



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: William A. Gilchrist
Director, PBD

SUBJECT: Planning & Building Dept. Operating
Procedures During the COVID
Emergency

DATE: February 5, 2021

City Administrator Approval 

Date: February 10, 2021

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From The Planning & Building Department Regarding The Department's Operating Procedures With Respect To Permitting And Inspections During The COVID Emergency And How These Procedures Are Affecting Service To The Public.

EXECUTIVE SUMMARY

At the January 19, 2021 Rules Committee meeting Councilmember Dan Kalb requested that the City Council receive an informational report on the Planning and Building Department's (PBD) operating procedures for permitting and inspections that have been put in place because of the COVID-19 pandemic and for the Department to convey how these procedures are affecting services to the public and ongoing plans to improve them during the restrictions on public access to the permitting counter. This informational report responds to that request.

Among the operational and strategic considerations, this informational report will address service impacts due to staff vacancies, the need to create an online service delivery model and necessary information technology infrastructure to support online permitting. This memorandum outlines the steps PBD has taken to address both contributing issues and service impacts and the Department's intention to address those now.

This report shall also describe a broader interdepartmental initiative to improve the tracking, processing and coordination of permit applications across the City of Oakland departments that have authority over application review and permit issuance.

BACKGROUND AND LEGISLATIVE HISTORY

On March 1, 2020, and March 4, 2020 the Alameda County Public Health Department Governor Gavin Newsom, respectively, declared local and state emergencies due to the escalating infection rate, and projected mortality rate associated with COVID-19.

CED Committee
February 23, 2021

On March 7, 2020, City Administrator Sabrina Landreth, in her capacity as the Director of the City's Emergency Operations Center (EOC), issued a proclamation of a local emergency due to the spread of COVID-19.

On March 12, 2020, the City Council adopted Resolution No. 88075 C.M.S. confirming the existence of a local emergency.

On March 19, 2020, Governor Newsom issued Executive Order N-33-20, ordering "all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors", and further acknowledged that the "supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care". Order N-33-20 provides that, to mitigate/control the spread of COVID-19 when people need to leave their homes or places of residence to carry out specified essential functions or to facilitate necessary activities, they should at all times practice "social distancing", remaining a distance of six (6) feet from other persons when in public places.

On March 16, 2020, a Shelter-In-Place (SIP) Order was enacted for six (6) Bay Area counties - Alameda, Contra Costa, Marin, San Mateo, San Francisco, and Santa Clara.

On March 24, 2020, the City Administrator issued an Emergency Order suspending certain provisions of local laws, policies, regulations. These included all "time-limits, shotclocks and other deadlines" associated with PBD's notices, application reviews, appeals and enforcement activities and "other matters set forth in Titles 15 and 17 of the Oakland Municipal Code and related administrative instructions...". PBD provided recommendations on the scope of the Emergency Order to minimize the amount and extent of additional application review and reissuance. The measures in effect as a result of this Emergency Order allow applicants to forgo additional reviews and submittals.

On April 29, 2020, the Alameda County SIP Order was modified to allow for "healthcare facility construction directly related to the COVID-19 response; affordable housing; public works projects when designated as essential by the lead governmental agency; shelters and temporary housing; projects necessary to provide critical services to certain vulnerable individuals; construction necessary to secure an existing construction site; and limited essential residential or business repairs." The SIP Order was amended again in June 2020, to allow all construction to resume, provided that employers abided by COVID-19 safety protocols as determined by the Alameda County Public Health Department. From June 2020 to October 2020, the City Administrator issued additional Orders on the following:

- June 19: City Administrator Emergency Order on the Flex Streets Initiative
- June 29: City Administrator Order on the Elections Code
- July 27: City Administrator Order Extending Planning Entitlements and COVID-19 Testing Facility Use on Public Property
- August 17: City Administrator Order Establishing Interim Cannabis Hearing Procedures and Title 1 and 5 Administrative Appeal Hearings
- September 16: City Administrator Order Allowing Temporary Outdoor Dining Retail Café or COVID-19 Testing Facility Approval on Private Property
- October 30: City Administrator Order Allowing COVID-19 Temporary Testing Facilities Use of the Public Right of Way

Since July 2020, the Alameda County Public Health Department has issued a number of orders to extend the SIP Order, social distancing requirements, and face covering requirements. On January 19, 2021, Councilmember Dan Kalb requested that the City Council receive an informational report on PBD's operating procedures for permitting and inspections that have been put in place because of the COVID-19 pandemic and for the Department to assess how these procedures are affecting services to the public.

