

# **PLANNING AND BUILDING SERVICES**

## **GJ05-050**

### **Executive Summary**

The 2005-06 Grand Jury received a citizen's complaint about the planning and building processes used by the new Development Services Department. The complainant wanted the Grand Jury to investigate the Planning and Building Divisions toward the goal of improving overall performance, including customer satisfaction. The following deficiencies were pointed out by the complainant:

- The divisions do not seem to have guidelines or processes in place to help staff identify how long a project will take from application to permit issuance.
- Permit issuance for all projects (residential, discretionary and ministerial) is taking too long.
- There is no consistency as to the information being disseminated; it varies depending on the staff member who is waiting on and/or working with the customer.
- Staff uses personal judgment in the planning processes instead of following applicable rules.
- There are no standardized checklists for customers to use to assist them in the permit process.
- There is a backlog of cases related to the General Plan implementation and the department has no strategy in place to deal with the problem.
- There is no communication between affected department heads to insure the expeditious processing of discretionary projects.
- The County Planning Commission rubber stamps departmental staff decisions instead of setting policy for issues that come under its jurisdiction.
- Staff spends the majority of its time "fighting fires" instead of managing the divisions.
- The department internet website provides incorrect information.
- The planning and building divisions do not provide enough emphasis on customer satisfaction.

After numerous interviews with departmental management, other County staff, members of various county trades and business organizations, county residents, and a thorough review of public records, the Grand Jury decided to write a report.

The Grand Jury found that high expectations have been placed on the department top management to complete the merger of the two separate departments, implement the General Plan, eliminate case backlog, and continue to process new applications, all on a timely basis. Although the new Director has made many positive changes in a short period of time, the fact remains that the divisions do not have sufficient personnel. The divisions have had recruitment problems with Senior Planners and Engineers who are used in the Plan Check process depending on the complexity of the project. The Board has recently approved a new compensation package designed to alleviate this problem and time will tell if the increase is sufficient to entice candidates.

The department has indicated that it does not plan to hire additional personnel due to a decrease in building projects; however, single family dwelling permits are taking eight weeks or longer, discretionary projects are taking six to nine months before they go to public hearing and ministerial projects such as pools, decks and inspection exempt agricultural buildings are taking six weeks. The lack of sufficient and qualified personnel is resulting in very unpopular and unacceptable delays in issuing permits. It results in increased building costs for the County and delays in the implementation of measures under the General Plan since most of the Planners have been on board two years or less. The Grand Jury recommends the hiring of additional plan checkers in the applicable classifications and/or allocating funds for outside consultants.

The Grand Jury recommends more training for personnel to insure consistency in dissemination of information to the customers and to eliminate mistakes made by Building Inspectors on building sites. The Grand Jury also recommends changes to departmental participation in discretionary projects to make sure that the customer is not subject to numerous changes and extra expense.

Additionally, the Grand Jury recommends the establishment of specific performance standards to gauge work completion, customer satisfaction and cost effectiveness. Furthermore, it recommends that Customer Questionnaires be handed out with the final permit and the final building inspection in order to obtain a more complete picture of their performance.

In conducting its investigation, the Grand Jury had great difficulty in obtaining individuals who would speak to the Jury for fear of retaliation by departmental personnel. They had chosen not to speak up before because their livelihood depends on them staying on good terms with departmental staff. The Grand Jury stated that it is the Board of Supervisors who are ultimately responsible for the implementation of the General Plan, and that any retaliation against a customer by staff will be subject to disciplinary action.

### **Background**

The county department, headed by the Director of Development Services, has a budget of \$11,644,579 and 122 allocated positions of which approximately 99 are filled. Under the Director, 3 Deputy Directors oversee the Planning, Building and Administration functions respectively. The Deputy Director-Administration functions as an office manager overseeing such functions as personnel, purchasing, and other administrative duties. The Deputy Director

over Building supervises three Branch Managers who are responsible for managing the three Permit Centers located in Placerville, El Dorado Hills and South Lake Tahoe. These Permit Centers are designed to function as a one stop center for plan review, issuance of permits, building code compliance and inspections.

