

PennDOT Planning Services and Implementation

**Work Order # 7
Development of Model Access Management
Ordinances**

**Task 4: Identification of Legislative and
Policy Barriers**



Pennsylvania Department of Transportation



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Overview

The Transportation Research Board's (TRB) Access Management Manual defines access management as the systematic control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections to a roadway. It also involves roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. It incorporates the delicate balance between constitutional rights, private property rights and state regulations. The principles of access management seek to limit and consolidate access along major roadways, while promoting a supporting street system and unified access and circulation systems for development. Access management principles work best when they are included with transportation and land use planning principles as they were designed to increase safety options for the traveling public.

This is the third in a series of Technical Memoranda produced for PennDOT. The first Technical Memorandum was entitled the "The State of the Practice" which discussed how Pennsylvania currently performs access management procedures as well as included a nationwide search of access management standards and planning practices. The team researched several state Departments of Transportation (DOTs) that currently have or are in the process of establishing access management standards or programs. The second Technical Memorandum is the "Access Management Best Practices" and it included a discussion of land use regulations that may be employed by local governments in Pennsylvania. The list of best practices was developed from common practices employed by other states and guidance on access management provided by the Transportation Research Board (TRB) and the Federal Highway Administration. The report analyzed the positive and negative aspects of each practice in terms of practicality, ease of implementation; schedule to achieve desired outcomes, cost of implementation, and coordination issues.

This Technical Memorandum, "Identification of Legal and Policy Barriers", outlines legal issues and case law associated with access management from both a United States and Pennsylvania Constitution perspective, a discussion of neighboring states access management activities, an overview of the Pennsylvania Municipalities Planning Code (MPC) and finally results of a survey questionnaire that identifies statewide access management perceptions.

I. Existing Pennsylvania Access Management Guidelines

PennDOT is authorized under Sections 411 and 420 of the State Highway Law to issue Highway Occupancy Permits (HOPs) for occupancy of State highway right-of-way, or opening the surface, or placing a facility or structure, or opening an access. PennDOT's Permit issuance authority is not to be confused with PennDOT's maintenance responsibilities. While PennDOT may maintain a particular highway section from curb to curb, its Permit issuance authority extends to the right-of-way line (in the case of utilities) and beyond (in the case of access or drainage) when work outside the right-of-way is determined to have an adverse effect on the State highway.

Publication 282 - Highway Occupancy Permit (HOP) Guidelines contain details on when HOP's can and cannot be issued; requirements for permit applications, plan requirements, measurement of sight distances, traffic control plans, work under the permit, satisfactory restoration of the highway, and use of standard forms (including insurance, indemnification, security and the access covenant). This publication serves as a supplement/interpretive guide to PennDOT Access Permitting Regulations, Chapter 441 and provides affected persons with statewide permit program policies and procedures. Early project coordination between the municipality and the PennDOT district issuing the permit would encourage participation throughout the process to discuss issues of concern to both parties.

Traffic Impact Study (TIS) Guidelines are posted on PennDOT's website to provide affected persons with statewide guidelines relating to the TIS process. These guidelines outline the TIS process including the identification of impacts a proposed development may have on traffic as well as proposed remedies to mitigate such impacts. Level of service criteria is included in these guidelines.

In addition to these guidelines, the following Department Regulations govern occupancy of State highways under Permit:

- Chapter 441: Access To And Occupancy Of Highways By Driveways And Local Roads governs the permit application process, permit fees, issuance of permits and driveway design requirements. Its purpose is to better reconcile the different needs that exist between normal highway traffic and motorists entering or leaving State highway right-of-way via adjacent property. PennDOT staff acknowledges the differences in the interpretation of District permitting policies but all of them utilize Chapter 441 as mandated under legal requirements.
- Chapter 459: Occupancy of Highways by Utilities It is in the public interest to regulate the location and construction of utility facilities and other structures within the State highway right-of-way for the purpose of insuring the structural integrity of the highway, economy of maintenance, preservation of proper drainage and safe and convenient passage of traffic.

II. The Legal Framework For Highway Access Regulation In Pennsylvania

In 1907, the U.S. Supreme Court held that states should determine the access rights of abutting owners by their own laws and not by federal law. Sauer v. City of New York, 206 U.S. 536, 548, 27 S. Ct. 686, 690, 51 L. Ed. 1176, 1907. As a result, there is considerable variation among the States on the legal basis for access regulation. Some states derive their authority from the state's general police powers, whereas others enact state statutes providing more specific authority. There is also considerable variation in terms of how state programs are implemented. Implementation may occur through administrative rules, access codes, official policies, written guidelines, and/or design standards. Likewise, local government authority to regulate driveways may be derived from specific statutes related to access management or planning and regulation, or through their general police powers. In addition, local governments may enact ordinances, guidelines, policies, and/or design standards to implement their regulatory program¹.

In Pennsylvania, access is a constitutional right based on the interpretation of the Pennsylvania Constitution, Article 1, Section 1, but PennDOT has police power authority to regulate access to protect the right of the traveling public to reasonably safe passage. Breinig et ux. v. Allegheny County et al., 332 Pa. 474, 2 A.2d 842 (1938); Hardee's Food Systems, Inc. v. Department of Transportation, 495 Pa. 514, 434 A.2d 1209 (1981).

In this regard, PennDOT has exclusive jurisdiction over State highways under Section 2002(a)(10) of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §512(a)(10) (powers and duties of PennDOT). Additionally and more specifically, under section 420 of the State Highway Law Act of June 1, 1945, P.L. 1242, as amended, 36 P.S. §670-420, 67 Pa. Code §441.2(c), PennDOT has authority to make reasonable rules and regulations

¹ NCHRP Synthesis 304, Driveway Regulatory Practices, Transportation Research Board (2002)

governing the use of and flow of traffic on the State highways. Section 420(a) of the State Highway Law, as amended, 36 P.S. §670-420(a).

PennDOT has exercised its authority by promulgating regulations governing access to and occupancy of State highways by driveways and local roads. A primary purpose of TITLE 67 PENNSYLVANIA CODE CHAPTER 441--ACCESS TO AND OCCUPANCY OF HIGHWAYS BY DRIVEWAYS AND LOCAL ROADS is to assure safe and reasonable access as well as safe and convenient passage of traffic on the State highway. 67 Pa. Code §441.2(a). Under the regulation, no person may open a driveway onto a State highway or open the surface of or occupy a State highway without a permit. Section 420(b)(2) of the State Highway Law, as amended, 36 P.S. §670-420(b)(2); 67 Pa. Code §441.3(a). The regulations primarily focus on individual permit requirements for property owners proposing to gain access at a point along their abutting property frontage; however, proposed major traffic generators are also evaluated for their impact on highway traffic beyond the owner's property frontage.

According to the Transportation Research Board², access management is the careful planning of the location, design, and operation of driveways, median openings, interchanges, and street connections. The purpose of access management is to provide access to land development in a manner that preserves the safety and efficiency of the transportation system. The Federal Highway Administration defines access management as the process of administering the connections between public highways and adjoining land. Transportation officials must balance the need for community and business development with the need for safe and efficient travel³.

There are no restrictions in the Constitution, the Administrative Code or the State highway law to prevent PennDOT from promulgating or supporting municipal access management rules and ordinances. A purpose of access management is to regulate design, construction, location, maintenance and drainage of access driveways for the safety and welfare of the traveling public. 67 Pa. Code §441.2(a) and see: Wolf v. Department of Highways, 422 Pa. 34, 220 A.2d 868 (1966). Likewise, in Pennsylvania, municipalities may regulate access. The Pennsylvania Constitution delegates police power to the General Assembly to restrict land use, among other things. Ordinances passed by municipalities must be consistent with the enabling legislation. Generally, enabling legislation for planning related access management may be found in the Pennsylvania Municipalities Planning Code (MPC), Act of July 31, 1968, No. 247, P.L. 805, as amended, 53 P.S. §§10101-11202, for all municipalities other than Philadelphia and Pittsburgh which have separate enabling acts.

A. What types of access control measures could be implemented by PennDOT or Municipalities?

The MPC authorizes “the governing body of any municipality shall have the power to create or abolish, by ordinance, a planning commission or planning department, or both.” 53 P.S. §10202. Planning agencies may be created at a regional, county, or local level. These agencies can address access management. One of the functions of the planning agency is to prepare the comprehensive plan for the development of the municipality. 53 P.S. §10209.1(a)(1). The comprehensive plan includes planning for future land use, housing, transportation and other needs of the community. 53 P.S. §§10301 and 10301.1. It is an overall scheme for area development and is only a recommendation that is subject to modification. All counties except Philadelphia, are required to have a comprehensive plan. Municipalities are not required but the MPC authorizes them to create comprehensive plans. The planning agency may also make recommendations to the governing body of the municipality concerning the adoption or amendment of an official map. 53 P.S. §10209.1(b)(1). The official map is a map of all or a portion of the municipality illustrating elements of the comprehensive plan. 53 P.S. §10401. Access Management Ordinances adopted by a municipality could relate to both the comprehensive plan and the official map.

These techniques, when implemented in other states, result in improved traffic operations and reduced accidents by reducing the number and complexity of events to which the driver must respond and increasing the spacing of those events⁴. This simplifies the driving task. Safety and efficiency decrease as travel demand increases due to the conflicting functions of the highway to provide both property access and vehicular movement.⁵ Increasing the number of either intersections or driveways increases this conflict and therefore increases the accident rate. Access management is used to improve traffic flow and safety. Access control increases average travel speed, decreases total travel time, decreases delay and increases fuel efficiency. Access control also increases highway capacity.

² TRB Access Management Committee ADA 070

³FHWA worldwide website, <http://www.fhwa.dot.gov/realestate/am0817.htm>

⁴National Highway Institute's course on Access Management Location and Design (NHI Manual 1993)

⁵See 67 Pa. Code §441.7(a),(b).

Techniques to accomplish access management include limiting the number of conflict points (point where the paths of two traffic movements intersect),⁶ separating basic conflict areas (reduce the number of driveways⁷ or increase the distance between driveways⁸ or between driveways and intersections),⁹ reducing deceleration requirements (increase driveway turning speeds,¹⁰ decrease through highway speeds or increase driveway perception time¹¹) and removing turning vehicles from the through lanes (providing separate paths¹² and storage areas¹³ for turning vehicles).

Design techniques used to limit the number of conflict points include installing a median barrier¹⁴ with no left turns at the median opening, installing raised median dividers with a left-turn deceleration lane, installing one-way operations on the highway, installing traffic signals at high volume driveways, channelizing median openings to restrict left-turn ingress or left-turn egress, median closure to eliminate left-turn ingress and egress movements, installing a divisional island to control entry into a left-turn bay, installing a physical barrier to prevent uncontrolled access along property frontage, installing median channelization to control merge of left-turn egress vehicles, offsetting opposing driveways¹⁵, etc.

Techniques used to separate basic conflict areas include regulating the minimum spacing of driveways, regulating the distance between a crossroad intersection and the nearest driveway location, regulating the minimum property clearance (the distance, measured along the curb, from the extended property line to the nearest edge of the driveway),¹⁶ optimizing driveway spacing,¹⁷ regulating the maximum number of driveways per property frontage,¹⁸ consolidating access for adjacent properties, buying properties that abut highway improvements¹⁹, denying access to small frontages²⁰, consolidating existing access, designating the number of driveways to each existing property and denying additional driveways regardless of future subdivision of that property²¹ and requiring access on a collector street in lieu of driveways on a major highway.

