

ZONING PRACTICE

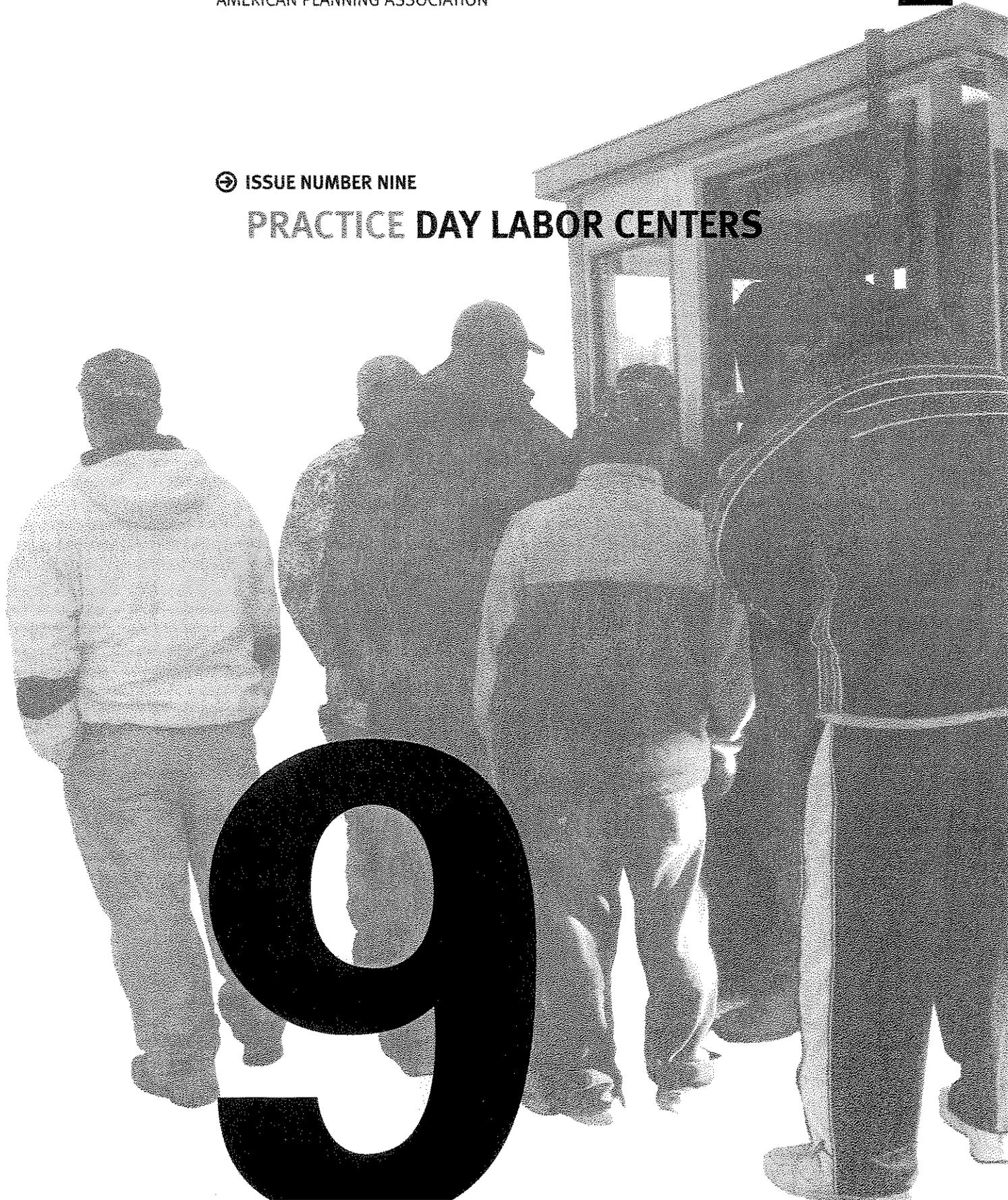
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PRACTICE DAY LABOR CENTERS



Planning and Zoning for Day Labor Centers

By Max Eisenburger

Over the last decade, worker centers serving day laborers have sprouted in communities across the country. Because day laborers represent the most visible face of immigration, worker centers frequently court controversy.

