is through appeal pursuant to section 120.68, Florida Statutes.⁶⁵

Unlike the typical summary hearing under section 120.574, Florida Statutes, in expedited permit review cases, the ALJ's decision is a rec-

57. See FLA. STAT. § 403.973(8) (1997).

58. See *id.*

59. See *id.*; see also MOA, *supra* note 15, at 2. The OTTED is authorized to make the determination of whether unforeseen or uncontrollable circumstances preclude an agency taking final action within the 90-day time period. See FLA. STAT. § 403.973(8) (1997).

60. See generally FLA. STAT. § 120.569 (1997).

61. See *id.* § 403.973(10).

62. See *id.* § 403.973(13).

63. See *id.* § 120.574(1)(b).

64. See *id.* § 403.973(7). If a participating local government agrees to participate in the summary hearing, sections 163.3184(9)-(10), Florida Statutes, apply, distinguishing between "In Compliance" and "Not In Compliance." See *id.* § 403.973(13).

65. See *id.* § 403.973(7).

ommended order.⁶⁶ When the actions of only one agency have been challenged, that agency issues the final order within ten working days of receipt of the recommended order.⁶⁷ When the actions of more than one agency have been challenged, the Governor issues the final order for all challenged agency decisions within ten working days of receipt of the recommended order.⁶⁸ Alternatively, the participating agencies may, at the preliminary hearing conference, opt to allow the ALJ's decision to become the agencies' final action.⁶⁹

Utilization of the summary hearing process for challenges to agency decisions should result in a savings of at least three to six months over the normal administrative hearing schedule.

IV. STANDARD FORM MEMORANDUM OF AGREEMENT TO BE ADOPTED

As previously noted, the OTTED will develop a model memorandum of agreement for developing project-specific memoranda when local governments participate in the expedited permit review process.⁷⁰ Each new memorandum will be tailored for a specific project on a case-by-case basis, and may expedite some or all local permits, time lines, and processes.⁷¹ The author anticipates that the model memorandum of agreement will incorporate by reference the MOA among the state and regional agencies.

Local government adoption of the model memorandum of agreement requires a duly noticed⁷² public workshop to review and explain to the public the new process and the terms and conditions of the model memorandum.⁷³ For each qualified project, the local government will subsequently hold a duly noticed public hearing to execute the project-specific memorandum.⁷⁴

V. BENEFITS OF THE EXPEDITED PERMIT REVIEW PROCESS

Florida's communities will benefit from the new expedited permit review process because it is designed to encourage and facilitate the

66. See *id.* § 403.973(13).

67. See *id.*

68. See *id.*

69. See *id.*

70. See *id.* § 403.973(5).

71. See *id.* § 403.973(6).

72. "Duly noticed" requires publication in a newspaper of general circulation in the local government with jurisdiction. See *id.* § 403.973(2)(a). The notice must appear twice, once at least seven days before the meeting, and must state the date, time, and place of the meeting, and the places within the area where the proposed memorandum of agreement may be inspected by the public. The notice must be 1/8th of a page in size, and may not be published in the legal notices section. The notice must advise interested parties to appear at the meeting to be heard regarding the memorandum of agreement. See *id.*

73. See *id.* § 403.973(5).

74. See *id.* § 403.973(6).

location and expansion of significant economic development projects that create high value jobs for Florida's citizens. The business community will also benefit due to the substantial reduction in time and expense needed to obtain requisite governmental approvals. A qualified project will receive a permissibility statement within thirty days, providing applicants with an early and definitive "yes" or "no" as to whether their proposed project is achievable as planned.⁷⁵

The most important benefits for eligible projects are the streamlined, consolidated and coordinated regulatory process and the requirement that local governments issue a decision within ninety days. Eligible projects will receive clear information and reliable assurances regarding all needed permits through the use of the permit checklist, which should address issues such as the local land use approval process, comprehensive plan amendments, and DRI development orders.⁷⁶ Throughout the process, a single contact, or a project coordinator, will facilitate the flow of communication between agencies and project representatives.⁷⁷ Additionally, eligible projects requiring amendments to local comprehensive plans are exempt from the twice-a-year limit on such amendments.⁷⁸