Techniques to limit deceleration requirements include restricting parking on the roadway next to driveways to increase driveway turning speeds,²² installing visual cues of the driveway (flashing beacons, warning signs, etc.) improving driveway sight distance²³, regulating minimum sight distance, optimizing driveway location in the permit authorization stage, increasing the effective approach width of the driveway, improving the profile of the driveway, installing a right-turn acceleration lane, etc.

Techniques to remove turning vehicles from the through lanes include installing continuous two-way left turn lanes, installing alternating left-turn lanes, installing an isolated median and deceleration lane to shadow and store left-turn vehicles, installing left-turn deceleration lanes to remove turning vehicles from the through lane, installing medial storage for left-turn egress vehicles, increasing the storage capacity of existing left-turn deceleration lanes, constructing a local service road, constructing a bypass road, etc.

Access management techniques can best be applied to new development through cooperation between PennDOT and municipalities during the subdivision and land development planning process. A Model Access Management Ordinance(s) may be helpful for municipalities in targeting specific highway arterials and highway corridors for implementation of access management techniques. In this regard, good communication between PennDOT and local governments is crucial so that we can plan for long-term, as well as short-term, development in the context of changing land use patterns and highway infrastructure needs.

⁶See 67 Pa. Code §441.7(e).

⁷See 67 Pa. Code §441.7(e).

⁸See 67 Pa. Code §441.8(e) and (l).

⁹See 67 Pa. Code 441.8(c).

¹⁰See 67 Pa. Code §441.9 Figure 7 and §441.8(f)(2).

¹¹See Brewer v. Department of Transportation, No. 3109 C.D. 1996, filed May 23, 1997.

¹²See 67 Pa. Code §441.8(h)(3)(iv).

¹³See 67 Pa. Code §441.8(j).

¹⁴See 67 Pa. Code §441.8(m).

¹⁵See 67 Pa. Code §441.7(c)(4).

¹⁶See 67 Pa. Code §441.8(d).

¹⁷See 67 Pa. Code §441.7(c).

¹⁸See 67 Pa. Code §441.8(e).

¹⁹This is not done in Pa., except see 67 Pa. Code §441.8(j)(3).

²⁰See 67 Pa. Code §441.8(c)(3).

²¹See 67 Pa. Code §441.6(16).

²²See 67 Pa. Code §441.6(17).

²³See 67 Pa. Code §441.8(h)(3)(v).

B. Pennsylvania Court Decisions

Many reported Pennsylvania cases touch on PennDOT regulatory authority to control access, and thus to manage access on State highways. The following is a short review of important cases.

Breinig et ux. v. Allegheny County et al., 332 Pa. 474, 2 A.2d 842 (1938).

The County issued a driveway permit for access to a grocery store parking lot, but later revoked it and restored the curbs. The issue was the extent to which, and the circumstances under which, the right of vehicular access may be carried on. The court held that the right of access is a Constitutional property right and cannot be taken without compensation, but that it may be regulated under the police power in the interest of safety. The court explained that when land is taken or purchased for public use as a highway, the landowner retains, as an incident to ownership of the remainder of the land, the right of access. The traveling public has the right to reasonably safe passage. A balance must be struck between these public and private rights, and the exercise of police power must not unreasonably intermeddle with the rights of the abutting property owner.

Wolf v. Department of Highways, 422 Pa. 34, 220 A.2d 868 (1966).

The Wolfs owned property, which bordered on Route 11 and included a gasoline service station, a seven-unit motel, an office and their residence. Access was by means of a driveway opening onto Route 11. The Department of Highways improved Route 11 from three lanes to five lanes and installed medial strips, blocking eastbound traffic from directly accessing the Wolfs' property. Issue: "[W]hether the Commonwealth may regulate the direction of traffic on a highway by the location thereon of medial dividers the result of which location is to so divert traffic access to the property of an owner of property abutting the highway is available by a circuitous, rather than a direct, route of travel without becoming liable for the effect of such diversion of traffic on the *after* value of the abutting owner's property." (Emphasis in original.) Holding: The construction of the highway did not impinge upon the right of the property owners of reasonable and convenient access to their property. "[T]he alleged resultant loss of business is not an element to be considered in determining the *after* value of the Wolf property." (Emphasis in original.) (36 P.S. §670-420, 26 P.S. §1-612 and Breinig)

Hardee's Food Systems, Inc. v. Department of Transportation, 50 Pa. Commonwealth Ct. 331, 413 A.2d 1 (1980), vacated and remanded, 495 Pa. 514, 434 A.2d 1209 (1981).

The appellant wanted two driveways onto Gettysburg Road, a State highway, for access to a fast-food restaurant. The property was previously residential, and the primary access was to one of the township roads. Access to Gettysburg Road was denied because of the high volume of traffic, and because the property had access to two township roads as an alternative. Citing Breinig, the Commonwealth Court affirmed. PennDOT's action was held to be a reasonable use of police power. (36 P.S. §670-420) On appeal, the Commonwealth Court's decision was vacated and the case was remanded for further PennDOT proceedings. The court's reasoning was that Hardee's was denied the constitutionally protected right of access to a State highway without a hearing. It is unclear when this hearing should have been held and whether Hardee's had asked for an administrative hearing from PennDOT. Justice Roberts' dissent states that he would have affirmed the dismissal on the ground that Hardee's had failed to exhaust available administrative remedies before seeking judicial review. Note that the holding of Breinig that access is a constitutional right still stands.

Department of Transportation v. Longo, 98 Pa. Commonwealth Ct. 120, 510 A.2d 832 (1986), affirmed, 512 Pa. 639, 518 A.2d 265 (1986).

PennDOT required Longo to post signs prohibiting left turns into and out of Longo's driveway. Longo objected, arguing that PennDOT's regulations do not apply to his driveway because the driveway was constructed thirty years before the effective date of the regulations. Commonwealth Court held that the regulations do apply, stating: "the fact that a property's present dangerous condition arises only from past activities does not affect the appropriateness of invoking the police power to dispel that immediately dangerous condition." The court further held that the regulations and enabling law permit the type of restriction that PennDOT sought and that the restriction was reasonably tailored to address the sight distance problem at the location. (67 Pa. Code §§441.8(h), 441.7(b), 441.2(a))

Nardo v. Department of Transportation, 123 Pa. Commonwealth Ct. 41, 552 A.2d 718 (1988), appeal denied, 525 Pa. 651, 581 A.2d 576 (1990).

The developer was issued a permit to construct a driveway with curbing. The developer changed the plans before submitting them to the township, and then submitted to PennDOT their application with as-built plans without curbing and with an additional auxiliary driveway adjacent to the curb radius providing access to a McDonald's restaurant. PennDOT treated the second application as a resubmittal and rejected it, and the developer appealed. The hearing officer found that the auxiliary cut created confusion and improper traffic movement, affecting the safety of the motoring public. The Commonwealth Court found that access was not denied and that PennDOT's decision was reasonable. The court opined that the Secretary of Highways' authority to control the flow of traffic on State highways "would be meaningless unless it was accompanied by the power to control internal traffic ... which eventually empties into and enters from a state highway." 67 Pa. Code §441.3 was also held to be a reasonable regulation. (36 P.S. §670-420 and 67 Pa. Code §441.3)

Ice v. Cross Roads Borough, 694 A.2d 401 (Pa. Cmwlth. 1997), appeal denied, 702 A.2d 1062 (Pa. 1997).

The plaintiffs developed a subdivision and made a restrictive covenant with the borough that a certain driveway would connect with a subdivision road and not with a nearby State highway. The plaintiffs instead, however, constructed the driveway so that it connected with the State highway. The plaintiffs applied for and received a highway occupancy permit from PennDOT that gave permission to make the State highway connection. When the borough sought to enforce the covenant, the plaintiffs argued that the state approval preempted the covenant and also the local ordinance requiring subdivision driveways to connect with subdivision roads, if possible. Commonwealth Court reviewed PennDOT's regulations and enabling law and held that the regulations do not preempt local land use ordinances and restrictive covenants, stating: "a landowner seeking access to a state highway must be given permission for this access by both governmental entities." The court also pointed out that 67 Pa. Code §441.6(2)(i)(F) recognizes that PennDOT's highway access permits are subject to ordinances enacted by local municipalities, which may contain more stringent minimum safety requirements. (36 P.S. §670-420 and 67 Pa. Code §§441.2, 441.3(j), 441.6(2)(i)(F))

C. Neighboring State Examples

Both legal and policy frameworks guide the thinking and potential strategies available for the creation and ultimate implementation of an access management program. In previous documents, we've outlined various state programs but have concluded that we should look to our neighbors as many face similar obstacles. This section discusses some of the guidelines and processes for implementing access management principles on roadways from Maryland, Delaware and New Jersey. The thread that links these successful programs is the need for coordinated efforts throughout various departments.

In Maryland, the "teeth" for access management issues are located within the Annotated Code of Maryland. This document constitutes the most current public record of all statutes still in force in the State of Maryland. The sections related to access management include acquisition of land to protect highways, designation of existing highways as expressways, right of access for property divided by freeway, industrial access to highway, industrial crossings and permits required for work on highway. The Codes are included for your review in the Appendix. Collectively, the Maryland State Highway Administration's (SHA) Engineering Access Permits Division is responsible for the enforcement of these rules. Their goal "is to provide the maximum protection to the motoring public through the orderly control of traffic movement to and from the State Highway System." ²⁴ This goal is completed with well-defined and engineered access points so that the driver has minimal difficulty in determining quickly where to enter a

²⁴ Maryland State Highway Administration's, "Procedures and Standards for Commercial, Industrial and Subdivisions Access to State Highways," p.1

property that adjoins the highway. When properly located and designed, the access - entrance and exit points allow and encourage the safe movement of vehicles that will minimize interference with other traffic. Controlling access to highways is a vital means of maintaining the safety of the motoring public. These efforts are completed in conjunction with various SHA divisions as well as County personnel.

For the State of Delaware, the principles of access management are housed in the Delaware Administrative Code and serve as rules and regulations that govern the state. The regulation related to access management can be found in the: acquisition and sale of real property; acquisition of uneconomic remnants of land along right-of-way; Corridor Capacity Preservation; Access to state-maintained highways; authority to establish standards for traffic-control devices; declaration of policy; definition of a controlled-access facility; authority to establish controlled-access facilities; design of controlled-access facility; acquisition of property and property rights; new and existing facilities; grade-crossing eliminations; authority of local units to consent; local service roads; restrictions on use of controlled-access facilities and certain commercial establishment prohibited. All of these regulations have been placed in the appendix for review. Staffs in various agencies have been working together to present program alternatives that encourage access management principles and corridor capacity preservation. For example, DelDOT implemented the Corridor Capacity Preservation project that protects corridors serving "predominantly statewide and/or regional travel."²⁵ The goals of this project are to: maintain the road's ability to handle traffic safely and efficiently, minimize the impacts of increased economic growth; preserve the ability to make future improvements; prevent the need to build entirely new roads and sort local and through traffic movements. The key concepts to reach the goals are through the delay of building new roads via encouraging new development to use the existing roadway network and base decisions on land use strategies. Implementation of one of the strategies has been development of a plan entitled "Transportation Investment Areas" (TIAs) by the MPO (WILMAPCO). This program directs anticipated transportation projects in developed areas to encourage the improvement of existing services and limit the temptation to sprawl.²⁶

Finally, the State of New Jersey has implemented a "State Highway Access Management Code" that provides an abundance of information to people interested in new access as well as modifications and renovations to existing access to state highways. A copy of this document is in the Appendix.

