

THE LAND DEVELOPMENT AND SUBDIVISION PROCESS

INVENTORY AND ANALYSIS OF ZONING HEARING BOARD ACTIVITY

INVENTORY AND ANALYSIS OF PLANNING COMMISSION LAND DEVELOPMENT
ACTIVITY AND BUILDING PERMIT ACTIVITY

THE BOARD OF HISTORICAL ARCHITECTURAL REVIEW AND THE
HISTORICAL COMMISSION

INVENTORY AND ANALYSIS OF PLANNING STUDIES AND
REGULATORY EFFORTS

ISSUES AND THEMES IDENTIFIED BY STAKEHOLDERS

ISSUES AND THEMES ANALYZED BY STAFF





This section presents a review of existing land development codes and practices in order to evaluate how well the Township's current tools address issues associated with land development. Staff reviewed and evaluated the existing codes and practices to understand issues, identify patterns and to determine what works and what does not work.

The inventory and analysis of land development activity between 2003 and 2008 includes 679 requests to the Zoning Hearing Board, 211 applications heard by the Planning Commission, 398 applications reviewed by the Historical Commission and Board of Historical Architectural Review, and 13,527 permits reviewed by the Building and Planning department. In addition, a summary of the 558 ordinance amendments related to land development from 1996 through 2008 is provided. This summary outlines newly created districts and ordinances as well as revisions to existing ordinances. The Township has also completed numerous planning studies from 1998-2008. The purpose of this analysis is to provide a comprehensive view of land development related activity in order to better understand what actually transpired in relation to the stated goals and objectives of the community.

The various Township advisory bodies that deal with land development, zoning, historic preservation, open space and environmental issues participated in the comprehensive planning process as well as provided input regarding issues they have come across and themes they have identified over the past several years. Planning staff met with the advisory bodies to explain the comprehensive

planning process and also to solicit input pertaining to each advisory body's area of expertise.

In addition, four community workshops and three regional civic association meetings were held during the fall of 2007 to solicit input and feedback from Township residents, business owners and institutional organizations. A kickoff meeting was held on July 9, 2007 to inform the general public about the comprehensive planning process. A series of meetings were held which focused on three general categories of issues pertaining to residents, institutions, and business owners in Lower Meri-

on. Throughout the fall of 2007 over 30 stakeholder interviews were held. Stakeholders are broadly defined here as specific people or groups who have a stake, or an interest, in the outcome of this comprehensive plan. A series of questions were prepared for the three general categories of stakeholders: residents, institutions, and business owners in Lower Merion. From these interviews and workshops, staff compiled a list that provides excerpts from the stakeholder interviews and meeting minutes which highlight the key recommendations of each category of stakeholders.

"The senseless demolition of La Ronda speaks to our society's lack of communal sensibility. From a larger sense of place and sense of community, this building was part of our shared history. It was a work of art. With Pennsylvania's long and rich architectural history, the Commonwealth should pass a strong preservation ordinance. ... [P]reserving the buildings that document our history should be an easy decision for the state Legislature. We'll use the destruction of La Ronda as a rally point."

- Ross Mitchell, Vice President,
Lower Merion Historical Society,
Main Line Today.

THE LAND DEVELOPMENT AND SUBDIVISION PROCESS

LAND DEVELOPMENT AND SUBDIVISION

Land development and subdivision are defined by the Pennsylvania Municipalities Planning Code (MPC). The MPC grants municipalities the authority to regulate land development and subdivision projects. It is these definitions that establish the framework for the municipal subdivision and land development processes. They are as follows:

Land Development

The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
- the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features.
- A subdivision of land.⁸

Subdivision

“The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the

purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building, or lot development.”⁹

When any property owner requests to modify property lines, this triggers the subdivision process. When a multifamily structure, which includes a townhouse, is proposed for construction, this requires land development approval. Improvements to single family dwellings do not typically trigger land development approvals, yet are reviewed administratively by the permit processes.

Expansions of non-residential buildings require land development approval from the Board of Commissioners. Certain improvements, such as façade improvements or roof replacements may not trigger land development, yet would be reviewed administratively by a building or grading permit. There is no actual square footage threshold that triggers land development in the Township; the determination is at the discretion of the Director of Building and Planning then ultimately the Board of Commissioners.

THE ABILITY TO REGULATE THE LAND DEVELOPMENT PROCESS

In addition to defining what constitutes a land development or subdivision, the MPC provides local governments with the tools to regulate such activities. The two main tools used by the Township to regulate land development and subdivision are the Zoning and the Subdivision and Land Development Codes.

