



MEMORANDUM

**DATE:** February 2, 2024

**TO:** Mayor Hudspeth and City Council

**Through:** Sara Hensley, City Manager  
Cassey Ogden, Assistant City Manager

**FROM:** Tina Firgens, Deputy Director of Development Services/Planning Director

**SUBJECT:** Proposed 2-Minute Pitch related to Community Benefits Ordinance and "Fast-track" Development Application Processing

Staff was asked to evaluate the feasibility of granting a "fast-track" for review of development applications (i.e. an expedited review) should a developer agree to opt-in to a community benefits agreement. Recall from the Informal Staff Report issued on January 12, 2024, community benefit agreements have no effect nor incentivize developers to participate in an agreement with neighborhoods and community organizations when property is already entitled with zoning and development rights.

**Past Experience:**

During 2019, the City of Denton offered a "fast pass" option for expedited review of development applications, in response to the 2019 legislative "shot clock" amendments. Applicants were allowed to pay a higher fee in order to have their application review expedited; this process was available for administrative approved applications only (i.e. civil engineering plans, zoning compliance plans, and plats).

This process was discontinued shortly thereafter in 2020 due to vesting concerns and the process not working effectively. Staffing levels were not able to support the expedited process, developers were not wanting to pay 1.5 times the amount of the normal application fee because the City's application fees were already much higher, and there was inequity amongst projects being reviewed due to this "pay to play" option. Four projects were processed during that time when the expedited review option was available.

**Current Experience:**

The Texas Local Government Code dictates performance time obligations that cities must adhere to when reviewing development plans (i.e. civil engineering plans and plats). Staff continuously works to refine the City's development review processes so that customers receive an efficient experience, and that projects are being reviewed in accordance with state statutes while satisfying the City's development requirements.

The timelines in which cities must perform are already aggressive (such as 15-day review following denial), thereby not offering incentives to developers to participate in a presumably shorter process. Any time benefits gained from the City's review are not guaranteed to off-set the amount of time spent negotiating with community organizations and neighborhood groups. Additionally, shortening review times beyond

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those already dictated by state law further potentially compromises the quality of staff’s review for compliance with the City’s development requirements particularly for more complex development projects.

The following 2023 data below illustrates the total number of civil engineering plans, final and preliminary plats, and zoning compliance plans processed by the City, and the average number of days for processing these application types from initial application submission to approval including the number of days spent with staff in review. It is important to understand that state statutes only regulate the number of days in which the City must respond; there are no time obligations assessed on applicants. For preliminary and final plats, the amount of time spent with staff is approximately one-fourth of the overall application timeline (26% and 27% respectively). For civil engineering plans and zoning compliance plans, the amount of time spent with staff is slightly more than one-third of the overall application timeline (40% and 37%) which is reasonable given the complexity of these types of application reviews.

2023 ADMINISTRATIVELY APPROVED APPLICATIONS: TIME IN REVIEW				
Project Type	Total Applications Submitted	Applications Approved	Avg # of Days to Approval	Avg. # of Days with Staff
CIVIL ENGINEERING PLANS	65	31	180	72
FINAL PLATS	31	27	116	31
PRELIMINARY PLATS	18	13	123	32
ZONING COMPLIANCE PLANS	41	22	174	65
<b>Total</b>	<b>155</b>	<b>93</b>	<b>152</b>	<b>53</b>

### Conclusion:

Staff does not support a “fast-track” option for developers who choose to opt-in to a community benefits agreement based on past experience with a similar process coupled with current regulatory statutes.

Additionally, the proposed “fast-track” option is not supported at a zoning (or SUP) entitlement application because: 1) there are no guarantees to the developer that their zoning request is going to result in approval thus no incentive to participate; 2) the negative perception amongst the community that the developer and staff are fast-tracking the zoning request through City Council, particularly if property owners being impacted by the zoning request were not part of the negotiated community benefits agreement; 3) the perception of shifting the zoning authority away from City Council to the residents where the residents are deciding what is in the best interest of the City when that responsibility lies with City Council; and 4) a negotiated agreement associated with a zoning change may be inconsistent with the City’s adopted policies such as the Denton 2040 Comprehensive Plan.

Furthermore, the proposed community benefits ordinance goes against the city’s practices of transparency whereby agreements are potentially being negotiated with a limited group of persons and where others may not have received notice. The proposal is also counterintuitive to the City’s current efforts that support anyone can receive notice of any project and follow along (thru the recently implemented opt-in development notification tool), but now these projects are potentially being subject to negotiated agreements without notice to then be fast-tracked through the city’s review process in return.

Staff continues to support the City’s current practices as explained in the Informal Staff Report (ISR) issued on January 12, 2024, whereby developers conduct public engagement with neighborhoods and community organizations related to development projects, as this practice has been and continues to be an effective process particularly for when zoning entitlements are being sought by the developer.