Yet at a local level, these centers offer hope for planners attempting to balance day laborers' need for employment against the wider community's interest in maintaining orderly appearances and traffic safety.

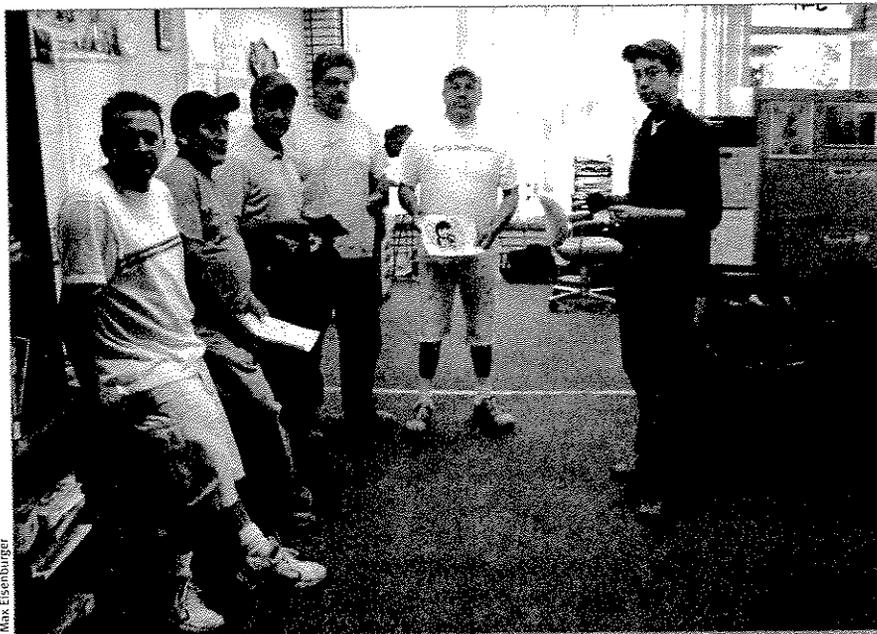
Day labor is defined by very short employment periods, often spanning several hours or days. The terms of employment are frequently subject only to verbal agreement, and this, along with the precarious legal status of many day laborers, leads to high levels of employer abuse. Nonpayment of wages and

hazardous working conditions are routine, and day laborers who speak up are often verbally or even physically threatened. At the same time, unregulated day labor corners often present communities with a host of negative impacts. Employers may stop their vehicles in the middle of busy arterials or stop across the street to pick up workers, causing congestion, traffic conflicts, accidents, and pedestrian crashes. With no waste receptacles or bathrooms nearby, day laborers may have few alternatives to littering or urinating in public.

The throngs of men (the vast majority of day laborers are male) standing on street corners can also create unease among passersby and generate concerns among adjacent businesses about lost revenue.

In the face of these challenges, worker centers offer the best hope of helping day laborers fight abusive work relations, while also addressing the common safety and aesthetic concerns that communities with informal day labor corners often have. Worker centers provide a space off the street where day laborers and employers can negotiate wages, and also set rules and expectations of behavior that both parties must follow in exchange for the privilege of using the center's facilities. But the opening of new worker centers is often plagued by a lack of accurate information and reliance on conjecture. This is unfortunate because planning can play an important role in ensuring a new center's success, both in siting a center to attract the maximum number of workers and in lessening the impacts that worker centers are likely to generate.

This issue of *Zoning Practice* draws on a wide array of literature on day labor and worker centers, interviews with worker center staff and local government personnel, and the author's own experience as a volunteer and researcher at both an informal day labor corner and a worker center in Chicago. Its intent is to provide communities with the basic information and tools necessary to establish a center that meets the needs of both workers and the community, while also anticipating and curbing some of the impacts that a day labor center is likely to have on its surrounding neighborhood. It does not discuss the administration of worker centers, an issue critical to the success of any center, but



Max Eisenburger

➔ Successful day labor centers often benefit from extensive public education campaigns. In December 2004, the Albany Park Workers' Center opened in Chicago after four years of community and worker education efforts by the Latino Union, a Chicago-based nonprofit specializing in immigrant labor issues. The laborers who use the Center have earned a reputation for hard work and quality craftsmanship in the construction, landscaping, and demolition industries.