III. The Pennsylvania Municipalities Planning Code

The Pennsylvania Municipalities Planning Code (MPC) (Act of 1968, P.L. 805, No. 247, as amended) is the Commonwealth's planning enabling legislation. Now in its seventeenth edition, the MPC creates a uniform approach to planning and land use regulation in Pennsylvania. The provisions of the MPC apply to all municipalities of the Commonwealth, with the exception of first class cities (Philadelphia), second-class cities (Pittsburgh) and first-class counties (Philadelphia County). This regulatory uniformity is a great asset to communities that choose to join together and address common problems.

The MPC provides structure to the planning and land use decision-making process. In the Pennsylvania scheme, clear and direct authority is given to the smallest unit of local government – the third-class city, the borough, and the township. Understanding this system, characterized by local-level autonomy and control, is of paramount importance in organizing a uniform approach to any problem-solving activity. The transfer of authority between levels of government is difficult. The one-size fits all approach is nearly impossible; therefore, the General Assembly in recent years has given special attention to amend the MPC with provisions that will assist municipalities in developing regional approaches and consistency between levels of government and across municipal borders.

Several MPC provisions have a direct bearing on a municipality's ability to deal with access management issues; however, many of these provisions also have inherent obstacles that hinder their effectiveness.

A. Opportunities, Obstacles and Recommendations

The MPC enables a sequence of activities that may be undertaken by municipalities to control and manage local growth and development. This sequence begins with planning and ends with the implementation of land use regulations. The following review is presented in sequential order and highlights relevant provisions, opportunities, perceived and real

²⁵ Delaware Department of Transportation's, "The Corridor Capacity Program: Strategies to Delay System Expansion, Focus Development and Preserve Quality of Life," p. 1

²⁶ FY 2005-2007 WILMAPCO Transit Improvement Program brochure

obstacles or barriers, and recommendations for improvement.

B. MPC Planning Activities - Relevance and Opportunities

Article III – Comprehensive Plan

Relevance: Article III enables municipal, multimunicipal, and county comprehensive planning. Related access management elements are a statement of objectives, concerning future development; a plan for land use; a plan for movement of people and goods; a statement of the interrelationship among the various plan components; a short- and long-range plan of implementation strategies; and a statement of compatibility with contiguous municipalities (Section 301).

Opportunities: The planning process outlined in the MPC offers municipalities the opportunity to view their communities holistically, to observe the entire spectrum of activities and features, and to note and respond to critical changes that have occurred or may occur in the future. A priority in the comprehensive planning process is to ensure that land use and transportation is coordinated. Through the comprehensive planning process the municipality is afforded opportunities leading to significant outcomes.

Article XI – Intergovernmental Cooperative Planning and Implementation Agreements

Relevance: This article was introduced in the year 2000 to encourage and strengthen the relationship between municipalities and their ability to cooperate and coordinate planning. Several of the Article's purpose statements relate directly to transportation and indirectly to access management planning:

Section 1101.(7) To provide for coordinated highways, public services, and development.

Section 1101.(10) To identify those areas where growth and development will occur so that a full range of public infrastructure services including sewer, water, highways, police and fire protection, public schools, parks, open space, and other services can be adequately planned and provided as needed to accommodate the growth that occurs.

Opportunities: Article XI has several important provisions that strengthen municipalities' ability to work together and manage access on a regional level.

Management of growth

The designation of growth and future growth areas allows municipalities to target the locations in their regions that have the greatest potential to serve new growth and development with adequate public services and a complete transportation network. Conversely, the designation of rural resource areas highlights areas in the region where the natural features, agriculture, and the countryside will remain the predominant features and the public infrastructure investment is minimized.

Each of the designated areas represents unique access management challenges. Growth areas require strategies that address the movement of traffic, safety, business corridors, interchange and intersection improvements, alternative access locations/retrofits, multimodal coordination, and relief corridors. Rural resource areas require strategies that minimize the impact of development on the countryside, control residential strip development and reduce the number of driveways, expand and address the full range of roadway types from scenic roads to country lanes, and address multimodal issues unique to the Pennsylvania countryside.

Developments of regional significance and impacts

These developments are defined by the MPC as follows:

“any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.”

The assumption is made from this definition that a development of regional significance will by its magnitude, character, and location have a regional draw requiring the planning of special access management measures in the multimunicipal comprehensive plan.

Intergovernmental Cooperation Planning and Implementation Agreements

The tradition in Pennsylvania has been for municipalities to essentially *go it alone*, when it comes to planning and implementation. In other words, each municipality would develop its own planning study and ordinances. With the adoption of the Year 2000 MPC amendments, this scene in the Commonwealth has changed – cutting edge techniques are emerging that are bringing to the forefront a renewed spirit of municipal cooperation and an attitude of planning together rather than apart.

The MPC outlined a specific process to formalize and guide municipalities to implementation – these collaborations take form in two agreements, intergovernmental cooperative agreements and cooperative implementation agreements.

Intergovernmental cooperative agreements

Sequentially, the intergovernmental cooperation agreement begins the process of developing and adopting a multimunicipal comprehensive plan. Section 1102 of the MPC provides for cooperation between and among counties, municipalities, authorities, and special districts that provide transportation planning and the opportunity for active participation of State agencies.

This section recognizes the importance of early identification and participation of all partners (decision makers, funding agencies, and implementers) in the planning process. The players in developing strategies to manage access may go beyond the usual list of municipal representatives and include county land use and transportation planners, regional transportation planners, PennDOT district staff, large property owners, business interests, and the public. Important to this discussion is the recognition that area wide and state planners need to become more active in these multimunicipal planning efforts by having a willingness to engage more effectively in “bottom-up” planning processes – in other words actively engaging in the transportation planning process at the municipal comprehensive planning level.

This focused, multi-dimensional approach would bring about a higher level of cooperation; where all levels of government are operating from the same playbook. It is hypothesized that with a “common set of guidelines and principles” (in the form of model ordinances and legislation for various community settings) – the dialogue among the significant players would be enhanced and the movement towards consensus would be reached more quickly, with a higher potential for publicly acceptable solutions and the political-will to implement.

Cooperative Implementation Agreements

Since the Year 2000 MPC legislation, the Commonwealth has been building a baseline of experience in multimunicipal planning; however, these processes are taking a minimum of the three years to complete, so the implementation baseline is still speculative. Early experience in moving the plan to action (implementation) appears to be inherently more difficult (these early difficulties and their resolution will be described under obstacles and recommendations later in this discussion).

The activity process takes form with the development of a cooperative implementation agreement (Section 1104 of the MPC). The agencies entering into the agreement are the county and the participating municipalities, but may also include the county convening representatives of special districts (see discussion of the MPC Article V-A below), PennDOT districts, and transportation planning agencies that declare an interest in providing public infrastructure and negotiating agreements within a designated growth area of a multimunicipal comprehensive plan.

The MPC enables the establishment of processes, roles and responsibilities, and annual reporting of activities. The activities related to the development of access management measures include:

- A process for achieving general consistency through adoption of conforming ordinances (see implementing activities discussion below) within two years after adopting the comprehensive plan. The conforming ordinances would include common approaches for regulating and managing access on shared corridors or similarly classified roadways.
- A process for the resolution of disputes or conflicting approaches/solutions for managing access.
- A process for the review and approval of developments of regional significance and impacts that are proposed within any participating municipalities. This process would provide the opportunity to ensure that the area of influence of the development considers the full range of impacts on local and collector roadways and to include access management parameters as a part of a required transportation impact study.
- Establishment of municipal roles and responsibilities, including the purchase of right-of-way and easements. This delineation of roles and responsibilities may separate local-, county-, and state-level responsibilities and establish a transportation partnership and responsibilities to fund, design and construct specific, access management priorities.
- Development of an annual report – a monitoring technique – to ensure progress is being made, partnerships are intact, and sequential activities are organized and funded.

Role of County Agencies

The county planning agency plays a pivotal role in the development and implementation of the multimunicipal planning effort. Few local governments have planning staff; therefore, municipalities are reliant upon public-(county-level) or private sector planners for assistance and guidance. Generally, the public-sector planner has a much longer relationship

with local decision-makers. The MPC's Article XI recognizes this relationship and authorizes specific responsibilities for county agencies:

- Development of the multimunicipal comprehensive plan (not mandated, optional). Generally if the county planners do not develop the plan, they are at a minimum, a participant in the process. This participation benefits the process in promoting consistency between county- and local-level plans, providing advice for implementation, and assisting with a funding strategy.
- Participation in the intergovernmental cooperation agreements and cooperative implementation agreements.
- Convening and facilitation of the dialogue between various public and private interests in infrastructure planning and implementation.

Role of State Agencies

The partnership and dialogue potential for state agencies, (for this discussion PennDOT) was discussed previously; however, the adoption of a county or multimunicipal plan and conforming ordinances has significant implication on Commonwealth agency funding and permitting (Section 1105.(a)(2) and (3)). Under these circumstances, PennDOT is required to consider and may rely upon comprehensive plans and zoning ordinances when reviewing applications for funding or permitting of infrastructure or facilities; furthermore, it is required to consider and may give priority to applications for financial or technical assistance for projects consistent with these plans. These requirements and considerations further establish the interface and consistent relationship between state and local-level planning and implementation.

C. MPC Planning Activities - Barriers and Recommendations

Barriers

- **MPC mandates:** The MPC mandates planning at the county-level but not at the municipal and multimunicipal level – opportunities may be lost.
- **Elements of transportation planning:** Transportation planning in generalized terms is implied for those municipalities who choose to plan; access management planning may or may not be a part of this planning activity and is not specifically mentioned in the enabling legislation.
- **Multimunicipal planning:** Innate barriers to multimunicipal planning are complex in achieving group consensus as each member represents their municipality's best interest as conflicts arise, complexity in following up to create binding ordinances, policies and operating procedures in each member's jurisdiction, length of study, and implementation agreements as written in the enabling legislation.
- **County and State agency involvement:** The MPC outlines many new opportunities for cooperative planning between various levels of government. Many of these opportunities require a "bottom-up" approach, working with the smallest level of local government first. This approach may require a paradigm shift at the county- and state-level, an organizational restructuring and new cadre of employees, trained in facilitation, strategy-development, and intergovernmental cooperation. It appears that the shift in approach is beginning to take shape at the county-level as planners engage in multimunicipal comprehensive planning processes and begin to move these municipalities forward into implementation. Experiences from the planning staffs at Chester, Lancaster, and Lehigh counties (noted in Section IV of this Technical Memo) show success in the coordination between all levels – municipalities, county and PennDOT staff.
- **Cooperative implementation agreements:** Planners have begun to identify a major stumbling block in moving the multimunicipal plan into action, the cooperative implementation agreement. The idea of making all ordinances generally consistent, the resolution of disputes over interpretation, and yearly reporting appear to be the three areas of concern. Some interpret or perceive that the signing of the agreement would establish a regional-entity or at most regional authority or would empower the county over the local decision-makers, resulting in the loss of local-level autonomy and authority. Although this was not the intent of the agreement, this perception is leading local decision-makers to pause before, if not disengage from, implementing the multimunicipal comprehensive plan. In fact several of the model agreements, appear to have provisions that might support or be interpreted as transferring power to an entity other than local authority.