The major responsibilities of the Building Division are to issue building and grading permits for commercial and residential buildings; conduct plan checks and building inspections to insure that plans comply with applicable building codes; and assist the public with building concerns and code enforcement issues.

The Planning Services Division has three distinct functions: current planning, long range planning and special projects. The Current Planning unit is focused on permit and development application processing in conjunction with the Permit Centers. The staff assigned to this function is primarily responsible for processing discretionary development applications, such as land divisions, special use permits and zoning applications including the required California Environmental Quality Act (CEQA) analysis. The Long Range planning unit is responsible for the implementation of the County General Plan and compliance with a variety of State long range planning requirements. The Special Projects unit prepares and oversees the preparation of CEQA documents for County capital improvement projects related to new or expanded facilities such as park projects as well as new County buildings. This unit also participates in the development of plans and administration of regional, State, and Federal endangered species, programs, habitat conservation, and cultural resources management.

The department also has a new Code Enforcement Section with three staff members headed by a Zoning Administrator. This unit enforces violations of the County Code and other related codes and ordinances. Hearings are conducted by the officers related to matters involving safety related or non-permitted items such as illegal business, fire created hazards and substandard or dangerous housing. This section works in conjunction with the Sheriff's Department to enforce the vehicle abatement program.

The department provides staff to the County Planning Commission who is the Board's advisor on land use planning. The Commission has five members, each one appointed by a member of the Board of Supervisors from his/her respective District. The Commission reviews matters related to planning and development. The Commission either approves or denies or makes recommendations to the Board. The Commission meets twice a month.

## **Scope of the Investigation**

### **People Interviewed**

- Member, Board of Supervisors
- County Administrative Officer (CAO)
- Assistant County Counsel
- Director, Department of Development Services (DS)
- DS Deputy Director – Planning
- DS Deputy Director – Building Official
- DS Deputy Director -Administration

DS Branch Manager – Placerville Permit Center  
DS Branch Manger – El Dorado Hills Permit Center  
DS Principal Planner  
DS Building Inspector  
Chairman, Planning Commission  
Member, Building Industry Advisory Committee (BIAC)  
Housing Standards Program Manager, State Department of Housing and Community Development  
Members of various County trade and business organizations, professional associations,  
members at large of the building community and county residents

### **Documents Reviewed**

2005-2006 Fiscal Year DS Department Budget  
County General Plan adopted by Board of Supervisors on July 19, 2004  
County Website on Planning and Building Services  
DS Department Organizational Chart  
Personnel allocation figures for DS Department  
Permit Center Application and Plan Check Review Process Flow Chart Sheet  
Building Fee Funded Activities handout  
Building Services Permit Activity handout (2001-2005)  
Placerville Permit Center Customer Service and Building Inspection Activity (2005)  
Permit Fee 2006 Current Distribution handout  
DS Year in Review - 2005 and Key Goals for 2006  
Building Inspections Checklist Summary  
General Plan Consistency Checklist  
Customer Service Questionnaire  
Class Specifications for Building Inspector, Planner and Engineer Series  
23 different checklists used by Planning Division for processing development applications  
2005 Permit Application Packet for Single Family Dwellings in Lake Tahoe Basin  
Asbestos Dust Mitigation Plan Application  
Rule 223-2 Fugitive Dust-Asbestos Hazard Mitigation Information  
California Government Code Sections 818.4 and 818.6 pertaining to Liability of Public Entities and Public Employees  
“Slow Growth Proves Costly- Problems Mount in Santa Barbara”- Sacramento Bee, March 27, 2006

### **Facts**

1. The County approved a new General Plan in July 19, 2004 to comply with the Writ of Mandate issued by the Court on July 19, 1999 directing the County to correct deficiencies in its original approval of the 1996 General Plan. In August 31, 2005, the Sacramento Superior Court ruled that the County had successfully addressed each of the issues raised in the writ. The writ was lifted and on October 3, 2005 and the County began accepting new applications that previously were prohibited under the writ.

