



AIA Best Practices:

Research codes now or risk costly delays later

Contributed by John C. Workley, AIA

Summary

This Best Practice explains the advantages of initial code research and documentation techniques. Researching code issues for your local and national projects protects your client and project schedule from costly delays and unexpected redesign or expenses. This initial investigation is crucial to the preliminary planning and design stages of the project. A checklist is included to assist you in this process.

Due diligence

Whether you are working with a first-time client on a small project or a long-term client with a development team, it is critical to investigate local zoning codes, ordinances, building codes, development fees, escrow requirements, covenants, etc., prior to closing a land deal.

Communication and investigation

Zoning codes and local ordinances will affect the way in which you design the project and site. These requirements vary greatly from city to city.

Building codes are more consistent from state to state, especially now, with the creation of the International Building Codes (IBC). However, not all states have adopted the same version (release date) of the IBC or they have amended portions of the codes for various reasons. Despite the standardization of the building code, a thorough investigation is essential to prevent costly design errors due to unusual requirements that may be hiding in these different versions and amendments to the code. As with zoning codes, building codes may affect land use, building design, structure, material choices and overall building size.

The best practice is to call the local planning department in the area in which you are working and inquire about their latest adopted codes. Check for specifics on zoning for your project location, construction type and local fire department requirements.

Below are potential local code parameters to be verified and obtained:

- It is critical for the design professional to confer with the local zoning requirements during the due diligence period of any project. This encompasses a wide array of items from land use restrictions, building height limitations, area setbacks, parking requirements, allowable building materials and signage restrictions. This can have a huge impact on the building footprint and rating of exterior walls or site/building placement.

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- Verify development fees, landscaping and lighting requirements for your site.
- The information obtained during the due diligence period is of utmost importance to your client prior to site purchase, just as site investigation and zoning information are crucial to efficient site layout.
- Planning or other Architectural Review Board processes can be the hardest part of the review and approval process; understanding and presenting the correct documentation is essential.
- Zoning Review and Approval
- Planning and Economic Development
- Architectural Review Boards (ARB)
- Historic Review
- Building code requirements, including the local amendments to the state or national code(s), as well as the applicable accessibility code(s), energy code(s), and fire codes enforced by local fire marshals.

The potentially time-consuming task of completing these investigations and reviews can be quite daunting for small firms. However, this research will be one of the defining factors of a successful preliminary design phase. Careful attention to detail can prevent costly mistakes and delays. Understanding of board review dates, thorough documentation, and timely submittals are essential to maintaining the project schedule.

Setting up a meeting with zoning and planning department heads is an invaluable tool in the schematic design phase of your project. You can ask questions regarding your specific project and best approaches as to what information to submit, how to address particular issues, what have been issues in the past with related construction projects, and the anticipated length of the approval process.

Coordination

The next step is coordinating the owner's requirements, city's requirements, your design ideas, the proposed project schedule, and the city's approval schedule as well as time for any necessary variance submissions.

Your client's project schedules are almost certainly tight; yet failure to factor in local planning and zoning's monthly or bimonthly meetings and submission deadlines can result in weeks or months of delay in the project schedule. Note that most municipalities require documents to be submitted weeks in advance of a scheduled review meeting for a project to receive a slot on the agenda. Therefore, it is essential to incorporate these dates (submission deadlines, review meeting date, and expected review times) into the design schedule. Remember to factor in time for potential setbacks such as required resubmissions due to board comments, variance submissions, or extended review time because of the city's backlog of projects in the queue.

Coordinate project-specific issues with your client and analyze the impact of past issues raised by the review board on your current project. Particularly discuss the potential for contentious issues relating to your project/site and prepare solutions or alternatives for presentation to the board. This may allow the project to stay on track and avoid potential resubmissions. Always identify possible sticking points and develop a backup plan, agreed to by your client, prior to any review meeting.

