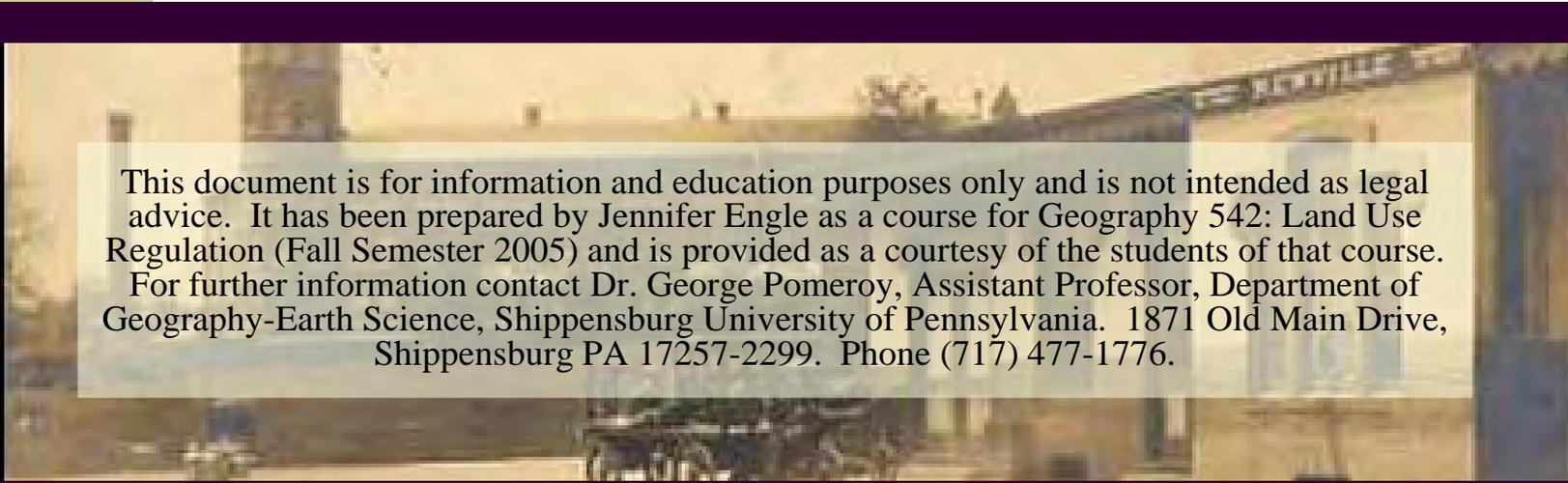


Land Use Planning in Newville Borough

A Citizen's Guide



This document is for information and education purposes only and is not intended as legal advice. It has been prepared by Jennifer Engle as a course for Geography 542: Land Use Regulation (Fall Semester 2005) and is provided as a courtesy of the students of that course. For further information contact Dr. George Pomeroy, Assistant Professor, Department of Geography-Earth Science, Shippensburg University of Pennsylvania. 1871 Old Main Drive, Shippensburg PA 17257-2299. Phone (717) 477-1776.



INTRODUCTION

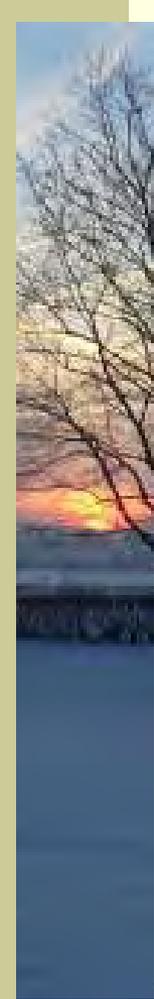
- This guide is designed to provide residents of Newville Borough some introductory information on land use planning in their state and community. Understanding issues presented here will allow you to become involved and informed on how development and land use is shaped in your local community.