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About the Author

Max Eisenburger is an APA research intern and master's degree candidate in Urban Planning and Policy at the University of Illinois at Chicago. He is currently writing a master's thesis on day labor employers and the factors that influence their decision to hire day laborers from worker centers versus informal labor corners. Max has also volunteered as an English instructor at the Albany Park Workers' Center in Chicago.

one beyond the scope of land-use planning. However, those interested in the day-to-day operations of day labor centers can find links and citations to further reading at the end of the article.

CONTROVERSY AND MYTHS

The polarizing debate around immigration casts a long shadow over the issue of day labor. It is impossible to discuss worker centers without briefly addressing some of the more pervasive and offensive myths surrounding worker centers. City staff, officials, and day labor advocates must undertake public outreach concurrent with the establishment of a worker center in order to deflate these myths, so everyone can move on to substantive issues rather than getting tangled in a thicket of rhetoric and misinformation.

Myth #1: Worker centers promote illegal immigration

Contrary to the assertions of some anti-immigrant groups, the majority of immigrant day laborers do not know about worker centers, let alone day labor, when they first arrive in the United States. According to the National Day Labor Survey conducted in 2006, 78 percent of immigrant day laborers learned of the practice once they were in the country (Valenzuela et al 2006, p. 18). Moreover, when someone begins work as a day laborer, he* often shows up at an informal corner, and only becomes aware of the center through fellow workers or through the outreach efforts of worker center staff. Finally, not all day laborers are undocumented. Seven percent were born in the United States, and nearly double that number are legal immigrants. (*ibid.*)

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Myth #2: Worker centers engage in unlawful activity by employing illegal immigrants

Unlike temporary agencies, worker centers do not employ day laborers: They help match day laborers with employers, who pay the workers for their services directly. Worker centers are therefore not required by federal law to check on immigration status; instead, it is the responsibility of employers to make sure that the individuals they hire are eligible to work, as well as pay taxes and contribute to social security, unemployment, and disability funds.

Staff members also make the argument that, without their worker centers, the same transactions would still happen between day laborers and employers, but they would be more likely to result in abuse of workers. Existing labor laws clearly state that illegal immigrants are entitled to the same labor protections as other workers; consequently, cen-

ters that help workers collect unpaid wages without regard to immigration status are promoting the rule of law.

Myth #3: Day laborers abuse drugs and alcohol and commit crimes

No study has ever been able to directly attribute increased criminal activity to day laborers. Nearly all evidence cited by day labor opponents is circumstantial, and often no documentation is offered to back up allegations. When there is a real problem, the culprits are often unrelated substance users and criminals who use the anonymity offered by the large crowd of workers to engage in violence and disorder, sometimes preying on day laborers themselves. Nevertheless, occasionally there are workers with substance abuse problems or who engage in criminal activity. Fortunately, nearly all worker centers have rules specifically prohibiting these activities that are enforced by on-site staff, which increases their appeal from a public safety perspective. In fact, some centers regularly work with local law enforcement officials to address any problems that arise.

Myth #4: There will be no more day laborers standing on street corners once the worker center opens

For several reasons, even the best situated and administered worker center will not completely eliminate informal day labor corners. In most communities, new day laborers arrive regularly, often without knowing about or immediately trusting the worker center. For that reason, center staff need to conduct outreach regularly to inform new arrivals about the center and encourage them to use its

