

**WEST WHITELAND TOWNSHIP
Planning Commission
Agenda
Tuesday, May 4, 2021
7:00 P.M.**

This Meeting will be held by teleconference via Zoom.

CALL TO ORDER

REVIEW OF MEETING MINUTES

1. Approval of Meeting Minutes: April 6, 2021

PUBLIC COMMENT/CONCERNS/QUESTIONS

PLANS

OLD BUSINESS

1. Revisions to Plan Submission Requirements SD/LD & Zoning Ordinances

ANNOUNCEMENTS

ADJOURNMENT

Next Meeting: May 18, 2021

Directions to access the Zoom Meeting

Click this link to register:

<https://us02web.zoom.us/meeting/register/tZEpcOqqqDspHdLgBATJX4cK24c9k-pWhpdh>

Option by Phone:

Register and use your phone and call +1-646-558-8656. When asked, enter the Meeting and Password.

[Virtual Meeting Etiquette](#)

[Zoom Instructions](#)



MEMORANDUM

DATE: April 30, 2021
TO: Planning Commission
FROM: John R. Weller, AICP
Director of Planning and Zoning

SUBJECT: **Review process**
Amendments to the Subdivision and Land
Development Ordinance and the Zoning
Ordinance

Background

At the meetings on February 16, March 2, and March 16, 2021 we reviewed the Township regulations that address the plan review and approval process. The memo dated February 12, 2021 provided background on the basis of the Township's authority, including a summary of the provisions of our Subdivision and Land Development Ordinance ("S/LDO") and Zoning Ordinance that have to do with this process. We also explained why we're doing this:

- First, to review what information is necessary for us to understand a project and to conduct our review.
- Second, how can we make the regulations user-friendly, so applicants, our consultants, and future Commissions and staff members can easily navigate and understand the requirements.

So far, we have discussed changes to Articles II, III, and IV of the S/LDO along with the portions of Articles IX and XVI of the Zoning Ordinance that direct developers to provide various impact studies for larger projects.

For Tonight

Tonight we will review Article V of the S/LDO, which will be the last portion we will examine. This Article addresses what happens after a plan is approved and how the Township assures that a development is constructed as shown on the approved plan.

You may recall that most motions approving a plan include a requirement that the developer execute four different documents as conditions of approval:

- *Stormwater Management Facilities Maintenance Agreement* - Required for all projects that include stormwater management structures. The agreement commits the developer and future owners of the property to maintain the stormwater facilities so that they function as designed. It also stipulates an annual inspection, with a report to be provided to the Township.
- *Landscaping Restrictive Covenant* - Required when the project includes landscaping elements required by the S/LDO. The agreement commits the developer and future property owners to maintain the landscaping such that it will serve the function for

which it was required and includes provisions requiring the replacement of dead vegetation.

- *Developer Agreement* - Required for all projects. This agreement commits the developer to construct the project as shown on the approved plan, although there are allowances for field changes.
- *Financial Security Agreement* - Required for all projects that include improvements (including landscaping) required by our regulations and/or that will be dedicated to the Township upon completion. This agreement requires the posting of escrow sufficient to pay for the completion of such improvements should the developer renege on the Developer Agreement for any reason.

The language requiring the Developer Agreement and the Financial Security Agreement is in Article V: the former is addressed in §281-53 and the latter in §281-54 and §281-57. You will note that most of the portion about financial security is in blue: these sections are nearly verbatim from the Municipalities Planning Codes, so we are not recommending any revisions in the interest of assuring that our ordinance is consistent with the State.

Next Steps

We have asked other staff members and several of our consultants to comment and provide guidance on revisions to the sections dealing with their various areas of expertise. We have already received comments from the Directors of the Finance and Public Works departments; Commonwealth Heritage Group and McMahon Associates will be providing comments regarding the historic preservation and traffic sections respectively by May 10. Staff will prepare drafts reflecting both your comments and those received from these other sources for consideration at our meeting of May 18. Prior to your making any motion to recommend the amendments to the Board of Supervisors, we will ask the Township Solicitor to comment as well.

Attachment

1. Proposed revisions to S/LDO Article V (redline version), dated April 30, 2021.

PC MMO's - Miscellaneous\2021\210430 - Process amds

Article V
CONSTRUCTION AND ACCEPTANCE of PUBLIC, PRIVATE,
and QUASI-PUBLIC IMPROVEMENTS

§281-53: Construction required

- A. All streets, parking lots, storm drains, sanitary sewers and sewer laterals, water mains and services, monuments, street signs and other public, private or quasi-public improvements required shall be installed in accordance with this chapter, the approved plans, the applicable provisions of the Pennsylvania Department of Transportation Specifications, Publication 408, or the latest edition thereof, standard specifications of the Township or Authority, or other applicable regulations. The developer or subdivider shall enter into a subdivision and land development agreement in a form satisfactory to the Township Solicitor prior to the public recording of any final subdivision or land development plan setting forth the obligation of the developer or subdivider to complete all public and quasi-public improvements associated with any land development or subdivision. The construction or installation of all public, private or quasi-public improvements shall at all times be subject to inspection by a designated representative of the Township. If such inspection reveals that work is not in accordance with approved plans and specifications or that construction is not being done in a workmanlike manner, said representative is empowered to stop work and/or to require corrections to be made. A forty-eight-hour start-work notice shall be given to the representative of the Township prior to any construction or installation.

- B. The contractor shall request a job conference with the Township prior to any construction. Seven sets of shop drawing and specifications of all and any material to be used on the job shall be submitted to the Township for approval prior to any construction. three sets of complete and signed plans shall be given to the Township representative for his use.