- Some of questions answered here include:
 - *What is some general background information on land use planning?*
 - *How is land use controlled in Newville?*
 - *What about zoning in my community?*
 - *How is subdivision and land development controlled in Newville?*
 - *How do zoning and subdivision relate to other land use issues?*

WHAT IS SOME BACKGROUND INFORMATION ON LAND USE PLANNING IN OUR STATE?

- *Who is responsible for planning in Pennsylvania?*
- *What specifically gives my Borough the authority to plan?*
- *What is the overall purpose of planning?*
- *What are my personal rights I should be aware of in regards to land use?*
- *What are the different planning tools Pennsylvania municipalities can use?*





Who is responsible for planning in Pennsylvania?

- In our state, the authority to plan has been handed down to the local-level boroughs and townships. This allows those who are most knowledgeable and familiar with your area to make important decisions and positively guide change and development.

What specifically gives my Borough the authority to plan?

- In 1968, Pennsylvania passed the Municipalities Planning Code, giving its local governments the authority and framework to plan. Municipalities have the option to adopt this model legislation and pass zoning, subdivision, and other ordinances.

What is the overall purpose of planning?

- Our government has certain responsibilities to protect the health, safety, morals, and welfare of its citizens, collectively called its police power.
- However, to accomplish this, sometimes our government must constrain our uses and activities of the land to protect all of its residents.
- Planning can:



Control Signage



Minimize traffic congestion



Encourage landscaping

What are my personal rights in regards to land use?

- While the overall goal of land use control is to create and sustain a high quality of life for residents, sometimes the means to accomplish this places restrictions on personal property use. For example, in Newville Borough's low-density residential area, some restrictions are placed on home businesses. While this may burden some property owners, it benefits all residents by avoiding increased traffic, noise, or other possible nuisances.

- **Takings**

- The most common issue that arises from land use control are called "regulatory takings". For a situation to be considered a taking, a law must effectively remove all reasonable use of your property. Often it is difficult to determine if this has occurred and involves a delicate balance between our government's police power and private property rights.

- **First Amendment Rights**

- Another common issue involves our first amendment rights of free speech. Often this problem will arise with regulation of signs, houses of worship, and adult uses. For example, Newville's zoning ordinance prohibits billboards, flashing signs, and controls the size of certain signs for the preservation of safety and health of its residents in certain areas. Usually, land use controls are not in violation of the first amendment if they are evenly applied, serve a public purpose, and allow property owners other avenues to express their views.

- **Exclusionary Zoning**

- Lastly, communities must allow for all types of land uses. When a certain group of people are excluded from an area on the basis of race, ethnicity, or other characteristic, it may be unconstitutional. For example, when the only residential areas of a community are allowed on very large, expensive lots, it has been deemed exclusionary zoning. However, environmental conditions, such as wetlands, may require that large lots be created to protect the landscape.

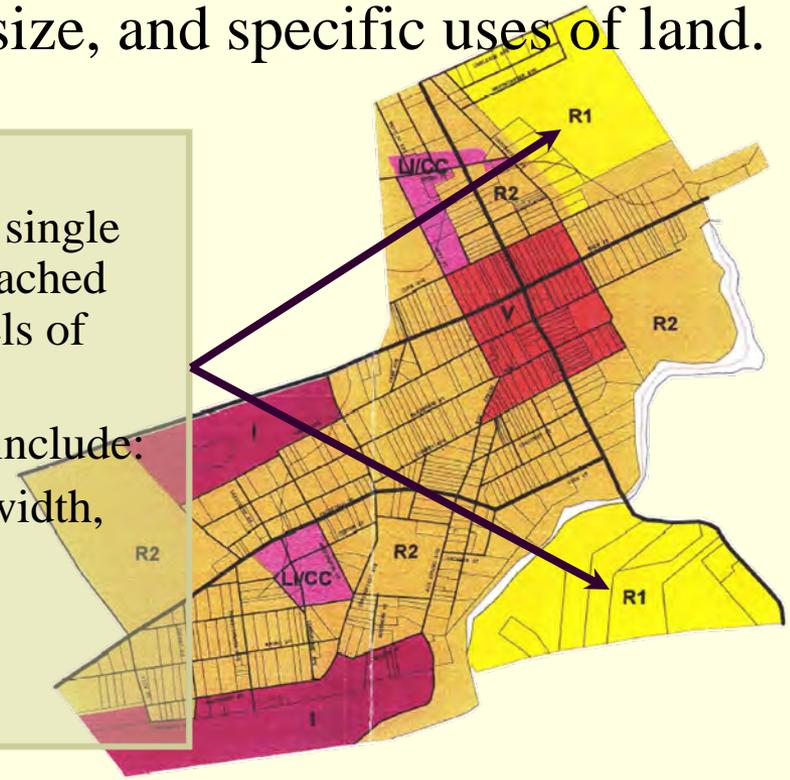
What are the different planning tools Pennsylvania municipalities can use?