Zoning is a tool a community may utilize to regulate the use of land and the location and intensity of development. A zoning code consists

of two parts: the text and a map of the various zoning districts. The text of the code contains community development objectives and necessary technical provisions to regulate the use of land and structures. The text also contains written provisions for bulk, height, area, setback, density, and other standards. The zoning map delineates the boundaries of the specific districts or zones created by the code.

The Subdivision and Land Development Code details the provisions for the submittal and processing of land development and/or subdivision applications, including the charging of review fees, specifications for such applications, certification as to the accuracy of the plans, provisions for tentative sketch, preliminary and final approval, and for processing of final approval by stages or sections of development.

Whereas the Township’s Subdivision and Land Development Code details the process by which land development occurs and the requirements for the applications, the Township’s Zoning Code regulates actual use of the land – the what and where. A zoning code should reflect the overall goals and objectives of the municipality. Such goals and objectives should also be stated in the municipal comprehensive plan. At its most basic level, the Zoning Code should promote the community’s desired character, the needs of current and future residents, the continued economic growth of the community, and the preservation and protection of the community’s assets.

THE LAND DEVELOPMENT PROCESS IN LOWER MERION

The Township’s land development process is a multi-level, multi-faceted process involving the Township Building and Planning Staff, the Land Development Committee, the Town-

⁸ Pennsylvania Municipalities Planning Code. Act of 1968, P.L. 805, No. 247 as reenacted and amended. §107. Definitions.

⁹ Lower Merion Township Subdivision and Land Development Code §135-2. Word usage; definitions.

Development Process	ZHB	Planning Commission	HARB HC	Studies Ordinances	Stakeholder Issues	Staff Analysis
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ship Planning Commission, Building and Planning Committee, the Township Board of Commissioners, Township advisory bodies (Environmental Advisory Council, Board of Historical Architectural Review, Historical Commission, Zoning Hearing Board, etc.), various Township consultants, and of course, the applicant. It is also important to recognize that there are various stages throughout the land

development process where the public participates. These public input opportunities allow the residents of Lower Merion to have a say in the type of development that is occurring within their community.

Typically the first step of the Land Development process begins with an informal meeting of the Township Building and Planning Department staff, initiated by a prospective devel-

oper/property owner. The Township has a culture of anticipating planning and development review dating back to the 1937 Comprehensive Plan. The 1937 Plan noted the importance of engaging developers early in the process before plans became too set. The early cooperation of developers was invited to achieve the best design.¹⁰ In the current land development process, these meetings are critical not only to review for code compliance, but also to provide insight on potential impacts of the proposal. Staff provides constructive professional advice, which could potentially expedite the formal review process for the applicant. Staff may also inform the applicant of the steps that may be required for applications involving properties listed on the Historic Resource Inventory or requests to the Zoning Hearing Board. Once a formal application is filed with the Building and Planning Department, staff reviews the application packet for completeness and provides notice to all adjacent property owners and interested parties. When an application is deemed complete it is scheduled for a public meeting.

Prior to that public meeting, staff reviews applications for consistency with all applicable Township codes including but not limited to the Subdivision and Land Development Code, the Natural Features Code and the Stormwater Management and Erosion Control Code. If the Zoning Officer determines an application does not comply with the Zoning Code or involves a use permitted by special exception, such as educational institutions or licensed day care facilities, the proposal requires approval from the Zoning Hearing Board. Alternatively, “by-right” development applications that comply with the zoning code are considered by the Board of Commissioners for approval with recommendations from the Planning

LOWER MERION TOWNSHIP ADVISORY BODIES

There are a total of eighteen Township boards and commissions in the Township of Lower Merion and the duties and responsibilities of these bodies vary greatly. Some advisory bodies, such as the Environmental Advisory Council, provide advice to the Board of Commissioners, while others, such as the Zoning Hearing Board and Shade Tree Commission, have exclusive powers.