Recommendations:

- Mandate municipal comprehensive plans and/or expand the legal effects of municipal plans for state agencies' consideration. It is important to realize that not all municipalities in the Commonwealth are ready to embrace the

idea of multimunicipal planning. At this point in time not all municipalities have a comprehensive plan or local-level land use ordinances, especially zoning. The most important consideration for these municipalities is to move them from reactive problem solving to the proactive approach by demonstrating comprehensive planning's benefits and opportunities.

- Expand the discussion in Section 301.(a)(3) – a plan for the movement of people and goods to include a circulation plan, which includes a functional classification system and an access management strategy. Add appropriate definitions to create a common base of understanding across the Commonwealth but consideration of the costs involved by the municipalities is needed.
- Enable municipalities to enter into intergovernmental cooperation agreements and implementation agreements to plan for special problems that cross municipal boundaries without participating in a “full-blown” multimunicipal comprehensive plan (e.g., corridor-wide studies for access management). Guarantee the same legal effects, processes, roles and responsibilities, and monitoring activities afforded municipalities that develop multimunicipal comprehensive plans. A successful cooperative activity may be the first step for some municipalities and agencies to recognize the benefits of working together towards the more comprehensive study.
- Provide guidance for the key components of transportation impact studies for developments of regional significance and as a necessary component of any access management model. The key components include a threshold requirement to determine when a study is needed, requirements for the scope of study and a level of service criteria.
- Evaluate and enhance the organizational structure of the County and State agencies (i.e., PennDOT) to strengthen its ability to cooperate and interface with the local planning process and meet local-level access management objectives and strategies. The evaluation may result in restructuring and redesigning technical training and financial packages/partnerships to coincide with local-level planning and implementation.
- Amend the current language under Section 1104.(b) to clarify the ability of municipalities to retain local-level autonomy and authority – this may include the review of existing implementation agreement models or at a minimum ensure that the access management model does not imply a transfer of any existing authority away from local-government.

D. MPC Implementation Activities – Relevance, Opportunities, and Barriers

The local comprehensive plan is the recognized entry point for setting forth strategies to address and sustain the wide range of community relationships and functional elements. However, exceptional plans will remain stagnant without a cadre of action tools. The MPC enables local governments to use the following implementation techniques: official maps, ordinances, capital improvement programs, special purpose development overlays, and specific plans. Each of these techniques may improve the local government's ability to manage roadway access; however, the benefits of applying a single technique are surpassed when a municipality applies several or all of these techniques as an integrated package.

Article IV – Official Map

Relevance: The MPC defines an official map as a map adopted by ordinance for the following specific purposes:

- To show elements or portions of elements of the comprehensive plan with regard to public lands and facilities, including aspects of the transportation infrastructure - existing and proposed public streets (widening, narrowing, extensions, openings or closings), pedestrian ways and easements, and railroad and transit right-of-way and easements.
- To establish the procedure for acquiring the streets or easements shown on the official map. If the owner of the property desires to build, subdivide, or develop the designated area, the municipality must take action to acquire or condemn the property within one year.

The official map reserves locations for new corridors and roadways of various functional classifications, points of access, and multimodal connectors.

Opportunities: The official map in essence allows the municipality to take control of future planning for new streets or an enhanced transportation network that includes the means to manage access. It provides a significant tool that allows municipalities to coordinate land use with transportation facilities.

Barriers: Until recently, the official map was not used widely by local governments; however, this trend appears to be changing slowly as more county planning agencies are encouraging and helping municipalities to implement official maps. The barriers include:

- The potential for misuse (e.g., with inadequate ordinances and procedures for purchase agreements or condemnation) or legal ramifications as a perceived taking.
- The need to make relatively quick decisions (i.e., within one year) regarding the municipal purchase and/or condemnation of property that the owner intends to develop or sale. The municipality must be positioned and fiscally prepared to move on the concepts of the official map when the land becomes available. When PennDOT is involved, time can be an issue. It must be understood that the municipality does not have maximum control on the timing of the implementation of ideas.

Article V – Subdivision and Land Development & Article VI – Zoning

Relevance: Two major land use ordinances work together to control the layout, design and location of transportation facilities within the municipality - subdivision and land development ordinances (SALDO) and zoning ordinances. The county (in cases where local land use ordinances are not present) or the local municipality adopts these ordinances. Meeting the goals and objectives of the municipal comprehensive plan should be the major premise of these ordinances – again, illustrating the link between planning and implementation. In the case of communities, which have undertaken a multimunicipal comprehensive plan, each of these ordinances should be generally consistent within the multimunicipal planning area.

Overlay zones as described in the “Practice of Local Government Planning”²⁷ are imposed over existing zoning districts, provide an additional layer of development standards to address special land use needs. Overlay zones are used in Pennsylvania typically to apply additional regulations for historic districts and floodplains. Access management techniques can be used as additional regulations for the use of overlay zones.

Opportunities: Each ordinance controls separate elements of access management; however, these ordinances should work together, not separately.

The MPC enables the following transportation network provisions for the subdivision and land development ordinance (SALDO):

- Ensuring the layout or arrangement of new roadways conforms to the transportation plan of the comprehensive plan or an official map adopted pursuant to the MPC. Coordinating and designing streets in and bordering the subdivision or land development to accommodate prospective traffic and facilitate fire protection (both of these design features have an access management implication – any access management model should include the consideration of future traffic plus access for fire protection).
- Providing standards for street design and improvements, including grading, walkways, curbs, and gutters as a condition of final plat approval or as part of a phased development plan.

The SALDO enables municipalities to develop important access management design standards – e.g., dimensional characteristics of roadways of various classifications; sight distance parameters, including clear sight triangles; spacing and the number of access points and driveway locations; coordination responsibilities with permitting agencies; design specifications; and bonding and site inspection requirements.

The land use/transportation connection is apparent when the subdivision and land development and zoning ordinances work together. Provisions of the zoning ordinances help municipalities coordinate the density, intensity (e.g., size, height, and bulk of buildings and structures), and location of land use as it relates to the existing and planned roadway network (the importance of this relationship is the impetus of a movement by the professional planning sector towards the establishment of a unified land use ordinance, which would combine the separate SALDO and zoning ordinance into one ordinance).

27 “The Practice of Local Government Planning. International City/County Management Association, Washington, D.C. (2000)

The zoning ordinances can be designed to prevent congestion in travel and transportation. The zoning ordinances also enables municipalities to regulate bulk and area standards; manage the location of parking lots and the access to driveways in parking areas; manage setbacks from various classifications of roadways and major intersections; use vegetation, buffers yards, and open spaces as a means to control the location of points of entry-exit; and limit access by requiring the use of internal roadway networks or frontage on local roadways rather than major collectors or arterials.

Barriers: Clearly, the municipal potential to control access management is dependent on the extent of local regulations to address management priorities. Notable barriers include:

- Failure of the county, municipal, or multi-municipal comprehensive plan to address access management in the statement of municipal goals and objectives, policies (strategies), and action plans (includes a failure to classify roadways at the local level). This failure may mean that access management is not a locally recognized issue or the link between transportation and land use planning is being missed. Rural communities or communities experiencing low or no growth or a net loss of development may be at the highest risk to miss this vital link. It is highly unlikely that any municipality in Pennsylvania would not benefit from a study of the way transportation interfaces with existing and future land use and the translation of access management policies into land use regulations.
- County-level ordinances versus local-level ordinances. Many communities across the Commonwealth continue to rely on county-level ordinances – this reliance is only problematic when the county ordinance fails to recognize or deal with local-level anomalies. Often the county ordinance is the most desirable option due to the lack of administrative capability or staffing at the local-level. In highly developed or rapidly developing communities, the management of specific or special access problems is more effectively and efficiently controlled through ordinances that are developed and managed at the local-level. It is expected with the advent of the 2000 MPC amendments, more multimunicipal efforts will emerge leading to multimunicipal approaches to land use ordinances (e.g., land use ordinances that are generally consistent or joint ordinances) and shared administrative responsibilities.
- Failure to recognize the relationship between subdivision and land development ordinances and zoning ordinances. Consistency and compatibility of the two major land use ordinances is of paramount importance in developing a holistic package of access management ordinances. If a municipality does not have zoning, the subdivision and land development ordinance must carry the weight of all access management regulations.
- Failure to understand the differences in managing access in different settings and preparing regulations to address these settings. As mentioned earlier the priorities for urban and urbanizing areas are very different than the priorities established for rural settings and the countryside. A “one-size fits all approach” is inappropriate for municipalities and counties that have diverse settings.

Article V-A – Municipal Capital Improvements (Act 209)

Relevance: Article V-A is one of the least used implementation techniques but, it is probably one of the most important access management tools offered in the MPC, especially in urbanized areas. It has the potential to be extraordinarily effective in providing the means to schedule and construct adequate transportation infrastructure within designated growth areas and areas of regional significance. The regulations apply to single municipalities (must have comprehensive plan or land use regulations in place) or more than one municipality, which have adopted a multimunicipal comprehensive plan.

- **Opportunities:** In brief, the article enables the municipalities to charge impact fees for new development in a designated transportation service area. The use of these fees is restricted to revenue sources for the implementation of new offsite, capital improvements for public highways, roads, or streets (not multimodal connections or other transportation facilities). Fees may not be used for the construction, acquisition, or expansion of municipal streets; repair, operation, or maintenance of existing or new improvements; upgrades, expansions, or replacement to serve existing development in meeting new standards or to remedy deficiencies; and preparation and development of land use assumptions and roadway sufficiency analysis and transportation capital improvement plans. However, the impact fees can be used for costs incurred for improvements designated in a municipality's transportation capital improvement program which includes acquisitions of land and right-of-way, engineering, legal and planning costs and other costs directly related to road improvements within the service area. The major asset of the transportation capital improvement programming is the development of a sustainable funding mechanism to offset the cost of needed transportation improvements (e.g., access management measures) in rapidly developing areas. The impact fee is calculated based on the total cost of the identified road improvements within a given transportation service area attributable to new development within that

service area. The figure is divided by the number of anticipated peak hour trips generated by the development. The resulting figure is the per trip cost of transportation improvements within the service area. The need for additional fees is covered in Act 68 as it added power for a municipality to require additional studies and fees on the developments generating more than 1,000 trips in the peak hour. These provisions must be in the impact fee ordinance and can't be collected retroactively unlike the base impact fee.

Barriers: It has been very difficult to obtain the political support and public consensus to launch a transportation capital improvement program. The barriers are inherent in the legislation. Only highly organized municipalities with several layers of municipal staff, including skilled administrators, technicians, and advisors will undertake this article of the MPC.