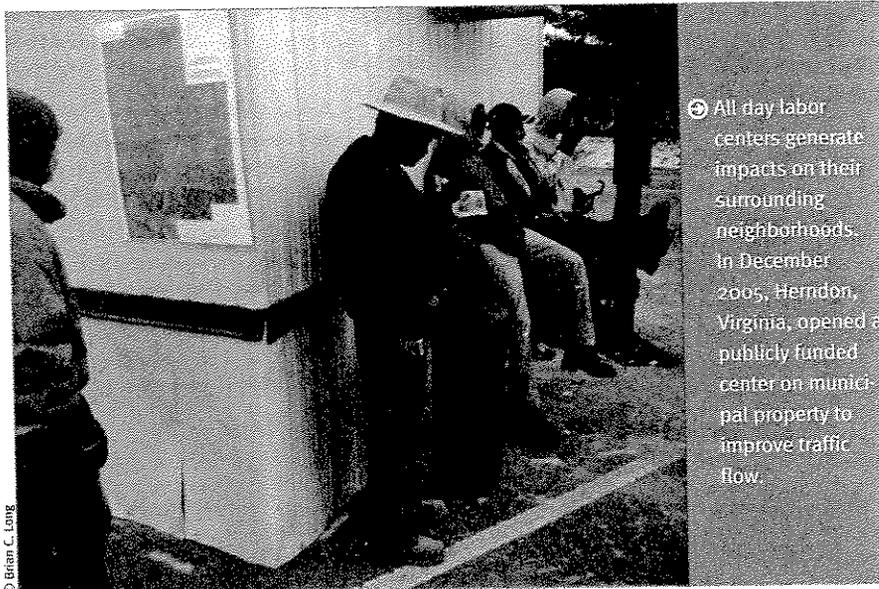
services. Slow employment periods can cause day laborers already using the worker center to return to the street corner. Even if a general slump is the cause, a downturn can create the perception in the minds of some day laborers that they might have better prospects on the street. Attracting and retaining the maximum possible proportion of employers to the worker center can mitigate this effect to some extent, but some leakage of labor supply will in all likelihood still occur. Therefore, local government officials and staff need to understand that there will always be a residual amount of day labor activity at the original day labor corner and ensure that the public understands it as well. Expectations need to be kept in check, especially during the initial stages of operation when the center is establishing its

worker center should include a public information component to dispel the myths discussed earlier. However, politics should not be allowed to overshadow the basic locational criteria that largely determine whether or not the center will effectively serve workers and address the community's concerns.

Primary among these criteria is the distance to the original informal day labor corner. Corners almost never take root randomly. They are strategic locations that arise because they meet the needs of both day laborers and their prospective employers. Day labor corners are often located near building stores where contractors and home owners alike buy their supplies (Home Depot being the most famous example), with convenient access to major thorough-

ways in areas where day laborers can afford to live, within walking distance of transit, and close to building supply stores. Similarly, many informal day labor corners in southern California are across the street from (or in the parking lots of) Home Depot stores, close to freeway access ramps, and near rapidly developing areas.

By situating near the original informal day labor corner, the worker center can use these locational pull factors to help draw both prospective employers and day laborers. However, if locating the center close to the corner is not feasible, planners should make efforts to ensure that any substitute location offers advantages comparable to those at the original site. Otherwise, the center will face an uphill battle to attract employers and workers, while the informal day labor corner and its undesirable effects continue unabated.



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➤ All day labor centers generate impacts on their surrounding neighborhoods. In December 2005, Herndon, Virginia, opened a publicly funded center on municipal property to improve traffic flow.

REGULATING THE IMPACTS OF WORKER CENTERS

Any use will generate impacts on its surrounding neighborhood, and worker centers are no exception. While the potential fiscal and social impacts of worker centers are a topic worthy of consideration, this article is focused on more immediate concerns about parking demand, traffic generation, and compatibility with nearby uses.

Parking and Traffic

For most uses, planners base parking requirements and traffic impacts on estimates of the number of customers (for commercial uses), employees (for commercial and institutional uses), and residents. Worker centers resemble commercial uses in that both have a relatively large volume of "customers" (i.e. potential employers) as well as staff and workers. However, estimating the number of people in each group is likely to be difficult for several reasons. First, because day labor is heavily oriented toward construction, painting, yard work, and other types of outdoor labor, the number of employers and workers using the center fluctuates widely from one season to the next, particularly in northern climates. If planners base parking requirements on peak summer demand, the worker center's parking lot will be empty in the winter; conversely, what was ample parking in the winter and fall months may be inadequate during the busy summer months.

reputation with workers and employers, so that unreasonable demands do not lead to frustration.

SITING DAY LABOR CENTERS

In the hope that we have laid the most common misinformation about day labor and worker centers to rest, we now discuss the siting and regulatory criteria that are most relevant when considering a new day labor center.