Further, certain DRI thresholds for new projects, and substantial deviations from existing DRI thresholds, are increased.⁷⁹ Qualified projects that use the expedited permit review process can also use a "pay and go" approach to interstate highway concurrency standards as they are exempted from the interstate highway level of service standards adopted by the Department of Transportation.⁸⁰ Qualified projects significantly impacting interstate traffic will be assessed a fair share of mitigation costs, but they need not await highway construction for development purposes.⁸¹

In addition to saving time, there is a reduction in paperwork due to a single coordinated project description form and the requirement that

75. See MOA *supra* note 15, at 4; see also *supra* Part III.D. The Legislature recognized the importance of these time savings when it acknowledged that "[p]rivate development interests may save money, in terms of avoiding delays and getting a certified project permitted quickly, if a local government chooses to participate and expedite its processes as authorized by [Senate Bill 1154]." Fla. S. Comm. on Comm'y Aff., CS for SB 1154 (1997) Staff Analysis 12 (Mar. 26, 1997) (on file with comm.).

76. See generally FLA. STAT. § 403.973(11)(c) (1997).

77. See *id.* § 403.973(11)(a).

78. See *id.* § 403.973(6) (providing an exception to section 163.3187, Florida Statutes, which limits amendments to local plans to two per calendar year).

79. See *id.* § 380.06(19)(b)(1)-(16).

80. See *id.* § 403.973(12)(b).

81. See *id.* The project-specific memorandum of agreement must include a process by which the applicant will be assessed a fair share of the cost of mitigating the project's significant traffic impacts. See *id.* This provision is similar to Rule 9J-2.045 of the Florida Administrative Code, which describes how the Department of Community Affairs will evaluate transportation facility issues when reviewing DRI applications. See FLA. ADMIN. CODE R. 9J-2.045 (1996).

agencies “reduce the burden on an applicant to provide duplicate information to multiple agencies.”⁸² Although not required by the statute, the language seems to contemplate the reduction of duplicative filings through the use of only one comprehensive permit application.⁸³

Even if there are multiple applications to complete, the completion of a single project description form and the creation of a checklist early in the pre-application period should lead to a much simpler process. The interagency and pre-application meetings that take place before an application is submitted should increase communication and should decrease misunderstandings between applicants and government. Thus, initial applications should be more fully complete, leading to a reduction in application amendments which, in turn, should lead to fewer delays in the review process.

Like other qualified projects, qualified DRIs will enjoy a coordinated, consolidated ninety-day review process when the local government opts into the expedited process.⁸⁴ Qualified DRI-type projects that create at least 100 jobs in industrial plants, industrial parks, distribution, warehousing, wholesaling facilities, office development, or multi-use projects (other than residential) which are at or below 100% of the DRI numerical thresholds are not required to undergo DRI review.⁸⁵ For non-qualified projects, this conclusive exemption applies only to projects which are at or below eighty percent of the numerical threshold.⁸⁶ Exemption from DRI review, of course, should lead to substantial savings in both time and money.

Similarly, the use of existing DRIs is encouraged because the substantial deviation thresholds are doubled for industrial, office, commercial, and multi-use (other than residential) DRIs certified under the new expedited permit review process.⁸⁷ These increased thresholds should make it easier to modify previously approved DRIs, both developed and undeveloped, without triggering additional DRI review.

Through the adoption of the new expedited permit review process, the Legislature has given local governments a powerful tool for attracting economic development to their communities. A local government may commit to participate in the expedited process for all qualified development within targeted sectors in order to channel development to particular areas within their communities if they so choose.