- Getting started requires an extensive process and upfront costs. Prior to enactment of the transportation impact fee ordinance, a transportation capital improvements plan must be prepared and adopted.
 - The development of the plan requires expenditures for professional consultants or staff.
 - The process requires the appointment of an impact fee advisory committee or planning commission, including representatives of the real estate, commercial and residential development, and building industries (this representation may have the potential to create adversarial relationships within the committee, which may require either leadership with facilitation skills or a skilled facilitator to work with the committee). The advisory committee is tasked with the development of the land use assumption analysis and roadway sufficiency analysis (part of the transportation capital improvements plan).
 - The study is extensive and includes the designation of the study area; land use assumptions, based on all available information and studies; existing traffic volumes and levels-of-service; preferred level-of-service; deficiency analysis; projected or anticipated traffic; and roadway improvement recommendations and specifications.
 - A study that leads to the development of the capital improvements program and the delineation of recommended transportation service area and roadway improvements, including a timetable, proposed budget, and funding sources (e.g., impact fees). The program includes the costs of improving roadways to correct existing deficiencies and to accommodate forecasted pass-through trips and future development.
- There is a limitation on costs for state and federal highways. Roads that qualify as a state highway or rural state highway may only be funded by impact fees to a maximum of 50% of the total costs of the improvements.
- The continuation of the program requires continuous monitoring and adjustments.
- The use of the impact fee for specific purposes must be identified in the transportation capital improvements program; therefore, the use of funds is not transferable to projects that have not been previously identified. This clause requires a high-level of precision at the time of study. Exceptions are provided to this clause if the applicant seeks written consent for alternative projects that would effectively reduce traffic congestion or remove vehicle trips and the municipality is willing to amend the transportation capital improvement plan to provide replacement of the transferred fee.
- The transportation impact fee creates additional costs that are passed through the land development process from developer to owner or lessee, making land development more expensive, prescriptive, and perhaps less profitable. For this reason its application would be appropriate for areas serving a regional audience and attracting high volume and higher tax generating facilities or enterprises that will be able to absorb the additional costs and derive the benefits from the ease of access to their areas of influence. A cost benefit analysis should be an integral component of the required analysis prior to implementation of an impact fee. The analysis should confront both economic and community values.

Article VII – Planned Residential Development & Article VII-A – Traditional Neighborhood Development

Relevance: Both the planned residential development (PRD) and traditional neighborhood development (TND) use a unit development approach.

The MPC defines the PRD as follows:

An area of land, controlled by a landowner, to be developed as a single entity, for a number of dwelling units, or combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one district created, from time to time, under the provisions of a municipal zoning ordinance.

The MPC defines the TND as follows:

An area of land developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven with the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact, limited in size and oriented toward pedestrian activity. It has an identifiable center and a discernible edge. The center of the neighborhood is in the form of a public park, common, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

The municipal experience with PRDs varies from very positive to negative, depending on the municipality's willingness to embrace new, flexible and perhaps locally-untested ideas and to trust the local developers' ability to work within a less, structured environment and the proficiency of local planners and municipal advisors to review plans that fall outside the standard subdivision and land development process. Few examples of TNDs exist since the inception of the TND article in the 2000 MPC amendments. New methods to integrate access management measures into the PRD and TND regulations must be a part of the Commonwealth's access management model, since both fall outside the typical SALDO and zoning regulatory processes.

Opportunity: The intent of PRDs and TNDs is to encourage innovation, flexibility, and the development of entire communities by allowing a range of residential and nonresidential land use types within one land development concept. Generally, the PRD and TND are applied as an overlay, which essentially rewrites the land use type, density, and intensity that would normally be allowed by the district regulations of the zoning ordinance.

The application of the PRD regulations would provide the following opportunities that may have an implication on the means of managing access:

- Regulate the actual timing of development to manage infrastructure development.
- Design to deal more efficiently with the physical characteristics of the site.
- Grant and set limits for modifications of specific sections of the subdivision and land development ordinance – from the access management perspective these may include modifications from standards for the location, width, course and surfacing of streets, walkways, curbs, and easements or right-of-way.

The application of the TND regulations would provide additional opportunities to manage access to/from and within new communities. These opportunities are inherent in the purpose statements of the MPC (Section 701-A) and in many cases reflect the balance between land use and transportation facilities and include:

- Minimize traffic congestion, infrastructure costs (reducing the number and length of automobile trips required to access everyday needs), and environmental degradation.
- Organize building densities to make public transit a viable option (study implication – appropriate management of access for public transit).
- Maximize independence of movement for the elderly and the young by locating most daily activities within walking distances (study implication – appropriate management of access for pedestrians).
- Maximize proximity to public spaces (e.g., streets, parks, squares, mixed use areas) to foster the ability of citizens to come to know each other and to watch over their mutual security (study implication – location of streets to promote safety).

Embedded in the standards and conditions for TNDs (Section 706-A) are prescriptive techniques for the design of the street network with implied access management standards, including:

- (5) *The location, design, type and use of streets, alleys, sidewalks and other public right-of-way with a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provide multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally...*(implication – organized and predictable network of access management).
- (6) *The location of vehicular parking with the street plan providing for on street parking for most streets, with the exception of alleys. All parking lots, except where there is a compelling reason to the contrary, should be located either behind or to the side of buildings and, in most cases, should be located toward the center of blocks such that only their access is visible from adjacent streets. In most cases, a rear alley should serve structures located on lots smaller than 50 feet in width with all garages fronting on alleys. Garages not served by an alley should be set back a minimum of 20 feet from the front of the house or rotated so that the garage doors do not*

face the adjacent streets. (implication – access management models need to address rear and side yard parking lots and alleyway access – typical in both existing boroughs and villages and standard practice for new TNDs).

Again, the same flexibility of standards afforded PRDs are extended to the TNDs; that is, the granting and setting of limits for modifications of specific sections of the subdivision and land development ordinance – meaning modifications from standards for the location, width, course and surfacing of streets, walkways, curbs, and easements or right-of-way.

Barriers: Similar to the Transportation Capital Improvements Program, PRDs and TNDs require a more highly, organized and skilled municipal staff to successfully apply PRD and TND concepts. The primary barriers include:

- The overly prescriptive enabling legislation actually may hinder innovation, flexibility and creativity;
- Limited experience with “in the ground” examples around the Commonwealth and unwillingness to try untested ideas has led to hesitancy in adoption of municipal ordinances and a lack of interest by the development community;
- Skeptism regarding the benefits and costs of the techniques;
- A development process that differs from the routine process and a perceived notion of a lack of control at the local-level;
- Fear of the intermixing of residential uses (e.g., multifamily and single family dwellings from affordable to luxury costs) and nonresidential uses;
- The inability to conceptualize known characteristics of existing boroughs and villages and to relate these characteristics to new traditional neighborhood developments; and
- Fear that the new concepts will have negative impacts on existing development and infrastructure.

Article XI – Intergovernmental Cooperative Planning and Implementation Agreements – Section 1106. Specific Plans

Relevance: The specific plan is an option provided to municipalities that have entered into an implementation agreement (basis – county or multimunicipal comprehensive plan) that enables the municipalities to prepare a detailed plan for nonresidential developments.

The MPC defines the specific plan as:

A detailed plan for nonresidential development of an area covered by a municipal or multimunicipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

Specific plans include text and diagrams organized into ordinances to provide the following details:

- Distribution, location, area, and standards for land use and the design of supportive infrastructure;
- Location, classification and design of all transportation facilities;
- Density, land coverage, and intensity standards;
- Conservation and protection standards for natural resources, open space, and agriculture; and
- Implementation regulations – zoning, storm water management, subdivision and land development, highway access (implies access management ordinances may be stand alone, if not integrated in other land use management ordinances – this consideration is important to model development), or specific ordinances for the planned area.

Opportunity: The specific plan provides the municipality the highest level of design control offered in the MPC. Through the specific plan the municipality can actually mandate the design and layout of a tract of land.

Barriers: Again, limited experience with the concept may be the primary barrier. Other barriers include:

- Failure to allow the concept to be used for residential and mixed-use developments.
- Tying the concept to county-level and multimunicipal-level planning, rather allowing its application at all levels of comprehensive planning, including the single-municipal plan.
- Failure of planning documents to provide the basis for the specific plan – the expectation is this will change as planning documents are updated or initiated.
- Again, no history with the concept or “in the ground” examples.

E. MPC Implementation Activities – Recommendations

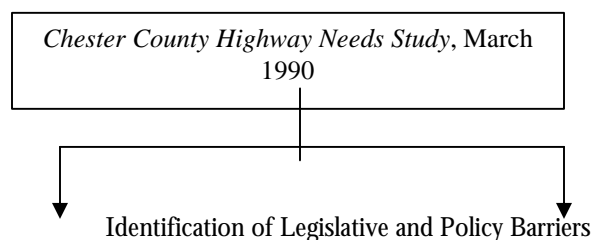
- Revisit Article V-A, VII, VII-A and Section 1106 to remove substantial barriers and make it palatable to municipalities.
- Continue to support the development of official maps, capital improvements programming, and specific plans by developing new funding strategies and incentives for municipal development and implementation.
- Create model access management regulations that recognize the transportation/land use connection; the need to develop different management concepts for different community settings (e.g., urban vs. rural); the need to develop different models for county-level land use ordinances (with flexibility for various settings) and local-level land use ordinances; the need to link provisions of the subdivision and land use ordinance with provisions of the zoning ordinance; the need to develop a model for communities that have a subdivision and land use ordinance but no zoning ordinance; and the need to develop a model for communities, which have neither a subdivision and land use ordinance and zoning ordinance, but manage land use through single purpose ordinances.
- Develop a list of existing or future conditions that should exist relative to the location of PRDs and TNDs. List should include ideas such as:
 - Location within an designated growth area;
 - Controlled access to a major collector roadway system;
 - Designation of suitable areas as part of the municipal or multimunicipal comprehensive plan; and
 - Designation of the collector system on an official map.
- Expand the concept of the specific plan to include all types of developments of regional significance – nonresidential, mixed use, or residential.
- Develop training programs to show the sequence of access management programming from the development of comprehensive planning strategies to implementation and the use and benefit of each implementation tool.

IV. Access Management Planning and Implementation

The 2000 MPC amendments advance cooperation among various levels of government. The following examples show the relationship of county access management planning and implementation activities and in several cases the relationship of these activities or the interface between county and local-level planning and implementation. It is the expectation that as the access management techniques become more widely recognized and utilized, the interface between State, county and local strategies will solidify and the benefits of access management principles to preserve safety and build capacity into existing networks will be achieved. It is also recognized that a four-prong approach with State, county, local (multi-municipal), and private sector stakeholders – offers the best method for instituting the best management practices across the Commonwealth.

Chester County Case Study

The most complete case study of those reviewed (Chester, Lancaster and Lehigh Valley) was found in Chester County. The experience in Chester County is traced from the Countywide *Highway Needs Study*, revised in March 1990, to several corridor-wide studies and local-level comprehensive plans and land use ordinances. The following diagram and lists show the relationship between these studies and important access management achievements (implementation of best management practices).