■ Zoning Ordinances

- Zoning divides an area into different districts or zones, each with similar uses or types of buildings. Certain requirements and restrictions are placed on each district to control density, building size, and specific uses of land.

For example: Newville's R-1 zoning district

- The R-1 district is intended primarily for single family residential uses on one-family detached and two-family dwellings on larger parcels of land.
- Controls placed on the R-1 district may include:
 - Area and bulk regulations: lot area, width, depth, number of building stories
 - Amount of vegetative cover
 - Off-street parking requirements



Alternative Zoning Techniques

- Municipalities can also include alternative approaches in their zoning ordinance. Usually it depends on needs of the local area, such as affordable housing, more flexibility, or preservation of open space. Some techniques allowed by the Municipalities Planning Code include:

- Planned Residential Developments - These developments give the municipality and developer more flexibility by allowing a mixture of different residential and nonresidential uses, along with encouraging open space and recreational areas.

- Cluster Development - This approach also promotes the conservation of open space by increasing the density of buildings in one part of a development, while leaving the remaining area undeveloped.

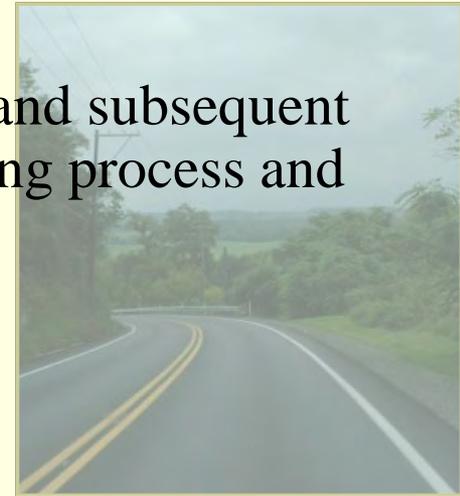


- Performance Zoning - This method sets performance standards, or specific numerical limits to potential hazards or nuisances that can result from some land uses. To protect the safety and welfare of the community, standards may be set on specific criteria, such as: noise, vibration, or air pollution
- Traditional Neighborhood Development - This encourages a town or village atmosphere oriented towards pedestrian access and a mixture of residential and commercial uses.

What are the different planning tools PA municipalities can use? (Cont.)

■ **Subdivision and Land Development Ordinances**

- These regulations control the conversion of a single parcel of land into two or more parcels for immediate or future transfer of ownership.
- Regulations are placed on both this division and subsequent development of the land, covering the planning process and construction of infrastructure, such as roads.



■ **Mobile Home Park Regulations**

- Provisions for these developments are often included in subdivision and land development ordinances and ensure there is adequate design, layout, and infrastructure for residents.



HOW IS LAND USE CONTROLLED IN NEWVILLE BOROUGH?

- 
- *What planning tools has my community implemented?*
 - *Who carries out planning in Newville?*
 - *How can I become more involved in local government planning?*



What planning tools has Newville implemented?