As of February 2021, the SIP Order, including provisions for social distancing and face coverings, have been extended by the City of Oakland, Alameda County Public Health Department and the Governor of California several times, as the number of infections and deaths from COVID-19 have continued to increase.

ANALYSIS AND POLICY ALTERNATIVES

The Planning and Building Department (PBD) adopted a number of service modifications in response to the restriction on public access to certain department functions and services necessitated by the SIP Order. PBD's immediate response to the COVID-19 Emergency Declaration and subsequent Orders of the Alameda County Health Officer was to migrate application submittals into a digital intake process and to establish new site inspection protocols compliant with shelter-in-place and social distance requirements.

Initially, these actions allowed application submittals via email and file transfer sites. As a result, PBD started receiving submittals 24 hours a day, seven days a week, and in many cases these electronic submittals from the applicants have been incomplete. In the past, when incomplete applications were submitted at the physical Permit Counter in 250 Frank H. Ogawa Plaza, staff was able to advise applicants in real-time and have the applicant return with corrected submittals before the applications were accepted into the system. However, with the electronic submittal process, staff has had to review all submittals in batches including those that are incomplete, complete submittals, and other electronically submitted information, which has created an unprecedented processing backlog in which staff must now cull incomplete submittals that previously would have been reviewed and addressed at the Permit Counter before getting into the system.

PBD is in the process of revising its permit application and processing methods to address this backlog and processing durations that ensued since the City's initial COVID-19 Emergency Declaration in March 2020 through an electronic portal that will guide applicants to pre-sort their applications, where staff will be able to process them more quickly without relying on post-submittal sorting. Staff are working to reestablish levels of service that are reliable in light of the extended duration of the emergency and its indefinite horizon.

Permit Counter Operational Challenges and Responses

Restriction from Real-Time Interaction with Individual Applicants – When the Permit Counter was open, applicants could interact with City staff in real-time. They could receive application updates, receive feedback on the completeness of their application, could submit their documents, make payment, and could inquire about their proposed project at the Permit Counter. Now, the majority of communications occur via email due to the digital submittal, and

require additional time by staff to sort these submittals for readiness and process them accordingly.

In order to provide real-time interaction between applicants and staff, PBD has implemented virtual counter appointments for applications whose processing can be facilitated by interaction to clarify submittal information, omissions, or processes. In addition, PBD has purchased cell phones for staff working remotely and has established a call list to manage telephone call returns.

Accela Operational Features to Facilitate User Interaction Needed to be Fully Activated – Prior to the SIP Order, a limited number of applications could be processed online, but once the SIP order was enacted staff resorted to using emails and a file storage site to manage the intake of applications, revisions, and submittal of other required documentation.. As previously noted, incomplete application submittals were received that require intensive staff time to identify, track and resolve, in addition to routing and responding to several hundred queries and applications submitted via email.

In response, PBD has enhanced its automated intake process to guide applicants more reliably to the appropriate permit application form given their project type through application-specific submittal portals. In addition to creating a more helpful interface for the applicant, these application-specific submittal portals shall allow the staff to process the applications more quickly by diminishing the time to sort applications by type post-submittal. As of February 2021, there are now twelve permit types that are accessible online. Additional services available within the system include:

- Permit Status Updates and Printing – The Permit Center now allows users to log-in and check current permit status. It also sends automatic e-mail updates for projects whenever there is a status change in the permitting process. Once the permit is issued, users can now print the permits from their home or office.
- Schedule & Prepare for an Inspection – The new Building Inspection app has been integrated into the online Permit Center.
- Pay Fees – Users can now pay permit fees for some projects online by logging into the Permit Center portal.
- File a Code Enforcement Complaint – Users may file a complaint against residential or non-residential properties.
- Research – Users can file online Public Records Requests to find Building, Planning, Code Enforcement or Fire-related records, history, documentation, or subpoenas.