2. That court ruling was appealed to the State Appellate Court in late fall 2005 and until the court ruled on that appeal, the County continued processing development applications under the 2004 General Plan. However, the County continued to exercise caution in the interpretation and implementation of the General Plan while they waited for final adjudication.
3. On April 18, 2006, the County and the El Dorado County Taxpayers for Quality Growth reached an agreement that settled the litigation. Under the settlement agreement, the petitioner agreed to drop its appeal and the County waived its claim for attorney's fees (\$21,000) and agreed to maintain the current interpretation of the General Plan Policy related to oak woodland habitat.
4. The current Director, hired in January, 2005, was assigned the tasks of completing the merger of the then existing Planning and Building Departments and the implementation of the newly adopted General Plan. Additionally, he inherited a backlog of 64 development projects waiting for the writ to be lifted and 1,500 open code enforcement cases. 30 new cases of code enforcement violations are received each month. The department also processes over 6,000 permits a year of which over 1,500 are for new dwellings. In 2005, over 39,000 inspection stops were conducted, and close to 24,000 individual customers were served from the Placerville office alone.
5. During 2005, the new Director was able to achieve major changes in the department such as:
  - a. Created Branch Manager positions to oversee planning and building functions in each Permit Center
  - b. Recruited six Planning staff to support Permit Center functions
  - c. Reorganized building Plan check responsibilities
  - d. Established a New Case review process for all new major planning projects
  - c. Re-established "Express plan check" for certain categories of permits
  - f. Implemented a new General Plan consistency checklist for all new projects
  - g. Obtained contracts for "as needed" planning services to handle increased workload while recruitment of senior level Planners and Engineers, was underway
  - h. Issued a request for proposals to planning and environmental services firms to establish a list of "on call" consultants to assist with priority projects.
  - i. Prepared a revised Grading Ordinance
  - j. Created a Code Enforcement and Vehicle Abatement Hearing Officer position
  - k. Established a tracking system by which all permit applications will be monitored by staff to identify and reduce delays in the permit process
  - l. Implemented a Building Information Counter Log where by all planning related calls received will be returned on the same day or the day after.
6. The 2004 General Plan provides for long range direction and policy for the use of land within the County (El Dorado Forest comprises 57% of the County's land base). The General Plan relies upon measures identified in each element that implements the policies. Modification of the measures requires amendment of the General Plan. There are nine elements in the General Plan (land; transportation; housing; public services and

utilities; health, safety and noise element; conservation and open space; agriculture and forestry; parks and recreation; and economic development).The land use element alone has 15 measures, many of them with multiple implementation requirements and a significant number of them have a one to two year implementation timetable.

7. Each year the 2,000 to 3,000 permit applications filed require a full plan check. During the Plan Check process the plans are reviewed by building inspectors, planners and/ or engineers (otherwise known as plan checkers) depending on the size and complexity of the project. The plans are reviewed for consistency with planning, grading and building ordinances and codes. Under the new General Plan, any structure over 120 square feet must be reviewed for consistency with the General Plan.
8. The Planning Division currently has one Principal Planner assigned to General Plan implementation. In addition, there are one Principal Planner, four Senior Planners and six Assistant Planners assigned to current planning functions and one Principal Planner assigned to special projects. Tentative maps, parcel maps and subdivision maps have not been done by the department in six years and there is no one in the staff, with few exceptions, that know how to do it. The majority of the planning staff has been on board for two years or less. Several amendments to the Zoning Code have created interpretation conflicts. Agricultural setbacks have become confusing. The review and update of the Design Standards Manual, adopted in 1986 and last amended in 1990, is a top priority under the General Plan and no one has been assigned to that project.
9. Management staff has indicated that they could keep five Planners occupied fulltime for the next five years implementing the General Plan.
10. The department has been unsuccessful in filling four vacancies at the Senior and Principal Planner classifications, and three at the Senior Engineer level. The latter three are needed in the in the Building Division; one in grading plan review and two in plan check. Management indicates that salary and retirement benefits are not competitive with surrounding jurisdictions. Top management believes that a 15% salary increase would be more competitive as well as changes in retirement benefits (employees picking up the additional cost).
11. On April 25, 2006 the Board of Supervisors approved three new recruitment tools to entice new employees: a five percent increase in salary for Senior Planners and Civil Engineers, a six thousand dollar signing bonus for “hard to recruit” classifications, and up to five thousand dollar moving allowance with a two year minimum stay on the job if the new employee takes the moving allowance.
12. 180 building inspections are conducted each work day by approximately 25 inspectors. The Development Services Department is mandated by law to enforce minimum construction and equipment standards and codes to protect life, limb, health, property and public welfare. The inspector’s responsibilities do not include review of quality of workmanship by the contractor. The majority of the Inspectors are hired at the II level. Senior Building Inspectors are assigned to non - residential projects. Building Inspectors