§281-54: Completion of improvements or guarantee thereof prerequisite to final plat approval

- A. No plat shall be finally approved unless the streets shown have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by this chapter, and any walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this chapter have been installed in accordance with such chapter. In lieu of the completion of any improvements required as a condition for the final approval of a plat, the developer shall deposit with the Township a financial security in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, road, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plants which may be required. In the event the developer posts financial security with the Township, the developer shall enter into an improvement escrow agreement, in a form satisfactory to the Township Solicitor, setting forth the obligations of the developer relative to the financial security.

- B. When requested by the developer, in order to facilitate financing, the Board shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is

granted by the Board; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

- C. Without limitation as to other types of financial security which the Township may approve, which approval shall not be unreasonably withheld, federal or commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purpose of this chapter.
- D. Such financial security shall be posted with a bonding company or federal or commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the commonwealth.
- E. Such bond or other security shall provide for, and secure to the public, the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- F. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually the Township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.
- G. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional engineer licensed as such in the Commonwealth of Pennsylvania and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in the Commonwealth of Pennsylvania and chosen mutually by the Township and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the applicant or developer.
- H. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security shall be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above procedure.
- I. In the case where development is projected over a period of years, the Township or the Planning Commission may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

- J. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such request shall be in writing addressed to the Board of Supervisors, and the Board shall have 45 days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Township that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification, the Township shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed or, if the Township fails to act within said forty-five-day period, the Township shall be deemed to have approved the release of funds as requested. The Township may, prior to final release at the time of completion and certification by its Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- K. Where the Township accepts dedication of all or some of the required improvements following completion, the Township may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements. The developer or subdivider shall execute an agreement evidencing the posting of financial security consistent with this subsection in a form satisfactory to the Township Solicitor.
- L. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulation of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this chapter.
- M. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this chapter, the Township shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any provision of this article inconsistent herewith is hereby expressly repealed.

§281-55: As-built plans

[Amended 12-11-2013 by Ord. No. 409]

Within 30 days after completion and approval by the Township of improvements as shown on the final plans, and before acceptance of such improvements, the applicant shall submit to the Board of Supervisors a final corrected copy of said plans. These plans shall be in electronic format at acceptable to the Township. compatible with AutoCAD (latest version) or compatible file format (dwg or dxf format) as well as Portable Document Format (PDF) file format. Hard-copy versions of as-built plans

shall also be submitted on twenty-two-inch-by-thirty-four-inch or twenty-four-inch-by-thirty-six-inch sheets. ~~Sheets reduced in size to meet this sheet size will not be accepted.~~ All as-built plans shall indicate all actual dimensions, elevations, site grading, and locations of all site improvements, including field changes, and shall also be certified by the applicant and a registered surveyor or engineer to be in accordance with actual construction. Further, the location and elevations of all sewer laterals and water services shall also be indicated. As-built plans shall be required for all subdivisions with site improvements (road, storm sewer system, sanitary sewer system, etc.) and all residential and nonresidential land developments.

§281-56: Dedication and acceptance of public improvements

- A. Upon completion of any public improvements shown on an approved subdivision plan and within 90 days after approval of such public improvements, as hereinafter provided, the Board may require that the developer offer such public improvements for dedication. In such a case, the developer shall prepare a deed of dedication and forward same to the Secretary of the Township for review by the Solicitor. Deeds of dedication for public improvements may be accepted by resolution of the Board at a regular meeting thereof.
- B. The dedication and acceptance of public improvements procedure shall be initiated when the Township receives a certified or registered letter from the developer notifying it of the completion of said improvements as described in Section 510(a) of the MPC.¹ Improvements will be considered for dedication only during the months from May through October. Therefore, the above-mentioned certified or registered letters must be received between May 1 and October 1 for the improvements to be considered at that time.
- C. Prior to the acceptance of dedication of any public improvements, all easements and covenants required by this chapter or by the terms of approval of any plan shall be recorded with the Office of the Recorder of Deeds in and for Chester County and satisfactory proof of the recordation shall be submitted to the Township. [Amended 8-23-1994 by Ord. No. 226]

§281-57: Release from financial security

- A. When the developer has completed all of the necessary and appropriate improvements and would request release of the improvement bond, the developer shall notify the Township, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Township Engineer shall inspect all of the aforesaid improvements and shall, within 30 days, file a report, in writing, with the Township and shall promptly mail a copy of the same to the developer by certified or registered mail. Said report shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Township shall notify the developer, within 15 days of receipt of the engineer's report, in writing, by certified or registered mail, of the action of the Township with relation to approval, non-approval or rejection of improvements.
- C. If any portion of said improvements shall not be approved or shall be rejected by the Township, the developer shall proceed to complete the same and, upon completion, the same procedure of notification as outlined herein shall be followed.

¹ Editor's Note: See 53 P.S. §10510(a).

§281-58: Field changes

- A. After final plan approval, any revision to the approved plan (field change) shall be subject to review and approval by Township Engineer, Zoning Officer, Public Works Department, Code Administration, and any other office deemed necessary by the Township. Approval of field changes are at the sole discretion of the Township.
- B. Requests for field changes shall be submitted to the Township in writing at least two weeks prior to planned construction of the field revision. The request shall clearly outline the scope of and reason for the field revision, and shall include two sets of red-lined plans showing the approved design and the proposed revision for review by the Township. These plans shall include all sheets from the approved plan set which are affected by the proposed field revision.
- C. After review and approval of the field revision by the Township, three complete sets of red-lined plans shall be submitted to the Township. All field revision construction shall be noted on the as-built plans.