Laying the Foundation for Stable Development Through Market Based Permitting Regulations: Legal Analysis

Growth & Infrastructure Consortium

impact fees, capital planning and public finance

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WHAT LESSONS HAVE WE LEARNED?

• Effects of Over building – a mistake that affects:
  • Developer
  • Development Sector
  • Home owners
  • Local governments
  • Public at large
Growth Management Era

• Infrastructure Emphasis
• Timing Element Tied To It
Post Recession

- Need to add to Timing Consideration - - Market Demand for Proposed Development
Constitutional Basis - Police Power

- Needs based permitting is
  - Health?
  - Safety?
  - Welfare?

- Protect home and business owners whose properties lose value or become foreclosed

- Protect citizens from decreases in quantity and quality of public services as local government revenue decreases
Legal Concerns

- **Regulatory Taking** –
- Does requiring a market analysis rise to this level?
- Takings Law Overprotects Undeveloped Property at the Expense of Developed Property
Land Use Regulation – Evolution of Land Use Regulation

Zoning - What can be built and where can it be built

Growth Management - When can it be built: infrastructure availability

Smart Growth - Design as prerequisite development approval

Needs Based - Market demand as prerequisite for development approval
A Solution – Market Analysis as a Prerequisite for Development Permits?

Read more: