

WHITE PAPER / LAND USE PERMITTING

CONSIDERATIONS FOR SUCCESSFULLY PREPARING LAND USE FOR NATURAL GAS PROJECTS

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Natural gas utility work that requires the replacement, upgrade or new installation of pipeline, regulator stations, city gates, or other above ground infrastructure has the potential for local government permitting requirements prior to the start of construction. Understanding land use permitting needs helps keep projects on track.



Land use permitting is often a necessary part of a project that is sometimes overlooked. Permitting for natural gas utility projects takes a multitiered approach to account for all viable factors that can include community integration, site access and environmental constraints.

Additionally, securing required land use permits for aboveground infrastructure and any associated below-grade pipelines is crucial in building a successful natural gas project. From regulator stations and metering equipment to mainline valves and other aboveground assets, planning for specific locality permits early in the process allows a project to move forward and stay on schedule. Understanding the detailed processes needed to determine required permitting will provide a framework for most natural gas utility projects.

GETTING STARTED — DETERMINING WHAT PERMITS ARE NEEDED

Ordinance regulations often classify natural gas and other utility projects under the general term of public utilities and usually make distinctions between major and minor utilities. This requires that local codes and ordinances are fully understood in order to classify a project and to specify what permits and regulations are applicable. The physical size of the projects, in terms of acres disturbed and the number of customers serviced by the proposed development, often establishes how a locality will classify it.

Various departments within a given locality can provide the final determination on which permits are required to move forward with construction. Typically, such departments — including planning and zoning, transportation or public works, building, and environmental quality — have their own specific permit needs, depending on the project scope.

In some cases, since natural gas projects classify as a public utility servicing the community, projects are exempt from local zoning and building code requirements. However, this does not exclude the utility from state and federal requirements, including environmental permits.

When building permits are necessary, they require the applicant to submit structural, electrical and/or

plumbing-related materials for any enclosures located on-site. Building permitting often includes prefabricated structures and unmanned enclosures used for equipment storage. This effort requires specific information from the contractor and coordination prior to the start of construction. The contractor is then tasked with following up on any necessary inspections during construction and closing out any active permits once work is completed.

Permitting regulations from departments of transportation or public works come into play when the project site requires access to a state or locally maintained road. For utility projects, driveway permits or encroachment approval are the primary focus where regulator station maintenance access is required. Installation of driveways for commercial use must meet state code in addition to any more detailed design standards implemented by a locality. Temporary access points for construction may also require permitting and are worth noting during discussions with appropriate departments.

On any site, the amount of ground disturbance can trigger the need for environmental review or an analysis of sensitive environmental features, such as stormwater, erosion and sediment control, and tree-save assessments. Again, the extent of these permits is dependent on the location of a project and the overall limits of disturbance. State departments of environmental quality will oversee the review of these elements or defer to the local level as the approving authority.

REVIEW — APPROACHING THE PROCESS

The review process occurs when the permitting package is officially submitted to a governing body. Initial intake of the package will involve a review of adherence to the local ordinances and regulations pertaining to the specific development.

The level and intensity of review required varies from locality to locality. For pipeline projects, this variability provides for a huge range in needed submission materials and staff interactions — from something as straightforward as providing a site plan for staff review to as strenuous as going through multiple public hearings that could ultimately result in a potential denial of the project. No matter the level, it is important that all

permitting documents and subsequent required materials are compiled for the application.

Projects that are subject to board review and public hearing are those that require approvals from either a panel comprised of appointed members, a commission of elected officials or both. These boards and commissions meet in public hearing forums where the community is afforded the opportunity to comment. Conditions can accompany the issuance of approvals from these entities and provide specific criteria to which the developer must conform and can include provisions such as setbacks and landscaping standards.

Requirements will be unique to each locality and the specifics of the project. During the public hearing process, it is useful and sometimes mandatory to have an experienced partner prepared to speak on behalf of the project. Said person is also expected to prepare and present project information and provide feedback to any comments or questions as they arise.

A staff-level review, sometimes referred to as an administrative review, is conducted by locality staff to verify that regulations and ordinance standards are met by a project. Parties involved in this review process can range from a single individual in smaller localities to a large group of staff sourced from various departments and agencies in more populated localities. This type of review is not subject to public comment or hearings in the same manner as those requiring board or commission approval, providing a more direct route for permitting on a project.

EXAMPLE PROJECTS

The project examples here show the wide breadth of possibilities of land use permitting for natural gas projects. This evolving landscape is just one reason for staying ahead of the process and thinking about local land use permitting requirements during a project's inception.

NATURAL GAS PIPELINE

This pipeline project presented the challenge of requiring permitting across 54 individual sites and seven impacted counties. Just as work at each site differed, so did the permitting requirements. This even extended into variations between localities in submission requirements

for site plan and zoning permits. A staff review was required in one locality, while a public review process was required in another, further complicating project approval.

The scale of this project required more than a simple cut-and-paste approach to determining and filing the necessary permits. Our team worked closely with another consulting firm to develop plans that met each locality's needs, resulting in a permit package tailored for each project site.

NATURAL GAS CITY GATE

This project began as a right-of-way easement acquisition intended to relocate and expand a city gate; however, it was quickly brought to the project team's attention that special exception, rezoning and site plan applications were needed to finalize their permitting efforts. The work proposed at an existing facility was dependent upon approval through the town planning commission and council. The public hearing review ultimately resulted in approval of the request but was unexpectedly altered by a council member's request.

Approval of the special exception was granted after the town approved its own rezoning for the locally owned property. The end result was that the residual property would have smaller setbacks, allowing the town to maintain a greater developable area for the future.

CONCLUSION

Land use permitting is an integral component to any natural gas utility project, and consideration early in the development is vital to the project timeline. Many utilities focus on the environmental side of permitting and, while this is a necessary part of the permitting process, forget local land use permitting. This can result in major scheduling issues and higher costs for projects.

Engaging with local staff prior to submission is a valuable way to identify potential difficulties for approval. Inclusion of potential review agencies and departments early in the discussion is beneficial for continued coordination through the application submission. Communication and transparency are key to understanding the local perspective, which will help in understanding conditions or modifications requested during the review process.

An experienced partner can assist in navigating the land use permitting process from start to finish to keep projects on track.

BIOGRAPHIES

ANGELINE CROWDER is a section manager for the land use planning team within the Environmental Services Group at Burns & McDonnell. Angeline came to Burns & McDonnell in 2016 after spending 12 years serving local government as a county planner. She specializes in local government coordination, land use permitting needs, nonenvironmental permitting needs and community involvement for projects. She utilizes her government experience to help clients navigate ordinance requirements and regulatory processes. Additionally, she is a certified planner through the American Institute of Certified Planners (AICP).

RACHEL TIPPETT TAYLOR is a land use planner who has served in the Environmental Services Group at Burns & McDonnell since 2018, concentrating in non-environmental permitting. Her work is focused on utility clients, primarily those in natural gas, solar development and electric transmission. Prior to this, she worked in transportation planning for both state and local departments of transportation.

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