- The Borough has decided to positively shape land development, initiated by passage of its comprehensive plan in 1995. This document analyzes the historic and current conditions of the community's natural environment, citizens, economy, housing, services, and transportation. Using this information, it sets certain goals to be accomplished by its zoning and subdivision ordinances.
- **Zoning**
 - In 2000, Newville passed its revised zoning ordinance. It creates five different districts, defining restrictions on land use and structures in each zone.
 - Included in the ordinance are performance standards.
- **Subdivision and Land Development**
 - Two years later, in 2002, Newville passed its Subdivision and Land Development Ordinance, which also includes provisions on mobile home developments.

Please see slide #7 for a brief description of each of these tools. Copies of each ordinance can be accessed at the Borough office, local libraries, or online at <http://www.elibrary.state.pa.us>

Who carries out planning in Newville?

■ **Borough Council**

- This elected six-member council is the most influential body and is responsible for most final decisions on land use planning, including development applications, ordinance amendments, and approval of some uses required by zoning.
- The Borough Council meets every third Tuesday of the month at 7:00 PM.

■ **Planning Commission**

- The Commission is appointed by the Council and is charged with the important task of guiding and coordinating development. This includes studying and implementing projects and improvements. The group is also responsible for ensuring the enforcement of the Borough's zoning and subdivision ordinances by hearing cases on conditional uses and site development plans. They provide their final recommendation on each issue to the Borough Council, who will render a final decision
- The Planning Commission meets every second Wednesday of the month at 7:30 PM.

■ **Zoning Officer and Hearing Board**

- The Zoning Officer is a single appointed position that administers and enforces the Borough's codes.
- Appeals against officer decisions are presented to the Zoning Hearing Board, consisting of three appointed members. The Board is also responsible for hearing variances (explained later) from zoning.
- The Zoning Hearing Board meets as needed.



How can I become more involved in local government planning?

- Public participation is a vital asset to your community's planning program. Too often important decisions are made at under-attended meetings.
- Each citizen in Newville Borough is welcome to become involved in this process and attend regular meetings at the Borough office, located at:
 - 4 West Street
Newville, PA 17241
(717) 776-7633
- Prior to a change in zoning or subdivision ordinance, the public will be informed of the topic and date of the applicable meeting by newspaper, radio or other means of communication
- At public meetings, officials and involved landowners or developers will first comment, followed by an open public portion where those most affected will speak first. Following further discussion, the body will either recommend or render a final decision for, against, or table an issue for a later meeting.



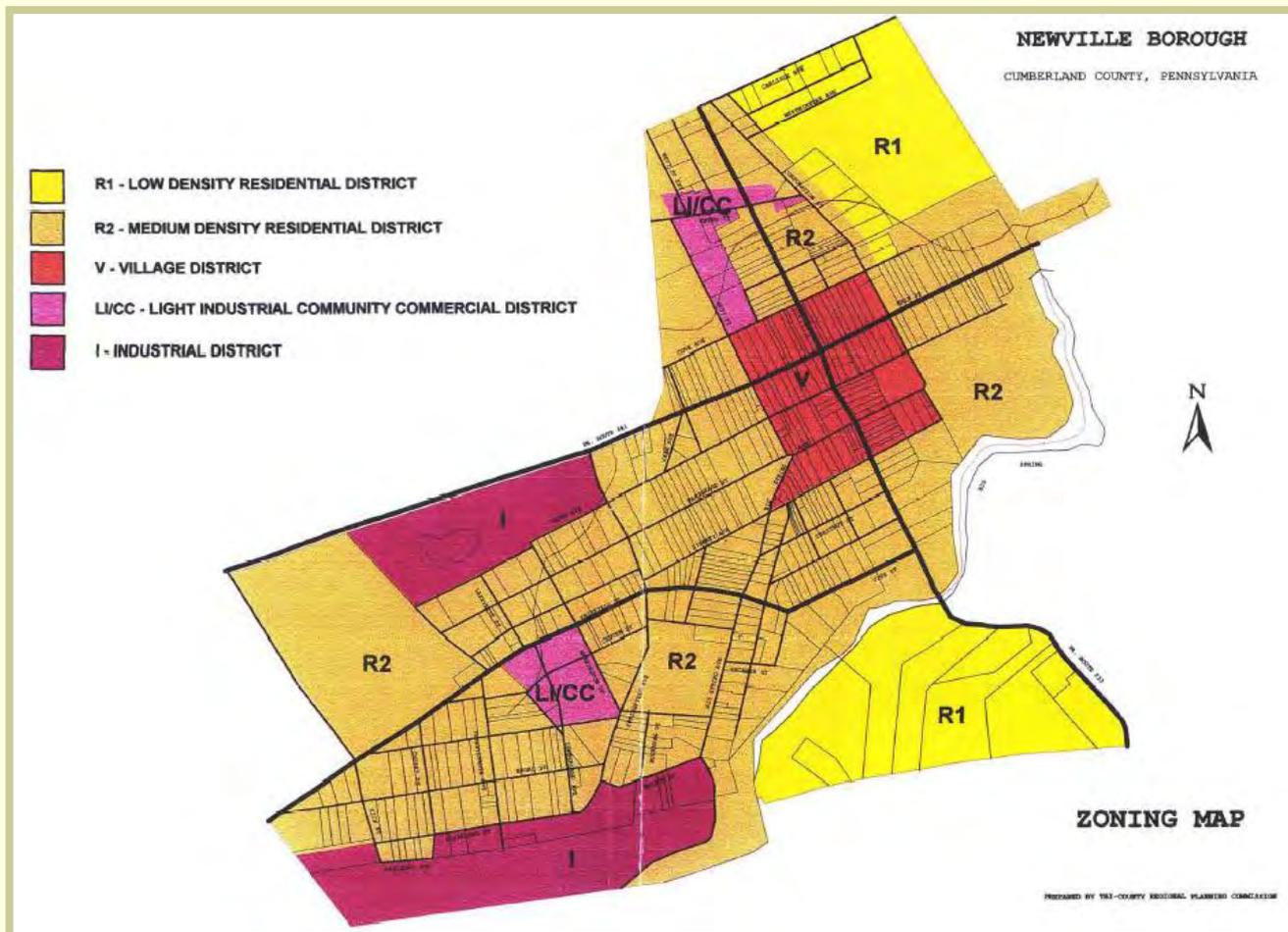


WHAT ABOUT ZONING IN NEWVILLE?

- *What are the zoning districts in my Borough?*
- *What are permitted, conditional, and accessory uses?*
- *What else does the Zoning Ordinance cover?*
- *What happens if a land use does not conform to Newville's zoning?*

What are the zoning districts in my Borough?

- Newville Borough is divided into five different districts, where each includes similar land uses that complement each other. Below is the official zoning map, showing the name and location of each district.





■ ***Low Density Residential***

This zone is intended for single-family homes, including detached and two-family dwellings, on larger area lots. Conditional uses (explained later), such as schools or recreational facilities, and accessory uses, including home occupations, are allowed under certain conditions

■ ***Medium Density Residential***

This district is designed for more intensive residential uses on smaller properties. You will also find selected commercial uses in this zone to service the local community and may include retail stores or personal services, such as a grocery store or barbershop.

■ ***Light Industrial/Commercial***

This zone incorporates generally lower intensity business uses that serve the surrounding residential areas and must meet certain performance standards. Some examples include select manufacturing and processing facilities, motels, or health services.

■ ***Industrial***

The industrial zone encompasses more intensive industrial uses and may include manufacturing, processing, or storage activities, printing establishments, or truck terminals. These uses must also meet specific performance standards in the Zoning Ordinance.

