



## **Thinking of making an improvement or developing a piece of property?**

It will likely require some type of review, permit or approval from the municipality it is located in. This is not always a clear-cut process. Nearly 2,600 municipalities exist in Pennsylvania and all have slightly different requirements regarding obtaining the required approvals.

Most municipalities have Comprehensive Plans, Subdivision and Land Development Ordinances, and Zoning Ordinances to serve as a guide in developing land within their borders. These are the guidelines in which a person proposing a land development must abide by to receive permission to proceed with their project.

Depending on its size and complexity, a typical land development project in Pennsylvania can take six months to several years to gain all necessary approvals required to begin construction. The land development process normally involves the services of a licensed professional engineer or professional surveyor in the State of Pennsylvania to determine potential development obstacles. This upfront investigation is critical for an owner. It may not be feasible to develop some properties to the fullest extent desired or perhaps not at all due to limiting site conditions or legalities in the area.

If a landowner or equitable owner of a property wants to build an office building with parking on their vacant property, this is typically classified as land development. Another owner of a property may want to create new residential building lots by dividing one existing lot into a few along an existing road or many new lots by constructing a new road and associated features. This type of development is typically considered a subdivision. Both are governed by the previously referenced Municipal Subdivision and Land Development Ordinance (SALDO) as well as the Zoning Ordinance.



**Both types of projects will require consideration of the following:**


**Does the zoning ordinance in the municipality allow that type of land use?**

If the proposed land use is permitted by right, then no zoning amendment requests (petition for zoning map amendments, zoning text amendments or variances) are required. However, if it is not currently permitted in the zoning district, applications to the Zoning Hearing Board or other appointed entities will be required for some type of zoning amendment. If the use is permitted in the district but only by “Conditional Use” or “Special Exception”, then a hearing process must be conducted.

In the case of a zoning amendment request or Conditional Use / Special Exception, the engagement of a Professional Engineer and attorney specializing in land planning issues is usually required. The estimated time to prepare an application, attend hearings and receive a final decision from the Municipalities typically ranges from 2 to 6 months. The timing will depend upon the complexity of the project and the level of interest on the part of the municipality and neighbors. A heavily contested project can take several years to obtain some type of approval. It is important to note that a zoning amendment approval is not a guarantee.

**How will the sewer and water needs of the project be served?**

If public facilities are in the area, immediate inquiries with the utility providers must be made and appropriate agreements and payments made to secure capacity. If on-lot sewer and water facilities are proposed (drilled well and sewage septic system), appropriate sewage testing is required with the Municipality’s Sewage Enforcement Officer. For larger projects, a hydrogeologic study may be necessary to prove adequate subsurface water capacity. Many projects can experience long delays because of the



unavailability or inadequacy of sewer and water; therefore, this step is critical to resolve early in the project.


**What type of road does the project site take access from (PADOT, municipal, etc.)?**

If the project takes access to a PADOT road, a permit with the Pennsylvania Department of Transportation will be required to gain access for these entrance(s). Often road improvements are required to support the additional traffic or new traffic patterns generated by the project. Preparation of the necessary plans and supporting documents and obtaining final permits from the Pennsylvania Department of Transportation can take six (6) months to more than a year depending upon complexity. Projects which take access to municipally owned roads often, but not always, require some form of road or driveway permit from the municipality. Additionally, depending on the size of the project, a traffic signal may be warranted. This will be determined by conducting a traffic study.

Except when controlled by a traffic signal, the location of any road access must be placed so that there is sufficient sight distance (the ability to see far enough in both directions when pulling out onto the road from the project site). This depends on many factors including the grade of the existing road, the speed limit of the road and existing vegetation in the area of the driveway access. It is important to determine adequate sight distance is available early on in the project to avoid design changes later in the process.

**Do wetlands and/or other environmentally constraining features exist on the site that could impact or possibly prohibit development?**

Existing inventory mapping and on-site field evaluations performed by wetland scientists are typically used to determine the presence of wetlands. Analysis of slopes, review of underlying soils and geology, understanding the location(s) and type(s) of water carrying channels, the presence of



woodlands and individual trees of significance, and other natural resource features obtained from field surveys and sometimes local, state and federal mapping sources are utilized to identify potential constraints to development. Proper site development can only occur after these areas are known.


### **Land Survey**

Upon ensuring that any zoning, subdivision and land development regulations, sewer, water, highway access, or environmental features do not prohibit the desired development of a site, the owner will require the services of a land surveyor to obtain the necessary survey information for the project. Required survey information may include topography, environmental features, existing buildings and other manmade elements, utilities, and boundary information. Due to the requirements of the Zoning and Subdivision and Land Development Ordinance (SALDO), the prepared plans must be highly accurate and must be prepared by a licensed Professional Land Surveyor (PLS).

### **Initial Presentation to the Municipality (“Sketch Plans”)**

When the survey work is complete, the site can then be designed to meet the needs of the owner in accordance with the Zoning Ordinance and SALDO requirements of the Municipality. It is recommended that a concept plan (also known as a “Sketch Plan”) be prepared upfront and presented to the Municipality to obtain their initial feedback. The concept plan process helps ensure that time and money are not spent on a detailed design where the Municipality requests alterations to the configuration of the development. Alternative design concepts can then be explored to achieve relative consensus prior to developing and engineering highly detailed site plans.