Need for Additional Staff for Services – Of the twenty-eight (28) positions assigned to the Permit Counter, seventeen (17) are currently filled. PBD is in the process of advancing positions to be filled.

In near-term response, PBD has reassigned staff to permit application process stations that have been bottlenecks in processing permits, generating the greatest backlog.

PBD has also been adjusting its work processes to gain efficiencies and to reduce processing errors. Among the most significant of these improvements is streamlining the review of projects exempt from design review.

On-call consultants have been brought on-board to expedite intake, decreasing backlog and assigning cases more quickly to plan reviewers. Three contracts of up to \$49,999 were executed in November 2020 as a temporary measure. The City recently issued a request for proposals (RFP) to provide on-call support when PBD experiences surges in demand for permitting services.

Staff meet weekly to track the impact of various measures on the permit backlog, permit process time, and overall case management. At this meeting staff also formulate and discuss potential solutions to service impactions.

PBD has also received authorization from the City Administrator's Office (CAO) to continue with hiring of staff that work at the Permit Center. PBD is working to hire a Permit Technician I. A Planner III assigned to the Counter began work on February 8. With these additions, the number of vacancies at the Permit Counter will decrease from eleven (11) to nine (9) positions and PBD staff are working with the CAO and Human Resources Department to advance hiring for other vacant positions that can enhance permit processing time.

The immediate focus is to decrease permit-application backlog, to decrease the permit processing durations across all submittal categories and to improve communication with applicants on the status of their submittals, including advising them of progress or of any deficiencies in their permit application submittal.

As staff encounter any unforeseen operational impacts resulting either from unintended outcomes of specific permit processing measures PBD has adopted, from changing circumstances of the health emergency, or from governmental directives, then staff shall adapt new procedures in order to achieve predictable and consistent standards of service.

Additional Staff to Support Customer Service at the Permit Counter

In addition to the increased processing times, one of the major complaints that PBD has received is regarding staff responsiveness to customer questions received either via phone or email. Due to a recent staff retirement in December 2020, there are currently two (2) staff who are assigned to review, respond to and route emails, phone calls and voicemail messages received at the Permit Counter. Currently, staff who are involved in processing the permits must work several shifts to cover the phones; however, that work comes at the opportunity cost of being able to review and issue permits.

Staff have been receiving several hundred emails a day and have not been able to provide timely responses to messages received. PBD's recently submitted fiscal year 2021-23 Budget Proposal calls for moving a position from the Records Unit to the Permit Counter. This would bring the total number of available positions to five (5); however, PBD has analyzed the workload and has determined that four (4) additional Public Service Representative positions are needed to bring message-response times down to a seventy-two (72) hour turnaround and we are working with the CAO, Finance and HR to meet this staffing demand. This would bring the total number of positions to eight (8) employees to the Permit Counter.

Reimagining One Stop Permitting (ROSP)

The temporary closure of 250 Frank H. Ogawa Plaza and the in-person permit counters in that facility due to the COVID-19 pandemic presented an opportunity for City staff to assess all permitting processes and develop improvements that will streamline permitting functions across all departments and update customer interface systems. In November of 2020, the City Administrator's Office officially launched this effort, known as the Reimagining One-Stop Permitting initiative (ROSP), convening an interdepartmental team with representatives from PBD, Oakland Department of Transportation, Oakland Public Works, the Economic and Workforce Development Department, Special Activities Division of the City Administrator's Office and Oakland Fire Department. The objectives of ROSP are as follows:

- Where possible, consolidation of the permitting function to the 2nd Floor of 250 Frank H. Ogawa Plaza, and where staff is not needed on the 2nd floor, make all other permit applications and processes available online in a consolidated location (one-stop).
- Ensure front-end user experience (queuing) is efficient, and systems for appointments, scheduling, and work management is solidified.
- Ensure back-end systems, communication, and processes are tight and documented.
- Ensure the creation of performance measures and tracking.

As part of the ROSP, PBD will be bringing forward an agenda report in the near future to support and enhance the information technology systems used not only by PBD, but also by other City departments that issue permits.