are rotated every 6 months. Employees are required to have a minimum of one certification (building inspection) but they perform all types of inspections including, electrical, mechanical and plumbing. Time of inspections varies from 15 minutes to 45 depending on the type of inspection (foundation and framing taking longer).

13. Under California Government Code 818.6, the County itself is immune from liability not only for negligence in failing to make an inspection but for negligence in the inspection itself.
14. In 1999 there were 15 people assigned to the Building Department Customer Counter in the Placerville location, including staff members from the Planning, Environmental Management (EM) and Transportation (DOT) departments. That number has been reduced to five with no representation from either Environmental Management or DOT.
15. In 2005 \$150,000 in contract planning services were spent to expedite plan check review, priority been given to employment generated commercial projects.
16. The Department is requesting an allocation of \$1 million in the 2006-07 budget for contract planning services for General Plan implementation. Management expects that this amount will cover implementation of some measures, such as floor area ratio, Option B under tree canopy retention and upgrade and construction work on Missouri Flat Road.
17. By state law the Department cannot profit from the building fees that it charges. Without any additional monies from the General Fund, the Department must raise fees to fund new positions.
18. In the 2005-2006 budget, the department identified several key issues to work on such as:
  - a. The relocation of the Courts from the main floor of Building C to allow full implementation of the Placerville Permit Center with permit service participation from the Departments of Transportation (DOT) and Environmental Management.
  - b. The commercial grading function currently with DOT to transfer to Development Services in July, 2005.
  - c. Reducing plan review times to 30 days or less on a consistent basis since the times had reached seven weeks due to high activity levels. The department stated that with the lifting of the writ and continued build-out of approved projects in El Dorado Hills, it expected an increase in development activity with a commensurate increase on both plan check and building inspection services.

None of the above identified key issues have been implemented as of the writing of this report (May, 2006).

19. Management has indicated that it does not plan to ask the Board of Supervisors to fund its full allocation of positions beyond the key Planners and Engineer's positions because the current workload does not justify it.

### **Findings/Recommendations**

**1F. Finding:** High expectations have been placed on the department top management by the Board of Supervisors, the building community at large and the residents of the county to complete the merger, implement the County General Plan, eliminate the backlog of all cases and continue to process new projects and permits, all in a timely basis. Even though the new Director has made many positive changes in such a short period of time, the fact is that the department does not have sufficient personnel, neither in the Planning Services Division nor in the Permit Centers, to accomplish all that it's been requested to do without significant and unpopular delays. Discretionary projects are currently taking 6-9 months to get ready before going to public hearing. Instead of spending \$1 million in outside planning services, the County could hire three Senior Planners at a cost of \$300-350,000, saving the County between \$700,000 and \$650,000. Unfilled vacancies causes delays in the processing of construction projects further increasing building costs to the County.

**1R. Recommendation:** The hiring and retention of new employees in the Senior Planner and Engineer classifications must be monitored closely and further changes in compensation shall be explored if current salary and benefits do not produced desired results.