■ ***Village***

This multiple-use zone is intended to preserve the village atmosphere by mixing compatible commercial and residential activities. Permitted uses within the village district include restaurants, drug and apparel stores, along with banks and real estate offices.



What are permitted, conditional, and accessory uses?

■ **Permitted Uses**

- Permitted uses are compatible activities that are almost always allowed in a specific zoning district.
- For example, single and two-family homes, churches, and parks are permitted uses in the Village District

■ **Conditional Uses**

- Conditional uses are activities that may possibly interfere with the permitted uses of a zone and therefore require review by the Planning Commission and Borough Council approval, subject to certain provisions presented in the Zoning Ordinance.
- In the Medium Residential District, multiple-family dwellings are a conditional use and must meet certain size and landscape requirements.

■ **Accessory Uses**

- Accessory uses are similar to conditional uses in that they may create a nuisance to other nearby landowners, however, they do not require permission from the Borough. They do, however, have to meet certain requirements to be allowed as an accessory use
- Home occupations and offices are considered accessory uses in the Low Density Residential District and must be carried out primarily by the resident and occupy less than 30% or 35% of the building's floor area.



What happens if a land use does not conform to the zoning?

- If a land use is present before Newville’s zoning ordinance was adopted, it is termed “non-conforming” and may continue as-is. However, it may become in violation if a significant change is made to the land or structure.
- To avoid violating zoning you may have several options:
 - **Variance**
 - You may apply for a variance, or exception from the zoning.
 - For this it to be granted you must demonstrate to the Zoning Hearing Board that the physical conditions of your property create an unnecessary hardship that prohibits reasonable use of your property
 - **Ordinance Amendment**
 - You may apply for an amendment to have either the text or map of the zoning ordinance officially changed.
 - Here, you must file a petition with the Borough which will be reviewed by the Planning Commission during a public meeting and decided by the Borough Council.
 - An administrative fee may be charged for amendment changes

HOW IS SUBDIVISION AND LAND DEVELOPMENT CONTROLLED IN NEWVILLE?

- What planning process must developers follow?
- What are dedications, exactions, and impact fees?



What planning process must developers follow?

- To ensure that the layout and infrastructure of a subdivision is properly designed and constructed, developers must follow a specific application process:

- **Preapplication Consultation**

Developers are suggested to meet with the Planning Commission and discuss early concerns with the subdivision, such as suitability of the site, accessibility, or facilities, like water and sewer. Often, a sketch plan or rough map of the proposed subdivision is provided prior to the meeting.

- **Preliminary Plan Submission**

Here, subdividers will submit a formal application to the Commission, which includes several maps, showing features like streets and property setbacks. Borough and Cumberland County officials review the plans and approve, request changes, or deny the application

- **Final Record Plan Submission**

Once the preliminary application is approved, developers will submit their final plan. This includes revised and more detailed maps and evidence of compliance with local, county, and state regulations, such as erosion and sediment control plans.

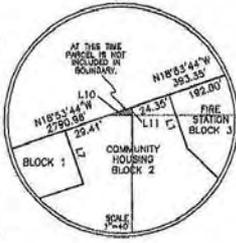
A final plan submission is not required if an applicant is dividing their land into five or fewer lots.

- During this application process, subdivision plans are evaluated on specific standards:
 - Blocks and lots - length, width, grading, parking, and lot size standards
 - Street, alleys, and sidewalks - widths, naming, and intersection requirements
 - Utilities - new development must be connected to the water and sewer system
 - Stormwater Management and Environmental Impacts