In too many communities, the only factor considered when deciding on a location for a worker center is the level of opposition that local politicians and staff are likely to encounter. Political feasibility is an important consideration, and any effort to establish a

fares and close proximity to work sites (either booming suburban towns or redeveloping inner city neighborhoods). In some communities, nearby social services used by day laborers can also exert an influence on the corner's location. As time passes and a site becomes more established, some day laborers will likely move into housing within closer walking or commuting distance, reinforcing the significance of its location.

In the greater Chicago area, for instance, the three biggest corners are located near expressways that offer quick access to the booming outer-ring suburbs west of the city, but are also near gentrifying Chicago neighborhoods. Moreover, they are

Second, day labor centers exhibit an uncommon activity schedule relative to other uses. The number of workers arriving at the center peaks around opening time (typically 5:30 or 6 a.m.), and the number of employers varies but generally drops off by 9 or 10 a.m. Again, climate can generate some important differences. In some parts of the Southwest, where high temperatures can routinely exceed 100 degrees, jobs start and finish earlier in the day during summer. One center in Arizona actually closes at 9 a.m. in the hottest months. Because workers and employers often do not return to the center at the end of the work day, the conditions of day labor transform the idea of a “work day” itself into a flexible concept, making the traffic and parking impacts of worker centers very difficult to estimate.

In the face of such uncertainty, conventional planning wisdom suggests applying conservatively high estimates of traffic and parking demand. Before doing so, however, it would be wise to account for the transportation profile of day laborers, who are more likely than the overall population to carpool, take transit (if available), bike, or walk to the worker center. In almost all interviews with center staff, driving alone was reported to be the least likely means of getting to and from the worker center. This implies much lower traffic and parking impacts than standard estimates would predict. Exactly what proportion of day laborers still arrive by car will vary with context and can be best estimated by surveying workers and any existing organizations that represent or serve them.

The impact of employers on parking and traffic may seem easier to estimate relative to day laborers, since they almost always arrive and leave in vehicles, but the amount of traffic generated and necessary parking can in fact vary widely depending on the operational structure and physical design of the worker center. Some centers allow employers to come in on an appointment-only basis, in which case they discuss the nature of the job and agree to wages with day laborers over the phone. Then, at the designated time, they drive by to pick up the day laborers. On the other hand, many worker centers conduct business on a “drive-through” basis, allowing employers to show up unannounced any time during the day. They must then discuss the nature

In practice, most existing worker centers are located on and immediately surrounded by property that is zoned for commercial or public institutional uses.

of the job and wages with day laborers, and if they cannot reach an agreement, the employer may leave without hiring anyone. This business model involves several minutes of time spent by the employer—and the

additional services may have staff members who keep different hours, and not all staff may be at the center every day. For example, a worker center may have a total of 14 employees and volunteers, but only two are present on any given day.

Because local conditions and the specifics of each individual center have such a large influence on parking demand and traffic generation, planners should use caution when relying on estimates from other communities. Instead, all of the above issues should be carefully considered and discussed with day laborers, advocates, and frequent day labor employers to produce a more reasonable assessment.

ZONING AND COMPATIBILITY WITH SURROUNDING USES

While traditional neighborhood and mixed use districts may be the hot topic in planning at the moment, compatibility with surrounding uses may be a contentious issue if a proposed center is located near low-density residential dwellings. Some objections are based more on fear than substance. While day labor opponents in one community went on record insinuating that day laborers would prey on schoolchildren if a worker center opened in a residential area, a day care facility in Mount Kisco, New York, happily shares building space with a worker center. However, there are genuine concerns that merit serious consideration. Worker centers open before most people get out of bed and often operate on Saturdays as well as weekdays, which is perhaps as appealing as having a convenience store for a neighbor.

In practice, most existing worker centers are located on and immediately surrounded by property that is zoned for commercial or public institutional uses. Residences may be in the vicinity, but they are not typically adjacent to the center, often for the simple fact that the center is situated along an arterial or other major road. In interviews conducted for this article, no staff of any of the cities or centers contacted could recall hearing any complaints from area residents related to site impacts. The fact that a sizable majority of centers surveyed were sited on commercial property and few complaints by

