



## Introduction

Working with developers can encourage private investment in infrastructure and link development with municipal planning. As a start, factors such as market conditions and financial feasibility should be considered when deciding to negotiate with developers for transportation or infrastructure improvements.

Working with developers can be an effective means to securing off-site improvements to the transportation system and other infrastructure. If a municipality does enter into negotiations with a developer, the municipal solicitor and engineer should be consulted and the negotiations must be conducted in accordance with the [Municipalities Planning Code \(MPC\)](#).

[PennDOT Publication 662, \*Improving the Land Use – Transportation Connection Through Local Implementation Tools\*](#), provided much of the foundational material for this tech sheet.

### Off-Site Improvements

Occasionally, subdivision or land development plans come before municipalities for approval that necessitate additional costs for off-site improvements. Such improvements might include stormwater or transportation network projects, among others. Municipalities cannot predicate approval of those plans on developers' willingness to pay for off-site improvements, according to the MPC, Section 503-A.

According to the MPC, "Off-site Improvements" are defined as "those public capital improvements which are not on-site improvements and that serve the needs of more than one development."

### On-Site Improvements

The MPC defines "On-site Improvements" as "all improvements constructed on the applicant's property, or the improvements constructed on the property abutting the applicant's property necessary for the ingress or egress to the applicant's property, and required to be constructed by the applicant pursuant to any municipal ordinance, including, but not limited to, the municipal building code, subdivision and land development ordinance, Planned Residential Development (PRD) regulations and zoning ordinance."

### Municipal Comprehensive Plans

Negotiations are often supported by municipal comprehensive plans and the developers' [Transportation Impact Studies \(TIS\)](#), if required.

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These documents should clearly identify anticipated transportation or infrastructure needs.

### Capital Improvement Plans

Cost estimates for anticipated transportation or infrastructure improvements should be incorporated into updated [Capital Improvement Plans \(CIPs\)](#), which provide a firm basis for negotiations. CIPs that have not been updated will not be able to support developer negotiations.

### When to Consider Implementing

Consider entering into negotiations with developers when your comprehensive plan identifies anticipated public facility or service needs that are associated with their proposed development.

### Advantages

There are several advantages to negotiating with developers for improvements associated with their developments. The negotiations can encourage private investment in transportation infrastructure and can link development with municipal and MPO/RPO planning.

### Considerations

Several considerations may affect the value of negotiating with developers for transportation or infrastructure improvements. One consideration is that if there is weak demand for development, opportunities for negotiation with developers will be few. Another consideration is that ineffective negotiations can result in the loss of a desirable project. Also, remember that municipalities may not predicate the approval of development on developers' willingness to contribute to off-site improvements.

### Example – Lower Paxton Township, Dauphin County



In this example, let's look at Colonial Commons Shopping Center on US Route 22. The township negotiated with the developer to receive both transportation improvements at several new intersections on US Route 22 and additional lands for the township in exchange for giving the developer some township lands in an existing park. The land swap allowed the developer to consolidate its lands and enhance the design of its shopping center. The township gained extensive additional lands for the eventual construction of the "Friendship Center" indoor recreational facility off US Route 22 and the installation of traffic signals to control ingress and egress from the shopping center.

### Summary

In summary, the principal value of Developer Negotiations is that they can be effective for implementing necessary transportation improvements in your municipality, so long as negotiations are conducted in accordance with the MPC and current case law. Municipalities should conduct all developer negotiations under the advice of their solicitor to ensure that all applicable guidelines are followed.

The ability to negotiate for off-site transportation system improvements is reduced when a municipality has adopted Transportation Impact Fees in accordance with the procedures outlined above and in PennDOT Publication 639.