SECS. 20, 28 & 29, TOWNSHIP 3 NORTH, RANGE 18 EAST, B.M.,
BLAINE COUNTY, IDAHO

AUGUST 2004
PRELIMINARY PLAT

- RESPONSIBILITY OF THE DEVELOPER UNTIL THE LOT IS SOLD, AT WHICH TIME RESPONSIBILITY IS TRANSFERRED TO THE INDIVIDUAL LOT OWNER.
8. FIRE PROTECTION REQUIREMENTS ARE THOSE OF THE WOOD RIVER FIRE PROTECTION DISTRICT, FIRE PROTECTION ORDINANCE NO. 02-04, THE CURRENT ADOPTED EDITION OF THE FIRE AND BUILDING CODE INCLUDING, BUT NOT LIMITED TO WATER SUPPLY, ACCESS (INCLUDING TURNAROUNDS) AND CLEAR ZONES AND THEY SHALL BE COMPLIED WITH PRIOR TO ISSUANCE OF A BUILDING PERMIT.
 9. BLOCK 4 IS A RESIDENTIAL BLOCK CONTAINING 48 HOME SITES WITHIN DESIGNATED BUILDING ENVELOPES. THE AREA OUTSIDE THE DESIGNATED BUILDING ENVELOPES INCLUDING ROADS IS DESIGNATED COMMON AREA AND SHALL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. ALL RESIDENTIAL STRUCTURES SHALL BE LOCATED WITHIN THE DESIGNATED BUILDING ENVELOPES. THE BUILDING ENVELOPES MAY BE ROTATED AROUND THEIR CENTROID. BUILDING ENVELOPES SHALL NOT BE LESS THAN 20' FROM EACH OTHER.
 10. WEST NINE DRIVE, COLF CREEK DRIVE, MEADOW COURT & LAKE COURT ARE PRIVATE ROADS WITHIN THE COMMON AREA OF BLOCK 4. THE PURCHASER AND/OR OWNER OF A LOT OR PARCEL AGREES THAT PRIVATE ROAD CONSTRUCTION, MAINTENANCE, AND SNOW REMOVAL SHALL BE THE OBLIGATION OF THE OWNER, HIS SUCCESSORS IN INTEREST, OR HOMEOWNER'S ASSOCIATION, AND THAT BLAINE COUNTY IS IN NO WAY OBLIGATED TO ACCEPT, MAINTAIN OR IMPROVE THESE ROADS UNTIL THE ROADS ARE BROUGHT UP TO COUNTY STANDARDS, DEDICATED, AND ACCEPTED BY THE COUNTY, AND THAT EACH OWNER SHALL NOTIFY IN WRITING ANY SUCCESSOR IN INTEREST OF THESE FACTS.
 11. AN EASEMENT TO BENEFIT THE HAWAIIA CANAL ASSOCIATION IS GRANTED 15 FEET BACK FROM THE TOP OF BANK OF THE HAWAIIA CANAL IRRIGATION DITCH ON BOTH SIDES AND FOLLOWING THE MEANDER AS SHOWN HEREON.
 12. AN EASEMENT TO BENEFIT THE VALLEY CLUB, INC. FOR THE WATERWAY FOR DELIVERY OF WATER RIGHTS IS GRANTED 5 FEET BACK FROM THE TOP OF BANK ON BOTH SIDES AND FOLLOWING THE MEANDER AS SHOWN HEREON.
 13. A 30' WIDE NON-MOTORIZED PUBLIC PATH EASEMENT IS GRANTED TO BLAINE COUNTY AS SHOWN HEREON.
 14. BASIS OF BEARINGS IS PER THE ORIGINAL PLAT OF THE VALLEY CLUB, RECORDS OF BLAINE COUNTY, IDAHO. ADDITIONAL COLLINEARY INFORMATION FOR TAX LOT 7827 IS PER RECORD OF SURVEY FOR THE VALLEY CLUB, INC. RECORDED AS INST. NO. 474458, RECORDS OF BLAINE COUNTY, IDAHO.
 15. BEARINGS AND DISTANCES SHOWN IN PARENTHESES ARE PER RECORD OF SURVEY FOR THE VALLEY CLUB, INC. RECORDED AS INST. NO. 474458, RECORDS OF BLAINE COUNTY, IDAHO.
 16. TOPOGRAPHY AS SHOWN IS PER AERIAL PHOTOGRAMMETRY PHOTO DATE: 9-12-03, CONTOUR INT.: 2' BY IDAHO MAPPING SERVICES, BOISE, IDAHO. PHONE: 208-378-8880. FAX: 208-322-1429. IMS#0310
 17. WATER AND SEWER LINE AND PUBLIC UTILITY EASEMENTS TO BE GRANTED WITHIN BLOCK ONE UPON FINAL PLATING. LOCATION SUBJECT TO APPROVED DESIGN.
 18. COMMUNITY HOUSING BLOCK 2: The residences within areas 1, 4, 5, 6, 7, 10, 11 and 12 will be platted as Townhouse Sublots. The residences within areas 2/3 and 8/9 will be platted as Condominiums.