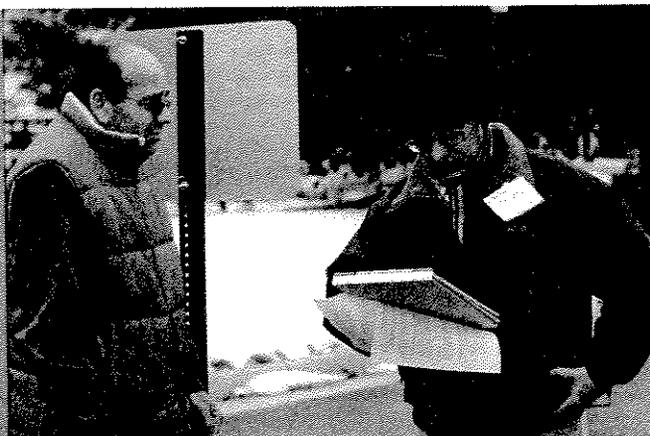


⊕ Not all day labor centers operate from storefronts or other permanent structures. Herndon, Virginia's worker center operates out of the public works building's parking lot.

employer's vehicle—parked or standing on the site or in the street while negotiating with workers, which can quickly create stacking and parking issues if several employers arrive at once. Centers that wish to operate on a drive-through basis should locate on a site with a large, open graveled or paved area to solve this issue, while those located in a storefront office with limited parking should require employers to call ahead.

The only vehicle impact that is relatively straightforward to assess is that of worker center staff and volunteers, since they are more likely than workers to own and drive cars to the center and are typically there from the time the center opens until it closes. With that said, centers that provide

⑨ "Drive-through" worker centers require more parking than appointment-only centers. As this employer arranges for three workers at the Herndon Official Worker (HOW) center, his vehicle remains parked on-site.



NEWS BRIEFS

"BEANTOWN" BECOMING GREENTOWN THROUGH ZONING

Megan S. Lewis, AICP

In January 2007 Boston became the first city to incorporate the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) requirements into its zoning ordinance. Following a public hearing that month, the zoning commission approved adding Article 37 to Boston's zoning code to require LEED for New Construction and Major Renovations (LEED-NC) certification for public and private development projects of more than 50,000 square feet. The Boston Redevelopment Authority (BRA) is responsible for ensuring that projects comply with this new amendment.

This is not the first step that Boston has taken to incorporate green building into the city. In June 2003 Mayor Thomas Menino formed the Green Building Task Force, composed of public and private partners, to help guide policy initiatives to "build a greener Boston." In November 2004 the task force issued its recommendations, including a 10-point action plan outlining key steps. This action plan called for the city to amend Article 80 of the zoning ordinance to require LEED certification for large-scale projects. In addition, the task force recommended requiring all city-owned new construction and

adjacent properties were registered anywhere would seem to suggest that commercial is an appropriate designation.

Regulatory Process

In terms of underlying zoning, approval could run into difficulty if it is unclear whether or not a worker center is a permitted use. A use table that enumerates them is unheard of, and centers do not easily fall under a more general category such as institutional or commercial. For this reason, one worker center spent a considerable amount of time seeking advice to ensure that it would not need a variance to occupy a commercial site. Depending on the community, a worker center is usually considered a nonprofit business, in which case it is likely a permitted use in commercial districts; in other cases it may qualify as a public service facility, especially if it is administered by the local government.

The specific requirements of the public hearing and approvals process can likewise vary depending on whether the site is owned privately or by a local government. In Montgomery County, Maryland, all three worker centers are located on county property, so they were required to use a process for public use projects known as "mandatory referral." The process included public notification and a planning board hearing, but comments received from board members for public use projects are non-binding. Similarly, the approval process can range from relatively lenient to stringent depending on whether the worker center will entail construction or significant rehabilitation of improvements on the property.

CONCLUSION

As long as immigration issues loom large on the national agenda, day labor will continue to be a lightning rod for controversy. However, a

properly sited and administered worker center represents a tool for any planner looking to improve conditions for day laborers and for communities as a whole. With proper planning, the concepts and strategies presented in this article can help interested communities to successfully site a worker center and control its impacts in a way that balances the interests of all concerned parties and reduces unnecessary conflict.

***Note:** The use of the pronoun "he" in this context should not be interpreted as reflecting a chauvinistic attitude on the part of the author, but rather as an acknowledgment of the fact that the overwhelming majority of day laborers are male.