Municipalities are governed by an elected board of Supervisors, Commissioners, or a Council. These elected officials typically appoint members to a Planning Commission which makes advisory decisions that the elected officials consider when making approval decisions on projects.




Planning Commissions typically meet one day each month. Supervisors, Commissioners, and Council typically meet one or two days each month depending on the amount of municipal business. Additionally, a County Planning Commission exists and must be provided the opportunity to offer input into the development concept. County Planning Commissions offer advisory opinions only for consideration by the Municipality.

### **Detailed Design Process (“Preliminary Plans”**

After concept plans are presented to and generally accepted by the Municipal Planning Commission, detailed design can then be completed. Detailed engineered design is presented on grading plans, erosion and sedimentation control plans, stormwater management plans, utility plans, record plans, plans of proposed improvements, lighting plans, landscape plans, and sometimes environmental plans. Supporting documents, such as a stormwater management report, traffic impact study, erosion control report, wetland delineation report, and sewer and water feasibility and planning may also be required by the Municipality. This process normally takes several weeks or months depending on project complexity.

The fully engineered plans and reports are then submitted to the Municipality as a preliminary plan with an accompanying application fee that funds the anticipated costs of the Municipality’s engineering and legal review services. An owner should note that they will be responsible for any engineering and legal costs associated with their project throughout the approval process for any amounts that exceed the initial application fee. Total application fees payable to the Municipality, County Conservation District, and County Planning Commission are typically based upon proposed building square footage, the number of residential lots, and/or disturbed acreage.

Through the monthly meeting process with the Municipality, all outstanding preliminary plan issues are resolved through compliance or negotiation with the Planning Commission and Supervisors, Commissioners, or Council.



While the specific sequence of activities will vary by municipality, generally the plan is first presented to the Planning Commission and issues are resolved to their satisfaction through a cycle of plan reviews performed by the municipal engineer, edits made by the project engineer, and Planning Commission meetings. Once satisfied with the plan, the Planning Commission makes recommendation for plan approval to the Supervisors, Commissioners, or Council. Through a similar meeting process with them, the plan is presented and issues are addressed to their satisfaction. The Supervisors, Commissioners, or Council then take formal action at a public meeting to approve the preliminary plan. The approval of the preliminary plan many times includes conditions attached to the approval. Examples of conditions include payment of certain fees, voluntary additional improvements and receipt of outside reviewing agency approvals.

### **Final Approval Process (“Final Plans”)**

Upon approval of the preliminary plan, the owner’s rights to complete the project in accordance with those plans are protected by the Pennsylvania Municipalities Planning Code from future Ordinance changes for five (5) years. When the owner is ready to go forward with their project (typically immediately following Preliminary Plan approval), a final plan is prepared and incorporates all of the design details portrayed and any additional conditions agreed upon with the preliminary plan approval. A final plan application is then filed with the Municipality and County Planning Commission. Meetings are held like those associated with the preliminary plan. The timeline associated with the approval of the final plan is typically much shorter than that of the preliminary plan, taking only several months, due to the level of detail and review associated with the preliminary plan. It is important to note that for smaller projects, a combined and expedited “Preliminary / Final” process is often available for the applicant / developer, depending on the municipal requirements.




## **Final Approvals and Other Permits**

To receive ultimate final approval from the Municipality, any required outside agency permits must also be secured. These can include a Highway Occupancy Permit from PennDOT, Stormwater Discharge and Erosion Control permits and approvals from the County Conservation District, any applicable environmental permits for DEP or US Army Corps of Engineers (including a Federal NPDES stormwater discharge permit), and possibly final signed agreements from utility providers.

## **Finalizing the Project and Preparing for Construction**

Upon receipt of all municipal approvals and other necessary permits the developer is ready to record the final plan and if applicable, move forward with construction. However, before that can occur, there are other documents and financial securities that must be put in place. For a project that does not include construction (for example a modification of lot configurations only), the developer must prepare a Record Plan and record that plan in county courthouse. This plan is an official record of the development process and must be signed by all property owners involved, the developer, the county and municipality.

Upon plan recording, in the case of a construction project, the developer must create a formal agreement with the township regarding all aspects of construction. This document outlines all the requirements and responsibilities of the developer and municipality and serves as a legal agreement binding both parties to the agreement. These are usually also recorded in the county courthouse as an official record. Additionally, as part of the construction process, the developer must post financial surety with the municipality for any site improvements that are intended for dedication to the municipality or public provider (i.e. streets, utilities) or any other site improvement deemed necessary to ensure the health and safety of the adjoining property owners. This financial security provides funding for the



municipality should they need to complete the project in the event the developer is not willing or able to do so themselves. Finally, after execution of the development agreement and receipt of any additional construction permits from the municipality, construction can begin.

## **Summary**

The development process can be a complex and oftentimes emotional endeavor which can vary significantly from one municipality to another. It is important to have the appropriate and experienced professionals on your team to successfully navigate the development process. Many on our staff have over 30 years of experience in the land development process. We also have key trusted partners in many related fields (including attorneys, environmental consultants and construction specialists to name a few) that we can recommend for you. We are also more than willing to work with your own specialists as well. If you are contemplating some type of land use alteration or development, feel free to contact for an initial no cost consultation. At this point, we would review your desired objectives and would advise you on an appropriate path forward. We're here to assist you and make the process as smooth as possible - give us a call!