Inspections

Building Inspections have continued with minimal impacts to customers during the SIP Orders, and staff create and update internal operational procedures and project screening tools as SIP Orders are modified to ensure Permit Inspector and project personnel safety. Building Inspectors continue to visit construction sites daily, serving as front-line workers ensuring that projects that are crucial to addressing the housing crisis and economic sustainability can continue with minimal inspection delays.

Building Inspections Performed During SIP Order

Building Inspections have received a total of 50,492 inspection requests from March 2020 to December 2020, of which Permit Inspectors have conducted 40,725 inspections. There have been 9,767 permittee-requested cancellations during this period. April 2020 requests and site inspections showed a considerable reduction due to strict SIP orders. Permittees have been able to request next-day inspections during this time period 86 percent of the time, with typical holiday backlogs accounting for the 14 percent of non-next day inspections.

Remote Inspections

As a response to SIP Orders, Building Inspections also expanded the use of remote inspections to continue services for active construction. PBD has piloted remote inspections since January 2019 for small projects such as: solar installations, insulation, window retrofits, and temporary electrical power installations. While about only six percent (6%) of all inspections performed to date during SIP Orders have been conducted remotely, Remote Inspections have also been a

robust tool to continue operations with minimal impact during Hazardous Air Quality days in September 2020. In previous years during Hazardous Air Quality days, staff experienced cancellations of all inspections with a pursuant backlog to address as a result. This year staff were able to perform seventy-eight percent (78%) of inspections remotely with electronic platforms, without any cancellations requested.

Building Inspections Inquiry Response Times

Building Inspections continues to respond to public inquiries within twenty-four (24) business hours of the inquiry being made. Permit Inspectors continue to respond to permittee inquiries directly also within twenty-four (24) hours of receipt.

Building Inspection Efficiencies During SIP Order

Building Inspections has found that having permit inspectors start directly from the field rather than from City offices has allowed for more efficiencies in terms of service delivery, number of stops per day, and a reduction in overall absenteeism among permit inspectors.

Building Inspections have also been enhanced during SIP on training through permit inspections via remote weekly check-ins on the use of technology, internal permit and inspection applications, inspection procedures, and email communication. Permit Inspectors have received more training in the last ten (10) months than in the past two (2) years combined.

FISCAL IMPACT

This item is for informational purposes only and does not have a direct fiscal impact or cost

COORDINATION

This report was prepared in coordination with the City Administrator's Office.

SUSTAINABLE OPPORTUNITIES

Economic: Delays in processing have had a significant impact on property owners, developers and contractors in terms of time and costs to complete their projects. A healthy construction sector is an economic driver of Oakland and all communities across the United States. PBD is committed to addressing these issues that will not only benefit PBD during the SIP Order, but will also provide for continuity of operations in the event of a future service disruption caused by a short or longer-term emergency or service level spike.

Environmental: PBD conducts environmental reviews per the California Environmental Quality Act (CEQA) and supports the City's enforcement of environmental regulations including, but not limited to the City's Creek Protection Ordinance and Protected Tree Ordinances.

Race & Equity: PBD has a number of vacant and frozen positions that affect the time, and in some cases PBD's capacity, to deliver services to the Oakland community. Increased timelines

for permit processes are known to have a disparate impact on Black, Indigenous and People of Color (BIPOC) communities because of discriminatory lending practices which make securing credit for development extremely difficult. As a result, any project delay puts projects sponsored by BIPOC property and business owners at a higher risk of failure because they typically face more strenuous requirements to secure and maintain financing for their projects. Similarly, delays in responding to code enforcement complaints are more likely to impact the health and safety of BIPOC tenants.¹

¹ Minority Firms Have Harder Time Obtaining Bank Financing, Fed Analysis Finds Source: <https://www.frbatlanta.org/economy-matters/community-and-economic-development/2020/01/28/minority-firms-have-harder-time-obtaining-bank-financing-fed-analysis-finds>

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report From The Planning & Building Department Regarding The Department's Operating Procedures With Respect To Permitting And Inspections During The COVID Emergency And How These Procedures Are Affecting Service To The Public.

For questions regarding this report, please contact Angela Robinson Piñon at (510) 238-3707.

Respectfully submitted,



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