82. FLA. STAT. § 403.973(11)(d) (1997).

83. See *id.*; see also MOA, *supra* note 15, at 4.

84. See *supra* notes 49-51 and accompanying text.

85. See FLA. STAT. § 380.06(2)(d)(1)(c) (1997).

86. See *id.* § 380.06(2)(d)(1)(a).

87. See *id.* § 380.06(19)(b)(16).

VI. CONCLUSION

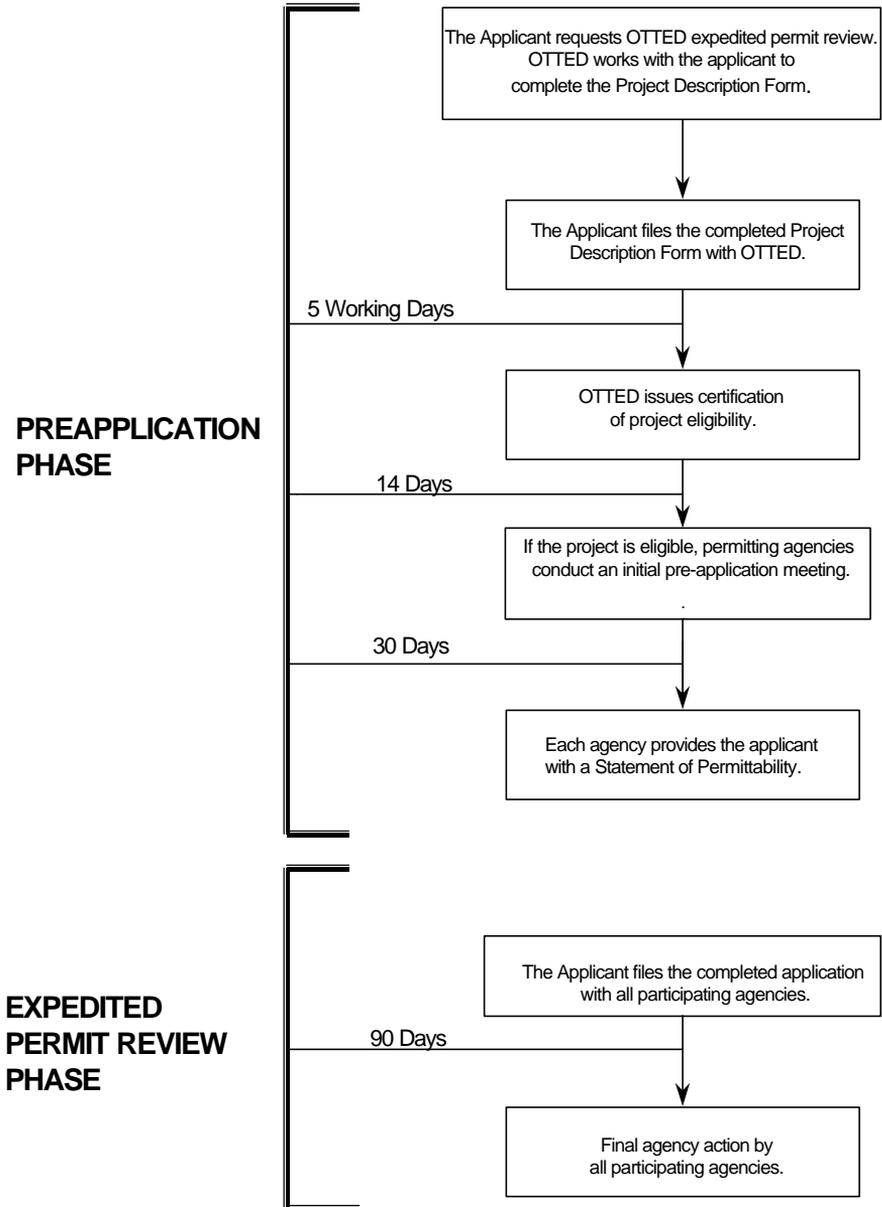
While most state and regional agencies are required to make permitting decisions within ninety days of receiving a completed application,⁸⁸ local governments are not so constrained. When local governments choose to participate in the expedited permit review process, qualified projects will enjoy dramatic time savings because difficult issues, such as amendments to the local government comprehensive plan and DRI development orders, will be decided within the ninety-day timeframe. Frequently, these two types of local government decisions take six to eighteen months to obtain.⁸⁹ Even when local government does not participate, a qualified project will benefit from the substantial coordination, consolidation, and summary review procedures for state and regional agency decisions. The author anticipates that these enhancements to the expedited permit review process, particularly the opportunity for local governments to participate, should spur economic development projects in Florida. There is no doubt that projects successfully using the expedited permit review process will help to overturn any lingering negative perceptions of Florida's regulatory process, in turn encouraging new projects to consider Florida as a premier location for development.

88. See *id.* § 120.60(1).

89. See *supra* note 25 and accompanying text.

Appendix 1

THE EXPEDITED PERMIT REVIEW PROCESS*



*See the text of the article for an explanation of each step shown in this outline.