

Preplanning Necessities — Easements

By: Susan H. Confair

Easements for utilities such as water and sewer lines, storm water management facilities and access within a development should be planned and mapped out in the early stages of a development project. Such easements must be included in the governing documents of the development.

Easements should be clearly defined as to their intended use, placement and duration. Lack of specificity could result in the need for future amendment or modification. Those efforts may be costly, time consuming and burdensome, and may involve the approval of some or all of the landowners and possibly even mortgagees and other lienholders having a security interest in the real estate.

Not to be overlooked is the possibility of future expansion of a project and the need for cross-easements among projects. For example, tying into a manhole from one section or phase of a development to another or even into a separate development needs preplanning and proper legal documentation so that the developer acquires the rights needed to successfully bring a development to completion. The more the developer is able to preplan for necessary easements through proper documentation, the more likely the development project will run smoothly and advance the interests of the developer.