*PA Route 113 Access Management Study, June
1991*

*Comprehensive Plan of West Fallowfield
Township, February 1993*

*West Pikeland Township Comprehensive Plan
Update, November 1999*

Chester County Highway Needs Study (county-level)

The *Chester County Highway Needs Study* was organized in seven parts: introduction and background, goals and objectives, perspective of land and people relative to highway planning, analysis of existing highway conditions, future perspective, summary of highway problems and improvement options, and implementation and conclusions. The following list is a sampling of access management goals and objectives, problem area and recommendations/implementation strategies.

Goals and Objectives

The *Study* states: *The goal of the highway plan is to provide a highway system which optimizes mobility, recognizes and emphasizes the economy, and is compatible with the community's pattern for future development (p.7)* Applicable Chester County objectives include:

1. *Complete gaps in the arterial road system.*
2. *Improve the arterial connections between town centers.*
3. *Optimize the capabilities of the existing highway system by carefully managing access. (p.7)*

Problem Areas

The *Study* introduced specific access management problem areas by definition first. The access management problems refer to situations where the conflicts between mobility and access are, or will be, intense and result in congestion and safety problems (p.109).

The secondary problems summarized states that access problems are found to some degree on almost every arterial or collector road and that the most severe problems are found, on approximately 200 miles of roads, most of which are feeder roads into boroughs or into expressway interchanges. (p. 109)

Specific examples were discussed by road, functional classification, and road segment: US Route 1, LR 1025 & LR 131 – Principal Arterial – Kennett Bypass to Delaware County Line; PA Route 41, LR 215 – Principal Arterial – Lancaster County line; and PA Route 113, LR 270 – Major Collector/Minor Arterial – Gay Street to PA Route 23, PA Route 23 to Rapps Dam Road, PA Route 401 to US 30 Business.

Recommendation/Implementation Strategies

The *Study* offered various recommendation and implementation strategies to address the access management issues. The recommendations began by linking high priority needs to the highway planning and development process and its five basic steps: preliminary planning, programming, design, land acquisition, and construction. Each step was equally important; however, the focus of the recommendations was on programming (i.e., matching of projects to funds within a given period) and prioritization. Three levels of programming were identified for the County – Chester County Planning Commission *Proposed Highway Projects Inventory*, Delaware Valley Regional Planning Commission *Transportation Improvement Program*, and the PennDOT *Twelve Year Transportation Program*.

The County program was described as the entry level for prospective projects. The County ranked candidate projects by using sixteen evaluation factors in the areas of system management, physical deficiencies, and public concerns. The County rankings interfaced with the PennDOT, which based its final selection on specific time frames over twelve years.

The *Study* described the interface between programming and funding. It provided a listing of funding programs (this listing must be updated annually to maintain relevance) for Federal, State, County, municipal, and private initiatives. The listing provided information on the funding source, funding title, project description, funding split (i.e., state-local %), eligibility, and required programming.

Strategies to resolve various problems were listed and mapped. The list included strategies for design or traffic, land use or regulation, cost or funding, and others. Each strategy included a listing of responsible parties for implementation. Several strategies relevant to access management were:

Design or Traffic Strategies:

- Design standards for the functional classification of roads. The *Study* included a future highway functional classification map based on the identified needs. The *Study* suggested change in functional classification as more intense development occurred on specific corridors (e.g., Route 113 from Route 30 to Route 23), relocations (e.g., Route 41 at various locations), and new collectors (e.g., Route 113 in Phoenixville and Route 113 alternate in Uwchlan); desirable design standards for each class; and typical cross-sections.
- Access restrictions for the functional classification of roads. Typical access restrictions were listed for six classes: expressway, principal arterials, minor-arterials, major collectors, minor collectors and local roads. As it might be expected, principal arterials and minor-arterials had the longest list of potential restrictions.

- Access management programs. The *Study* pointed out that access management might be considered on a parcel-by-parcel basis or on a corridor-wide basis. An access management study outline was provided, which engaged cooperation between municipal, County, State, property owner, and civic group representatives.
- Residential street controls. The *Study* listed 22 activities to manage access into neighborhoods and prevent through-traffic on residential streets.

Land Use or Regulations:

- Land use and highway planning integration. The *Study* described the need for legislation to allow a municipality the right to enact a moratorium on development until the public infrastructure could accommodate the future demand or the ability to deny building or access permits based on impacts of development on off-site intersections.
- Official map use. The *Study* examined weaknesses of its application and suggested legislative changes.
- Zoning re-evaluation based on traffic impacts. The *Study* stressed the need for municipalities to re-evaluate zoning ordinances to recognize infrastructure capacities and amend ordinances appropriately.
- Density bonuses for off-site traffic improvements. This strategy recommended the offering of density bonuses in exchange for off-site traffic improvements or cash contributions for future improvements.
- Traffic checklist in the review of large land development proposals. The strategy included a checklist to identify traffic impacts for use during a study phase and in reviewing land use changes.
- Traffic impact study ordinance – This strategy provided the basic elements of a traffic impact study.

Cost or Funding:

- Private sector participation in the cost of highway improvements. The focus of private sector participation was transportation partnership districts, business improvement districts, impact fee ordinances, and traffic performance standards (each option was described in the document).
- Cost savings program for municipal roadwork. Practices leading to municipal cost savings were described. Those relating to access management work included cooperative work agreements, shared management, and shared manpower.
- Benefit/cost analysis. The *Study* supported the use of cost/benefit analysis for all funding programs.

Others:

- Parking Management Program. Recommended components relating to access management include: construction of off-street parking lots or garages; encourage joint use development and evaluate the impact of on-street parking in regard to safety and congestion problems.
- Public Education Program. The strategy addressed the need to provide more communication with the public on safety, construction, and planning matters.

The Chester County Study provided the basis for local-level planning and implementation.

PA Route 113 Access Management Study (local-level – multi-municipal)

The PA Route 113 Access Management Study was completed in June 1991 – the Access Management Study was funded in part by the Federal Highway Administration, PennDOT, and Chester County Planning Commission. The County's Needs Study gave high priority to the resolution of problems on this corridor.

The *Access Management Study* included discussions of existing conditions, existing traffic problems, factors and constraints affecting future land use (i.e., environmental and design constraints, municipal zoning, vacant parcel analysis, projections, and regional influences), future traffic conditions, findings and recommendations, and implementation strategies. The important components to local-level access management would be the findings and recommendations and the implementation strategies.

Findings and Recommendations

The *Access Management Study* presented three categories of recommendations: land use recommendations (integration into municipal comprehensive plans, zoning ordinances, zoning use changes, and subdivision and land development ordinances), access recommendations, and highway improvement recommendation (short- and long-term).

Land Use Recommendations

The following list shows the type of recommendations provided for land use:

- Municipal Comprehensive Plans - The local-level plans should address access management considerations in the goals and objectives, circulation inventory, land use plan, and circulation plan.
- Zoning Ordinance – Opportunities for regulating land use and access with zoning ordinances included:
 - Building setback and buffers (suggested 75 feet from the ultimate right-of-way).
 - Lot width at street line (suggested minimum lot width at the street line or frontage of 100 feet).
 - Sign provisions (suggest language for height, location near the cartway, prohibition within the clear sight triangles, consolidation of signs).
- Zoning Use Changes – Recommended specific changes of zoning districts or densities (e.g., planned/industrial commercial area – build out would cause capacity problems, commercial and limited industrial zoning to less intensive uses, and environmental protection.)
- Subdivision and Land Development Ordinance – changes to design standards for roadways by roadway type (i.e., arterial, collector, local, cul-de-sac, low volume driveway)
 - Width of travel lanes for streets, which intersect Route 113 (suggested widths/travel lane by classification).
 - Right-of-way on perpendicular streets (recommended range in feet by classification).
 - Centerline street grade on perpendicular streets (recommended minimum and maximum percent grade by classification).
 - Angle of intersection with Route 113 (recommended preferred and minimum angles).
 - Sight distance (recommended use of PennDOT standards).
 - Minimum curb radii (recommended feet by classification).
 - Distance between major intersections (recommended 1,000 feet for arterial and collector).
 - Minimum distance from other accesses (recommended for all types but arterials).
 - Offset or jog spacing for streets (recommended 125 feet for all types, not applicable to low volume driveways).
- Other ordinance provisions
 - Provisions for arterials – marginal access roads, reverse frontage lots, acceleration and deceleration lanes, shared driveways, dedicated left-turn lanes.
 - Provisions for scenic qualities – landscaping and screening.
 - Traffic impact studies.
 - Right-of-way width for Route 113 for various cross sections (the expectation was the right-of-way area will accommodate various functions – recovery area for accidents; location of utilities, drainage facilities, pedestrian facilities, access for maintenance and construction vehicles, and future widening).

Access Recommendations

The reports provided a chart and schematics suggesting possible solutions or improvement options for each access point. Points are identified for elimination, combination, relocation, realignment, reverse frontage, side access, one-way patterns, acceleration lanes, deceleration lanes, left turn movements, signal work, signing, change of parking configuration, and sight distance.

Highway Improvement Recommendations

The reports capacity and access analysis, accident reports and field observations led to a recommended plan for short- and long-term highway improvement recommendations. Short-term recommendations included improvements to alleviate existing and near-future traffic problems, such as, pass-around lanes and shoulder improvements. Thirteen long-term recommendations included bridge widening, traffic signalization, lane additions, intersection realignment, a residential collector system and new connectors.

Implementation Strategies

The Access Management Study generated a list of three areas of implementation strategies for the local municipalities, including land use, access, and circulation. Ideas for each are provided below.

- Land Use Strategies - comprehensive planning, ordinance modification, official map, ultimate right-of-way, development approval in phases, zoning incentives for off-site improvements, and travel demand reduction ordinances.
- Access Strategies - access conformance analysis and permit program for access to local roads.
- Circulation Strategies - traffic impact study, traffic signal plan, traffic volume monitoring, traffic speed control, park and ride lots, staggered work hours, flex time, compressed work week, carpools/vanpools, public transportation, paratransit, PennDOT funding, transportation partnerships, traffic impact fees and developer agreements.

West Pikeland Township Comprehensive Plan Update (local-level – single municipality)

A clear transfer of information has occurred from the County Study to the Access Management Study. Moving one step further, this information filtered into the November 1999, West Pikeland Township Comprehensive Plan Update and in particular Chapter 9, Access Management. The Plan stated the desire to achieve the following goal:

Develop an Access Management Plan that reflects cohesiveness throughout the Township, in the form of an overlay district. Establish access restrictions for each functional class in conjunction with access management programs (page 9-11).

The Plan made a direct connection to the PA Route 113 Access Management Plan as a reference source to adopt an overlay district and access management solutions: right-of-way requirements related to the function of the road, signal timing to improve mobility, setbacks based on functional classification, types of access, shared driveways, controlled curb cuts, reverse frontage, acceleration and deceleration lanes, turning lanes, and side accesses. Schematics were provided for a majority of these concepts.

The next step for West Pikeland Township would be the implementation of *the Plan* through ordinance updates and access management programming. To date these implementation strategies have not been adopted. The Chester County Planning Commission has determined that more education is needed at the local-level to address the cost and benefits of the access management strategies before implementation of the access management strategies would be a reality.