Completion and approval

The Dance: When making a presentation to a board or commission, be ready to defend your position with a thorough understanding of the zoning codes and ordinances. A complete presentation including a well-detailed plan will demonstrate to the board your understanding of their requirements and the adaptation of your project to those requirements. Following are some key presentation strategies:

- Note any discrepancies from the local codes and the rationale for non-compliance; request a variance for non-compliant issues.
- Propose solutions to the debatable issues that provide a comparable compliance with the city's requirements.
- Provide direct and honest responses—give and take is usually rewarded with agreement to your proposed solution or request for variance.
- Request additional time for research of a particular item if a negative decision appears imminent. This time may be necessary to provide the best solution for your client. Such a delay in the approval process is better than denial of a permit.

Be prepared for a variety of questions and different viewpoints prior to your appearance. Many times, there is a board member who knows the laws and amendments inside and out and wants to find out if you are on your game. There may also be the person on the board that has a limited understanding of architecture or construction. Furthermore, a member may, for unknown reasons, be opposed to your project. A diplomatic approach is always best.

As with design, you must be able to communicate your ideas and be able to compromise. Avoid any heated discussions. Offer suggestions, alternatives and resolutions in a confident and convincing fashion, without appearing arrogant or brash. Demonstrate clear reasons as to why your proposed design(s) meets or exceeds their codes/requirements and benefits the community.

Preparation for a negative ruling: Now and then you may not be the winner in a debated issue. Make certain to inform your client of potential risks in presenting a particular design or solution especially if alternative designs will result in significant cost increases.

An unfortunate aspect of a city's review process and their methods of implementing the rules/laws/amendments is that your client's money and time are not usually in the forefront of decision-making. Hence, one-on-one communication early on is the key in discerning any potential concerns and issues from city personnel.

Key items to know and consider

Know the procedure to get on the planning board's schedule: meeting dates, submittal documents, quantities and requirements. Presentations should be direct and to the point; avoid long discussions off-task and without a solution-based discussion, or ask for a final ruling by phrasing your question so you can get a yes response. Coordinate with your client about your talk points—know what solutions can be offered and what needs to be fought for and won. Consider who is in the room with the board, interested public and publishers, both pro and con, especially on controversial items. Know that some local cities require multiple readings of items for public record. This is crucial for a schedule!

Good luck, mostly good planning.

Conclusions

Finally, follow the process and you can maneuver through the majority of the city processes.

- Communicate, question, and investigate. Verify the local codes and zoning ordinances with several officials at the local building/zoning/planning department offices.
- Coordinate to know all details, dates and aspects.
- Complete and get approval as quickly as possible. Research, document and be politically correct in designing, process and presentation. Know that an appeal or variance may be a resolution for disputes when compliance is not obtainable, beyond financial issues. See the project checklist below.

Project checklist on code implications and scheduling with design phases

- Initial investigation of project location and site includes obtaining the design requirements from the local city.
- Determine the board members' review meeting dates (monthly or bimonthly), and schedule this to your design phases and approvals with the client.
- Note each review board's meeting dates, submittal procedure and the requirements of their code or ordinance, and required documents.
- Communicate, question, and investigate issues and items about the local codes ordinances and board rulings.
- Verify the local codes and zoning ordinances with several officials at the local building/zoning/planning department offices.
- Update designs according to your research: Document the code review and its implications for discussions on design; document agreed changes and why you made these changes; and keep the client as an integral part of the design changes, especially when the code influences the cost.
- Develop your talking points: Discuss design positives and supporting the community and design elements of the city's environment; discuss your strategy for items that are perceived as potentially non-compliant; and discuss your strategy for issues of must win and compromise points
- Keep track of documents: Always note to ask for approval at the board meetings. Some boards will give you immediate hand-signed approval to proceed—this is critical on schedule-delicate projects and will follow this up with the final formal letter. Some boards will only provide you with a formal letter—this may take a week or two for you to get, so make sure to find out how the final approval is granted.

About the contributor

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