EASEMENTS

- (A) - A 18" WIDE UNDERGROUND IRRIGATION PIPE EASEMENT IS GRANTED TO COTTONWOOD CREEK ASSOCIATION & MICHAEL WILLARD AS SHOWN HEREON.

PORTION OF T.L. 5768 SE1/4SE1/4

LEGEND

- BUILDING ENVELOPE
- PROPOSED ROADWAY

18" PRIVATE STOCK DRIVE PER INST. NO. 80186

30' ACCESS EASEMENT GRANTED HEREON

10' MIN.

UNDERGROUND IRRIGATION PIPE HILLARD DIVERSION

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PRO

What are exactions, dedications, and impact fees

■ Exactions

- Exactions are constructed improvements within the development, such as roads, sidewalks, or utilities, required by the Borough's subdivision ordinance.
 - Developers must demonstrate through issuance of a bond or security deposit that these exactions will be completed.

■ Dedications

- When a subdivision is completed, the improvement's compliance with design standards is evaluated and ownership of this infrastructure is turned over or dedicated to Newville Borough
 - Ownership of stormwater facilities may be retained by property owners or a home association
 - Newville Borough also requires a recreation land dedication of 1,500 square feet per subdivided unit or \$500 per residential unit (\$1,000 per non-residential unit). These fees are subject to adjustment.

■ Impact Fees

- Impact fees are improvements or monetary charges used to offset additional impacts placed on a community from the new development. In Pennsylvania, municipalities are only allowed to require traffic and open space impact fees.

HOW DOES ZONING AND SUBDIVISION RELATE TO OTHER LAND USES?

■ Historic Preservation

- Zoning provides an opportunity to preserve and enhance historic resources and has been utilized by a growing number of communities in Pennsylvania. Local ordinances can specify standards, such as paint color, exterior building materials, other other design details to be approved by a review commission.



■ Signs and Billboards

- Controls on signs and billboards are also commonly included in zoning ordinances and can be utilized to improve the aesthetics and safety of a historic or other district.



- The Borough has included detailed signage standards in its Zoning Ordinance applicable to each of its five districts

For more information

- Pennsylvania's Department of Community and Economic Development offers many publications and information on planning in the state.
 - <http://www.newpa.com>
- You can access Newville Borough's planning ordinances online at the state's library.
 - <http://www.elibrary.state.pa.us>
- Browse Cumberland County's Planning Commission website, where you review subdivision reports, current projects, and open space initiatives.
 - <http://www.ccpa.net/>
- Check out the goings-on in Newville.
 - <http://www.newville.com/>

Sources used in this report

- Newville photography use permission obtained from PAMidstate MEDIA.
- Arendt, Randall. "Open Space" Zoning: What it is & Why it Works. Taking a Closer Look: Green Essentials, Planning Commissioners Journal. <plannersweb.com>
- Blaine County, Idaho. 2005. Preliminary Plat. <<http://www.co.blaine.id.us/>>