**2Fa. Finding:** Departmental staff has set a standard of issuing single family dwelling permits within four weeks and express plan check permits (pools, garages, decks, etc.) over the counter on the same day, but that is not the norm. The lack of sufficient plan checkers is causing delays of up to eight weeks and three weeks, respectively. Many builders and homeowners choose the third party plan check option, at an additional cost, to minimize delays.

**2Fb. Finding:** Additionally, because all structures over 120 square feet have to be reviewed for consistency with the General Plan, the consistency standards being applied to single dwelling residences and other ministerial projects are those established for discretionary projects, creating further delays.

**2Ra. Recommendation:** Develop new General Plan consistency standards for single family dwellings and other ministerial projects in order to reduce the time in issuing permits.

**2Rb. Recommendation:** Hire additional plan checkers, in the applicable classifications, to insure the 30 day or less plan review time for residential permits and one day for express plan check permits.

**3F. Finding:** The merger of the two departments (Planning and Building) into the new Development Services Department has resulted in the hiring of new personnel and the reassignment of some existing employees. Implementation of the General Plan and revision of codes and ordinances continue to generate regular changes that staff must assimilate in order to provide accurate information to the public. In some cases, this has resulted in wrong information being issued and different information being provided by different staff members. This causes frustration and costly changes on the part of the public and results in negative publicity for the department. Furthermore, applicants still need to go to other departments (Department of



Transportation and Environmental Management) after receiving their permit to seek their respective approval.

**3Ra. Recommendation:** The regular weekly meetings being held by the Director with other top management should be held on an ongoing basis. These meetings are designed to insure consistency in the interpretation of the General Plan, codes and ordinances. Additionally, the assignment of one Principal Planner to the Permit Centers as a central point to answer difficult planning questions for non-discretionary projects is a step in the right direction.

**3Rb. Recommendation:** Expand the length and/or frequency of the one-hour weekly training sessions held for the Development Technicians and other counter personnel to insure consistency in the dissemination of information.

**3Rc. Recommendation:** Efforts to move the Courts out of the Placerville office should be expedited so Development Services can complete its plans to absorb the other building and planning related functions of Department of Transportation and Environmental Management such as transportation planning, commercial grading permits sewer, wells, septic, demolition and waste recycle.

**3Rd. Recommendation:** Institute an inside Learning Academy to provide a structured training program in both technical and customer oriented areas.

**4F. Finding:** The Technical Advisory Committee (TAC) comprised of representatives from various departments (DS, Environmental Health, DOT) is used by the Planning staff to review all discretionary projects with each applicant. TAC meetings are scheduled for Monday afternoons to review pending projects. The problems with TAC are numerous: the departments do not provide their input in a timely manner; department representatives either don't show up or send a different representative to each meeting; the representatives have no authority to speak for the department thereby resulting in multiple and costly changes for the applicant; Planning lacks the authority to require other department's attendance; decisions communicated over the phone lack documentation; and there is no designated Chairman. Often outside agencies, such as EID and fire districts, do not provide input on a timely fashion. And sometimes, the Planning Services Division fails to contact affected agencies (both outside and inside agencies, such as the Agricultural Commission) and issues permits without the proper authorization. Again, delays result in frustrated customers, agencies and increase costs to the applicants.

**4R. Recommendation:** Departmental representatives assigned to TAC must have the authority to speak for the department. All changes requested from the applicants must be put in writing and signed by all affected departments and outside agencies. Additional changes should not be permitted except for extraordinary circumstances.

**5F. Finding:** The Department lacks comprehensive performance standards by which they can measure customer satisfaction. As an example, the staff assigned to the Current Planning unit has a 30 day limit for internal review of projects and distribution of plans to other affected agencies (i.e. EM, DOT, school district, fire district, etc.). Beyond the 30 day limit, there is no other

performance standard that addresses work completion. The department has a Customer Service Questionnaire that is found on their website but it is not found in all their Permit Center counters. If available and completed at the counter, the department is only measuring customer satisfaction for services performed in only one small segment of the process.

**5Ra. Recommendation:** Develop appropriate and specific performance standards for each division to gauge work completion, customer satisfaction and cost effectiveness. Revise existing Customer Service Questionnaire to reflect new performance standards.