Name of Board/Commission	Directly Related to Land Development Process (Y/N)
Board of Historical Architectural Review	Y
Historical Commission	Y
Environmental Advisory Council	Y
Planning Commission	Y
Shade Tree Commission	Y
Zoning Hearing Board	Y
Lower Merion Township Municipal Pension Fund	N
Advisory Committee for Employee Retirement Plan	N
Personnel Review Board	N
Police Pension Association	N
Uniform Construction Code Appeals Board	N
Vacancy Board	N
Cable Television Advisory Committee	N
Civil Service Commission	N
Electrical Examining Board	N
Firefighter Assistance Fund	N
Health Advisory Council	N
Hearing Examiner	N

Figure B1
Of the 18 commissions and boards, six have a critical involvement with the land development process, as illustrated in the table above. The specific structure, roles, duties, and review process are detailed in the summary of activity pertaining to each body or preceding their inventory of identified issues.

¹⁰ A Plan for Lower Merion Township, April 1937 p.98

Commission and other relevant advisory bodies.

These development applications are also forwarded to the Montgomery County Planning Commission, the Township Land Development Committee, the Township Engineer and various advisory bodies such as the Shade Tree Commission, Environmental Advisory Committee, etc. where the plans are reviewed for conformance to Township codes and consistency to local, regional, state and federal plans, policies and initiatives. Each provides an inventory of issues to Township planning staff for incorporation into a professional staff report referred to as an "Issues Memo". Additionally, the memo includes issues identified through a review of the site plans, history and zoning of the property, site visits, and thorough discussions with members of the community. The Township Engineer also prepares a formal report to identify potential issues. Staff assesses the various issues identified and includes, as part of the memo, a formal list of recommended conditions of approval as a means to resolve any outstanding issues. The "Issues Memo," Township Engineer's report and the "Recommended Conditions of Approval" are provided to the Planning Commission, Building and Planning Committee and Board of Commissioners for consideration with a land development application.

The applicant is also provided with the "Issues Memo," Township Engineer's report and a draft of the "Recommended Conditions of Approval" prior to the Planning Commission meeting, which is often the first public meeting. Providing this information to the applicant prior to the meeting allows the applicant to determine which conditions are acceptable or which ones need further discussion with the Commission. The discussion is then focused on the identified issues.

What is an issue?

An "issue" is an identified aspect of a proposed development that will have a positive or negative impact on the proposal and/or the community as a whole. Issues are features of a development application which require additional consideration. Generally, issues are comprised of potential negative externalities like stormwater runoff, noise, lighting, traffic impacts or the loss of natural or historic resources. Over the past few years there has been a changing trend to identify issues related to how projects will physically look from the public way and adjacent properties.

How are Issues Identified?

Issues are identified through the review process by various advisory boards, Township departments, the Township Engineer, residents, and the Montgomery County Planning Commission. These issues are incorporated into formal reviews and serve as the basis of the recommended conditions of approval.

How are Issues Resolved

Identified "issues" are typically addressed through the land development process and recommended conditions associated with land development application approvals. The ultimate goal is to resolve all identified issues.

How this Information is Presented to the Board of Commissioners

The Planning Commission reviews the "Issues Memo," Township Engineer's report and "Recommended Conditions of Approval" with the land development application in conjunction with testimony from the applicant, staff, and residents during

a public meeting. The Commission then makes recommendations regarding the proposal and may choose to approve the application, disapprove the application, or approve the application provided that certain conditions are met. They may also table the application to provide the applicant time to further address pertinent issues or concerns.

The recommendations of the Planning Commission are forwarded to the Building and Planning Committee. The applicant again has the opportunity to provide testimony regarding the recommended conditions of approval at this meeting. The Building and Planning Committee consists of each member of the Board of Commissioners. The Building and Planning Committee utilizes the recommendations of the Planning Commission, in addition to the professional reports, testimony of the applicant, staff, and the public, when determining whether to table, approve, or disapprove an application.

An application may proceed to a meeting before the Board of Commissioners once it has been approved by the Building and Planning Committee. The Board of Commissioners weighs the opinion of the Planning Commission and the Building and Planning Committee in addition to the professional reports, the testimony of the applicant, staff and the public, when determining whether to table, approve, approve with conditions or disapprove an application. To avoid delay in processing an application, the Board may recommend an approval with conditions. If the Board approves but stipulates conditions, they must be acceptable to the applicant. If an applicant fails to accept the conditions it may result in an automatic disapproval. The applicant may not always agree with the Board's conditional approval and where there is a disagreement, an appeal by the applicant to Montgomery County Common Pleas court could be filed.