FURTHER READING

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major renovation projects to be certified LEED Silver status and for all city-supported development projects to be LEED certified. The city adopted these task force recommendations the following month.

In the Boston zoning code, all proposals subject to Large Project Review under Article 80B must meet this new requirement, unless they entered the review process prior to the first public notice on the zoning change. The same exception applies to Development Impact Project plan and planned development area development plan applications.

"Large projects have the greatest environmental impacts and the greatest opportunities to improve," says John Dalzell, senior architect with the Boston Redevelopment Authority. "Additionally, with larger and more advanced project planning teams, their ability to change practice and lead the industry was far better than smaller project teams. And finally, these projects already undergo a significant development review process; the new regulations present little or no additional permitting burdens."

Large Project Review addresses eight components: transportation, environmental protection, urban design, historic resources, infrastructure systems, site plan, tidelands, and development impact project. Prior to this amendment the environmental protection component included a section on green building, which involved an assessment of the project to determine if it complied with LEED, which rating system was most appropriate, and the level of environmental performance that the building would achieve. While the city did ask development teams to submit LEED score sheets for their projects, according to Dalzell, "this was not required nor did we set a minimum outcome or score."

Numerous cities have adopted LEED certification requirements for municipal and other public buildings. But only a handful of cities have incorporated LEED certification requirements into their zoning ordinances, and before Boston joined this group, they focused only on height and density bonuses.

This appears to be the start of a trend in the region and across the country. According to David Dixon, FAICP, of Goody Clancy, the city of Cambridge, Massachusetts, is in the process of adopting comparable zoning, and other cities in which he is working "are considering or are already well along toward incorporating certification into zoning as a

source of incentives or directly into codes or other regulatory tools as a precondition to building approvals."

In addition to LEED, Boston has its own credit system. The Boston Green Building Credits program covers four categories: modern grid, historic preservation, groundwater recharge, and modern mobility. To be eligible for these credits, developers must submit a plan to the BRA that meets certain Boston Public Health Commission prerequisites. For this zoning amendment, four of the 26 credits required for minimum LEED certification may be Boston Green Building Credits, with one point awarded for each of the four categories.

The Boston Green Building Task Force recommended requiring all city-owned new construction and major renovation projects to be certified LEED Silver status and for all city-supported development projects to be LEED certified.

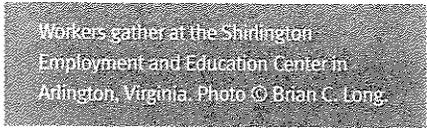
The BRA will ensure compliance with Article 37 through its overall Large Project Review authority under Article 80, Section 80B-6. A Boston Interagency Green Building Committee, created by Article 37, advises the BRA. The committee includes city agencies involved in the building and permitting process.

"The codification of sustainability into zoning and building codes will help urban designers return to a broader focus that integrates sustainability into a wide range of urban design concerns that touch on the full range of human experience and quality of life as well as our responsibility to the natural environment," says Dixon. "Any increased attention to sustainability, in form of green building, increased transit funding, emphasis on TOD [transit-oriented development], or in other forms generally has a very positive impact on urban design."

This is just the first step that the mayor plans to take with regard to green building in Boston. "The mayor has set a progressive and aggressive vision for Boston to become a leader in green buildings on a regional, national, and international level," says Dalzell. "As the building industry and market adapts to [these new] regulations the city will look at actions that improve performance and expand [this] practice across the city and across sectors."

Because these projects typically spend at least a year in the project planning and permitting phases, the city is still waiting to find out the outcomes. However, they have noted an increase in the number of projects seeking LEED certification, and anecdotally have heard "if we are going to do it, let's get the full credit."

Megan Lewis, AICP, is a senior research associate at the American Planning Association. She is project manager for an APA research effort examining the connections between energy and planning titled *Planning Our Way to a New Energy Future*. For more information, see the project website at www.planning.org/energy.



Workers gather at the Shirlington Employment and Education Center in Arlington, Virginia. Photo © Brian C. Long.

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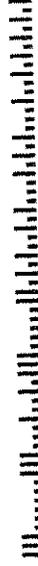
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DOES YOUR COMMUNITY PLAN
FOR DAY LABOR?

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