**5Rb. Recommendation:** Enclose a Customer Service Questionnaire with the issuance of all aspects of the permit review and issuance process.

**5Rc. Recommendation:** Make Questionnaires available in visible locations at all Permit Centers.

**5Rd. Recommendation:** Questionnaires and return envelopes should be handed out to the contractor or owner/builder after final inspection.

**5Re. Recommendation:** Questionnaires should be reviewed and discussed on a regular basis by the Department Director and other top managers.

**6F. Finding:** The Department processes requests for building inspections on a timely basis. However, there is a departmental attitude toward the role of the Building inspectors as “just spot checkers” that conveys superficial and unsafe inspections and makes homeowners, contractors and builders question the purpose of the inspections. Furthermore, some Building Inspectors have provided wrong information related to building code requirements and have had to be corrected by the contractor. Some of these inspectors were training junior inspectors which further exacerbate the problem.

**6Ra. Recommendation:** Top management needs to change its attitude as to the role of Building Inspectors and educate the employees and the public as to the seriousness of the inspections.

**6Rb. Recommendation:** Assign a Senior Building Inspector to provide periodic in-house training for all inspectors to insure current and consistent application of building codes.

**7F. Finding:** The website needs revisions to make it more user friendly.

**7Ra. Recommendation:** Include an organizational chart of the department with names, telephone numbers and fax numbers of key contacts.

**7Rb. Recommendation:** Include a statement on the mission and vision of the department to inform the user of the department’s responsibilities.

**7Rc. Recommendation:** Make it a top priority for the public to be able to get a permit and pay fees on line.

**8F. Finding:** The Planning Commission meets twice a month during daytime hours. Sometimes agenda items are rescheduled due to additional requests of information by either commissioners, departments and/or the public. This results in wasted time and frustration on the part of the applicants.

**8Ra. Recommendation:** Management agrees that it needs to work closer with the Commission in anticipating their needs. Periodic workshops between county staff and Commissioners should be held to better define the role of the Commission.

**8Rb. Recommendation:** Standardize as much as possible the review process for discretionary projects so as to preclude “re-inventing the wheel” with every project.

**8Rc. Recommendation:** Timely and written responses by affected departments and outside agencies should be required to expedite the review process.

**8Rd. Recommendation:** Planning Commission should meet during evening hours, such as once a quarter, to obtain additional public input as it pertains to the implementation of the County General Plan, code and ordinance changes and other land use policies. The value of the additional public input surpasses that of any overtime payment required for county staff (only the clerical staff would be subject to overtime payment).

**9F. Finding:** The Grand Jury had great difficulty in obtaining individuals in the community (developers, builders, contractors, members of trade organizations, etc.), who would speak to the Grand Jury as to their experiences for fear of future retaliation by DS planning and building staff. A number of them expressed concern as to the hiring of personnel who, according to them, came from slow growth or no-growth counties and were applying their individual interpretation to the new General Plan. Those who came forward stated that they have chosen not to speak out in the past because their livelihood depend on keeping on good terms with departmental staff so that their building and planning projects are processed in a timely manner. Their experiences were specific to the new department and did not involve any other county department.

**9Ra. Recommendation:** The Board of Supervisors is ultimately responsible for the implementation of the General Plan by providing leadership and direction to all parties involved. The Board should it make very clear to all departmental personnel that any retaliation by any employee against a customer will not be tolerated, and he/she will be subject to disciplinary action.

**9Rb. Recommendation:** The Department should convene the Building Industry Advisory Committee (BIAC), whose members are appointed by the Board of Supervisors, on a more regular basis, quarterly or as needed, to seek input not just on building matters but also on planning issues.

**9Rc. Recommendation:** The Department should hold periodic workshops with professional and trade organizations and the public at large to seek public input on issues of interest before they are acted upon by departmental staff

A response is required by the Board of Supervisors within ninety (90) days. See Table of Contents, *“Notice to Respondents.”*