Development Process	ZHB	Planning Commission	HARB HC	Studies Ordinances	Stakeholder Issues	Staff Analysis
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THE LOWER MERION LAND DEVELOPMENT PROCESS AND IDENTIFICATION OF ISSUES

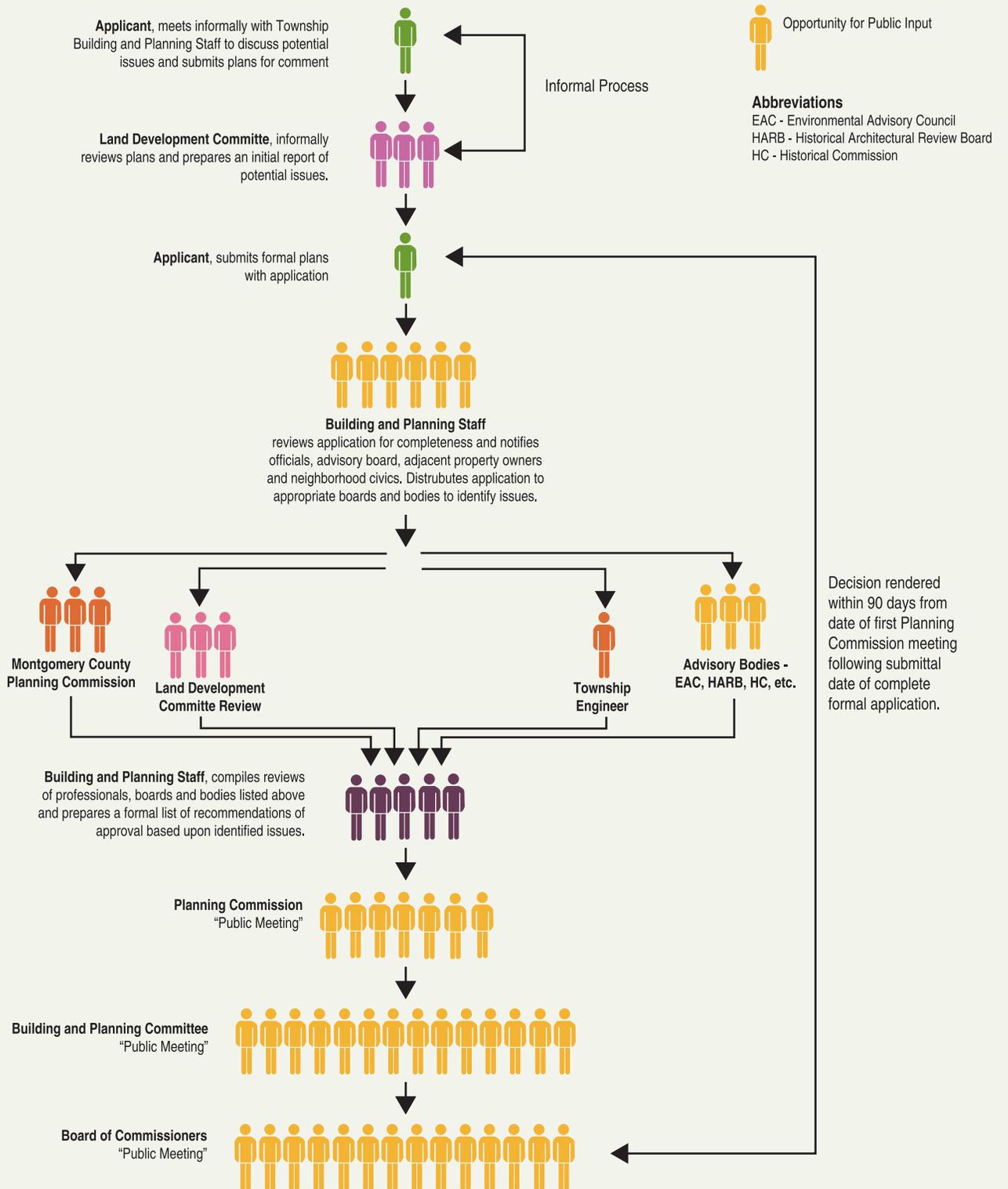


Figure B2

After receiving preliminary plan approval the applicant will prepare a final plan showing all lot lines, improvements and other features of the subdivision or land development and submit the same to the Planning Division for an administrative review and confirmation of compliance with all recommended conditions of approval.

Figure B2 details the Township's Land Development Process. This process enables the Township's staff, elected and appointed officials, advisory bodies, consultants, and residents to identify issues related to proposed land developments. In addition to identification of issues, the process is particularly concerned with addressing those issues in a manner that enhances not only the project but the Township as well.