Other Chester County Access Management Activities – (local-level – single municipality)

Not all projects follow the same course. The West Fallowfield Township experience is a prime example. In February 1993 (after the County Highway Needs Study), the Township completed a comprehensive plan, followed by a 1997, zoning ordinance to implement the plan, and a 2003, corridor study for PA Route 41 corridor. Each document addressed access management.

Comprehensive Plan of 1992, West Fallowfield Township

Access management was addressed as a major topic in the West Fallowfield Township Comprehensive Plan. Critical elements in the planning study included a circulation inventory, which implied a majority of the traffic through the Township utilized Route 41 (designated by PennDOT as a priority truck route) and Route 10. It concluded that the major Township and regional routes also would be the most suitable location for future development (the transportation/land use connection). *The Plan* reported the desire of the Township to maintain many of the local roads in their current state by directing traffic and development within the Route 41 and Route 10 corridors.

This desire to focus development along the specific corridors led to the documentation of access management problems that would require resolution concurrent with the resolution of circulation problems and the development of design standards for the local functional classification system. *The Plan's* recommendations included specific details regarding the following changes:

- Improvements to selected intersections with Route 41.
- Design standards for arterial, collector, minor street, marginal access street, service streets and turn arounds of a cul-de-sac.
- Identification of areas of preferred access and locations with severe access limits (e.g., severe slope, wetlands, sight distances).

- Development of an access management study for the Route 41 corridor.
- Channelization of access location (e.g., eliminating, combining, relocating, realigning access points; reverse frontage roads; channelized parking; and acceleration and deceleration roads).
- Creation of a zoning overlay district for Route 10 and Route 41.

Zoning Ordinance of 1997, West Fallowfield Township

In 1997, West Fallowfield Township followed through on the recommendations of the County's Highway Needs Study and the Township's Comprehensive Plan by adopting a highway corridor overlay district for PA Routes 10 and 41. The ordinance referenced the PA MPC, the Comprehensive Plan, and a previous study completed in 1988, the Avon-Grove Route 41 Corridor Planning Study, as the basis for the overlay district.

The intent of the district included access management ideas, such as: limit the number of access points in the interest of public safety; maintain unobstructed mobility of arterial highways; prevent additional access points where alternative points are available; apply design standards to new access points; coordinate access to protect village integrity; apply standards uniformly; and retain the Township's rural character. These purposes were translated into specific regulations.

The regulations dealt with the ultimate right-of-way while four access preferences were listed: 1) no new access; 2) connection to existing access; 3) creation of an internal access road and 4) individual access. The burden is placed on the applicant to demonstrate why preferences 1 and 2 may not be achieved. Standards for the four preferences include design standards for driveways and local roads (i.e., number of access points per lot, lot width, separation distances, future access for adjacent properties, variation standards, and interior lots).

Since the passage of the West Fallowfield Township Zoning Ordinance, a new study was undertaken by the Chester County Planning Commission and the Delaware Valley Regional Planning Commission (DVRPC) to provide land use planning recommendations and implementation strategies for PennDOT's proposed roadway alternatives for PA Route 41 corridor. West Fallowfield was one of the nine municipalities involved in the PA Route 41 Corridor Land Use/Growth Management Alternative Study (November 2003). Appendix C: Tools and Implementation Strategies for the Recommended Land Use Plan listed other land uses activities West Fallowfield may institute to further address the management of patterns of development and growth; conservation of natural open space areas and networks, management of water resources; maintenance of the economic, social, and physical character of communities; maintenance and preservation of the roadway network; and multi-municipal opportunities.

Lancaster County Case Study

Conestoga Valley Regional Strategic Comprehensive Plans (local-level, multi-municipal plans)

Access management is becoming a more familiar theme throughout the Commonwealth in multi-municipal plans. The strategic approach used in many planning processes helps to identify projects, programs, and regulations needed to put these planning recommendations into action. An example in Lancaster County is the Conestoga Valley Regional Strategic Comprehensive Plan (2003).

A major influence during the planning process was the on-going Route 23 Highway Development Process. The alleviation of safety and mobility problems along the Route 23 Corridor was the primary impetus for the Route 23 Corridor Study. Both PennDOT and the Lancaster County Planning Commission urged the local communities along the corridor to coordinate land use and manage access. The Plan created a series of strategies to meet these requests, excerpts below. Each strategy had a series of components that suggested actions for specific areas of the region.

From the Transportation Initiative:

- **Roadway Functional Classification Map**
The Roadway Functional Classification Map's focus is the development of a new functional classification map that includes a comprehensive roadway network for the three municipalities. The strategy works in concert with the Conestoga Valley Roadways Standards Strategy.
- **Access Management Retrofit Locations Map**
The Access Management Retrofit Location Map recognizes access management as a key issue along existing arterial and major collectors. Considerable development has occurred along these corridors; therefore, special measures are needed at the time of infill and/or redevelopment of these areas to minimize the current impacts of poor access management. This strategy identifies and maps these key locations. The Conestoga Valley Region Roadway Standards strategy focuses on the development of access management retrofit standards.

Land use strategies also highlight other measures to be taken along several of the corridors (see the Land Use Initiative).

- Conestoga Valley Region Roadways Standards
This strategy addresses the goal of providing a transportation network that meets current and future transportation demands while preserving the region's community character and coordinating network changes with existing and future land use. The roadway and access management standards are used to preserve the character, function, and integrity of region's roadway network.
- Regional Coordination with PA Route 23 Corridor Project
This strategy addresses the goal to ensure that land use will be coordinated and growth managed in the area of influence surrounding the selected PA Route 23 Corridor alternative. The strategy focuses on developing a regional approach to coordinating municipal input into the PA Route 23 Corridor study and design process. The strategy provides a listing of community expectations (questions to be answered) regarding the outcome of improvements on the PA Route 23 Corridor. If the selected alternative includes a new corridor, particular attention will be given to the land and local roadways impacted by the regions interchange areas, addressing access and corridor issues. More details are provided in the Land Use Strategies and referenced below.

From the Land Use Strategy Initiative:

- Future Land Use / Growth Area Plan
This strategy develops a future land use scenario to guide growth and development for the next twenty years. The scenario begins with urban and village growth boundaries in accordance with the guidelines set forth in the Lancaster County Growth Management Plan. Utilizing the growth area base, a full range of land use categories are represented within the urban growth boundary, a village concept is proposed for the village growth boundaries and rural resource land uses are intended for areas located outside the growth area.
- Design Guidelines for Planned Employment / Commerce Centers
This strategy focuses on the style and design of development within planned employment centers (refer future land use map for the location of these centers and/or opportunity sites). The strategy builds on examples within the region of the ideal development type. The design guidelines would be integrated into land use ordinances where appropriate or developed as a companion piece to the ordinance to suggest design elements.
- PA Route 340 / PA Route 462 Land Use / Transportation Corridor Study
This strategy recommends East Lampeter, West Lampeter, and Lancaster townships; Lancaster City; Lancaster County Planning Commission; and PennDOT work together to develop a strategy to resolve the transportation problems associated with the two signalized intersections with Pitney Road, Lampeter Road, PA Route 340, and PA Route 462. Conflicts that arise in this area are due to poor access management, roadway alignment, and adjacent land uses (recently added to the mix is the new campus of HACC). The problems include many entities. This area is a gateway to the region and city. It does not present a positive image for the region, townships, City, or County (see the Transportation Strategies)
- PA Route 30 Corridor Design Guidelines:
Over the past 15 years significant strides have been made on the PA Route 30 Commercial Corridor to improve character and appearance, manage access and safety, link land use with the transportation system, etc.; the Township must remain vigilant in repeating these designs as further development and redevelopment continues.
- PA Route 772 / PA Route 272 / US Route 222 Land Use and Transportation Study:
The strategy focuses on improving the transportation capacity and reducing the operational issues associated with the convergence of PA Route 772 / PA Route 272 / US Route 222 in West Earl Township.

An integral part of the Plan was an action plan, which included an implementation program and schedule. Implementation activities are expected to begin in 2004.

These examples demonstrate a few on-going efforts of counties, regions, and municipalities to embrace the task of access management and to create safer and better functioning roadway networks.

Lehigh Valley Case Study

Access Management on Arterial Roads: Best Management Practice for the Lehigh Valley (December 2000 – county-level)

The Lehigh Valley Planning Commission produced a study to explore how to create a better transportation network through planning, coordination, and design. The Study focused on the arterial road system and the benefits of access management on safety, capacity, and speed (reduction of travel time and delay). The premise of the Study was that access management on arterials is a shared responsibility of PennDOT, the County and municipalities and provided best management practices and recommendations for each.

The Study highlighted the legal basis for municipal regulations in that PennDOT regulations anticipate and accommodate municipal regulations that are more stringent than those of the Department. The Study documented access management practices relating to access for alternate roads, lotting and site development, driveway location and design, and arterial road design. Key practices of each are listed below:

- Access from alternate roads – Required access from local roads in lieu of arterial roads, frontage roads, reverse frontage roads, and out parcels.
- Lotting and site development – Lot width, corner lots, building siting, linked parking lots, and access point throat area.
- Driveway location and design – Sight distance, limiting the number of access points for each property, minimum spacing between driveways, minimum separation between driveways and intersections, shared driveways, channelized driveways, and existing driveway elimination.
- Arterial road design – intersection spacing, deceleration and acceleration lanes, left turn lanes, and median barriers.

The Study suggested the most appropriate ordinance placement for the practices: subdivision and land development (SALDO) or zoning.

- SALDO – Required access from local roads in lieu of arterial roads*, frontage roads, reverse frontage roads, access point throat area standards, number of access points per property standards, minimum spacing between driveways, minimum separation between driveways and intersections*, shared driveways*, channelized driveways*, intersection spacing, channelized driveways, intersection spacing, deceleration and acceleration lanes, left turn lane, median barriers, sight distances* and traffic impact studies.(* appropriate for either SALDO or zoning).
- Zoning – Increase lot width, increase the size of corner lots, reduce the amount of traffic by controlling the land use and amount of development, allow missed uses in employment centers, use out parcels, siting buildings close to the front lot line and use linked parking lots.

Strategy development

One outcome of the comprehensive plan may be an access management strategy that outlines a series of retrofit and regulatory measures for resolving problems and prohibiting the replication of these problems in the future. This strategy may establish the public policy for managing access to and from residential neighborhoods, along business corridors, and within planned communities. It may highlight areas along Commonwealth controlled highways where the management of access is problematic for the regional traveler, the local user, and law enforcement agencies. It may describe a plan for directing future development away from problem areas and into areas where there is a greater potential to manage traffic and access.

Coordination and consistency

The required interface between county-level and municipal-level policy is another opportunity afforded by Article III. Recent changes to the MPC strengthened the consistency between the county and municipal or multimunicipal plans. The dual planning approach provides the opportunity for an important dialogue. The county has the opportunity to bring local attention to critical roadway corridors that require a multimunicipal approach; likewise, the municipality has the opportunity to highlight areas that are of particular concern and may require access to capital funds that filter through county planning agencies.

Prevention versus reaction

The true advantage of the comprehensive plan is it allows the municipality to take a preventive rather than reactive approach and establishes the policies and basis for future regulatory actions.

V. Access Management Survey Questionnaire

As a part of this project task, the team created an access management survey questionnaire. The purpose of the survey questionnaire is to identify the different access management perceptions throughout the Commonwealth. The questionnaire was distributed to members of the Advisory and Steering Committees as they are comprised of various levels of state, county and local officials as well as planning organizations, developer and engineering interests. These committees collectively serve as an evaluative screen for the various tasks to insure that what is proposed can be implemented with relative ease.

The questions asked are listed as well as a summary of responses returned from the committees. The collective results from the surveys are compiled below. One of the reoccurring themes is the need for PennDOT, county and municipal staff to communicate with each other better in an effort to understand access management issues.

Question 1

The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Do you have a different definition or understanding of access management? If so, please provide.

Summary of Responses:

The Access Management definition should include:

- principles regarding controls on land use relative to the volume of traffic that maybe generated by a specific parcel;
- Transportation Research Board's (TRB) definition that includes the careful planning of the location, design, and operation of driveways, median openings, interchanges, and street connections. The purpose of access management is to provide access to land development in a manner that preserves the safety and efficiency of the transportation system. The Federal Highway Administration defines access management as the process of administering the connections between public highways and adjoining land. Transportation officials must balance the need for community and business development with the need for safe and efficient travel; and
- a means to foster and facilitate economic development.

Question 2

Is there a need or desire to implement access management practices at the municipal level? Will model access management ordinances and training be helpful?

Summary of Responses:

The responses regarding the access management ordinances and practices at the municipal level varied to include:

- an ordinance alone is not sufficient, as the MPC needs to be modified to control land use as it relates to highway safety and capacity and resolve the differences between the municipal powers and PennDOT jurisdiction;
- there is tremendous confusion when reviewing access issues in a public forum however, with education, training and guidance on the municipal level, the team may be able to eliminate some of this confusion with a structured policy; and
- the level of sophistication and awareness with regard to access management varies widely amongst municipalities and counties as many don't know what steps to take and when they are appropriate. The model ordinances would be helpful as widespread development occurs without the benefit of access management ordinances it is much more difficult to create and maintain an efficient highway system.

In relation to the importance of training the respondents stated that:

- ordinances and training would be essential as the presentation of access management workshops will familiarize municipalities with access management;
- the development of model ordinances and training will transfer more knowledge and ability to municipalities and counties and
- please keep in mind that similar training was previously tried for corridor preservation and does not appear to have been very useful.

Question 3

Could the cost of adopting and maintaining an access management ordinance be a hindrance to municipalities wanting to implement access management practices? Please explain.

Summary of Responses:

Overall, many agreed that cost is an important factor that has to be considered. The responses ranged from PennDOT should offer to pay for a portion or all of the cost because ultimately the state highways benefit while another option may be to have the county maintain the ordinance on behalf of the municipalities yet another stated that doing nothing must be factored in as well.

- each ordinance will need to be altered to fit the community as one ordinance does not fit all;
- the local political issues involved with restricting the use of property or increasing the cost for developing property would probably be a greater barrier;
- the cost of adopting and administering access management provisions will not hinder access management. Access management provisions will have to be incorporated into municipal land development ordinances like zoning ordinances and subdivision ordinances;
- fees charged to the applicants can offset the ordinance administration costs. As such, these provisions will not require additional tax funding. The availability of model ordinances will reduce the costs of ordinance preparation; and
- finally, the municipalities are realizing that access management is necessary to support growth and development in an environmentally sound manner.

Question 4

Can municipalities effectively implement access management practices without revisions to PennDOT's Highway Occupancy Permit (HOP) Program? Please explain and describe possible changes needed at the state level.

Summary of Responses:

The suggestions on how to implement access management practices include:

- a municipality should not adopt an access management policy that differs, even if slightly, to the conditions of PennDOT's HOP program. You don't want to place the applicant in the position of recreating the wheel when moving from the municipal level to the state DOT level;
- Regulation 441.6(2)(i)(F) allows for local ordinances to contain more stringent minimum safety requirements. If significant access management additions are anticipated, they should be included in the State regulation before it is sent for promulgation;
- local municipalities often have greater latitude and authority when managing access than does PennDOT as they are required to grant reasonable access provided the request complies with state regulations and meets safety criteria. Local municipalities can incorporate long-term planning and access management through the use of ordinances. PennDOT regulations could be modified to provide a link that requires applicants to comply with local ordinances before a HOP would be issued;
- the districts need good databases that flag HOPs when they come in if they are within highway ROWs where access is being managed at the local level. Legislation is needed to get beyond pure engineering parameters in the HOP decision-making process; and
- mandatory pre-application meetings or communication before a HOP is issued would help.

Question 5

Please describe any perceived legislative or legal barriers that could hinder the implementation of access management practices by Municipalities.

Summary of Responses:

Some of the perceived barriers that could hinder the implementation of access management include:

- require a compatibility test of highway capacity before zoning is permitted or changed; (Florida has a similar requirement that ensures that land use changes cannot be made without proving that highway capacity is available) and require the use of impact fees or other local funding mechanisms to ensure that each development pays a fair share of a required corridor or network upgrade;
- developers may resist complying with access management practices on the grounds that such practices constitute impact fees or they are being asked to shoulder a burden that is more the responsibility of local or state government than it is of the private sector;

- constitutional and/or common law property owner right of reasonable access, which cannot be denied without compensation (as with limited access highways);
- the misperception that “because it’s a state highway”, PennDOT has full and total control over access; and
- liability concerns and the MPC restrictions.

Question 6

What specific revisions, if any, would you recommend to the Municipalities Planning Code to implement access management practices?

Summary of Responses:

Potential revisions to the Municipalities Planning Code include:

- have municipalities or counties include an access plan or a controlled-access roadway corridor overlay district in the comprehensive plan;
- general enabling legislation, expressing the will of the General Assembly should be enacted as there needs to be a general framework established up front, for everyone's benefit. The districts and municipalities must be on the same page;
- access management should be mentioned under Articles I (definitions), III (comprehensive plans), V (subdivision), and VI (zoning); and
- recognition that there are many municipalities that are already developed and in need of major re-development, particularly in the inner suburbs of Philadelphia. These municipalities already have most of their infrastructure in place. They need legislation governing land development to be as streamlined as possible and elimination of the cumbersome requirements that hinder development in these areas.

Question 7

Please describe communication barriers related to driveway permitting that currently exist between municipalities, counties, PennDOT and an applicant during the land development approval process. Any suggested solutions?

Summary of Responses:

Communication barriers that exist between the involved parties (municipalities, counties, PennDOT and applicant) during the land development approval process include:

- PennDOT is under staffed and are dependent upon other units to review the submission in a timely manner. Municipalities are under a time limit for review and approval of land development plans and need quick responses from PennDOT prior to making major decisions;
- the process developed to get all the parties to the table up front was intended to provide needed coordination and that would be helpful;
- the biggest problem is that there is no consistency between the reviews at different PennDOT districts as there are no uniform standards that potentially puts the applicant in the middle of a dispute between what PennDOT and the municipality want. Municipalities and PennDOT should avoid such occurrences by entering into cooperative agreements as set forth in Section 441.3(j); and
- there is no clear method to check on what a specific municipality's zoning requirements are; and, in fact, some rural municipalities have no zoning ordinances at all. Conversely, many municipalities are not familiar with PennDOT's regulations as described in Chapters 441 and 459 of Title 67 Transportation in the Pennsylvania Code. It would be beneficial if forums and procedures could be developed that foster communication between municipalities and PennDOT to encourage well-planned development while maintaining the safety & efficiency of the transportation system. Allowing a municipality to participate & take an active role in the HOP review process would help in this regard, but would add more time to the overall review process.

Question 8

Please describe any perceived barriers that exist within the current PennDOT organizational structure or procedures that could hinder municipalities in effectively implementing access management practices.

Summary of Responses:

Some of the perceived barriers that exist within PennDOT that could hinder municipalities include:

- the lack of consistency between reviews or reviewers within various districts;
- PennDOT's program is an individual permit program, not a comprehensive access management program while Act 209 is a type of municipal 'access management program'.
- communication and cross training between the municipality, county and PennDOT districts is critical to help everyone understand the roles and responsibilities. It's important for PennDOT staff, particularly District and HOP staff to understand the MPC as well as how it helps municipalities keep key corridors operational;
- when deciding on a Transportation Improvement Plan (TIP), Municipal Planning Organizations (MPOs) and Rural Planning Organizations (RPOs) need to consider corridor improvements and work closely with the municipalities involved to better ensure access management practices are implemented & followed and
- political pressures and practices exist for everyone and there is too much wavering on HOP requirements.

Question 9

What should be done when municipal access management requirements do not match PennDOT regulations? For example, what should happen if a municipal requirement is more stringent?

Summary of Responses:

When municipalities and PennDOT requirements are not compatible, below are some concerns that should be noted:

- more stringent regulations should not be a problem if they are reasonable but they should be based upon accepted national standards;
- PennDOT should be concerned with local requirements that negatively impact use of the highway;
- although this happens often, the municipality's access management policy is based on facts and their desire to curb development. Municipalities have to be educated on the fact that fewer access points are sometimes less desirable and can cause other problems and
- case law states that both local and state approvals must be adhered to and applied. Also, PennDOT's regulations defer to stricter safety-based municipal ordinances.

Question 10

Please explain whether you believe municipalities should implement access management practices on state maintained roadways through ordinances or whether the responsibility should solely lie with PennDOT?

Summary of Responses:

Preference to either PennDOT or municipalities on who should be responsible for the access management practice on state maintained roadways through an ordinance varied and the comments are listed below:

- the responsibility should never be allocated to one entity rather it should be shared;
- Municipalities should take the lead with input from PennDOT;
- the responsibility of access management on state maintained roadways should lie solely with PennDOT. Many municipalities have little or no experience with access management procedures and design and therefore should not implement policy that affects their design guidelines. If we are successful in implementing policy that the municipalities can adopt then this issue goes away; and
- Municipalities need to implement access management on both municipally and state owned roadways. If they were not to do so, this access management project would be of limited value. Access management must be first and foremost exercised on arterial roads. Collector roads are a second priority. In Pennsylvania, almost all arterial roads are state owned. By exempting any state owned road from municipal control would defeat the purpose of this effort.

In closing, the purpose of this Technical Memorandum was to present some of the legal barriers and perceptions for implementation of access management principles that exist as a result of the state laws, regulations and procedures. The outcome of this report indicates that many of the barriers can be overcome via continued coordination and communication between all affected parties – PennDOT, county, municipality and developer staff. The ordinance development will focus on techniques that can be utilized to help manage access on local roads as well as allow municipalities to understand the processes from a safety and capacity viewpoint. Many aspects of access management and ordinance development will be discussed in the upcoming training courses. Training on the newly created

ordinances will be essential as these new ordinances will provide authorization for the municipalities to implement access management principles on roadways. The training will focus on current PennDOT policies and procedures as well as samples of ordinance implementation. Also, the importance of coordination between the county/municipality and PennDOT District staff will be emphasized. Some examples include which policy should be implemented when county/municipality standards are stricter, PennDOT staff will respect those standards. Another example may be that additional training as well as continued follow-up of the ordinances is needed and other items (legislative, regulations and/or policies) that should be changed will require a long lead-time as documents and policies should be changed to incorporate various thoughts and processes.