



City of Hermitage

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GENERAL INFORMATION REGARDING UNOPENED (PAPER) STREETS

The City Staff frequently receives inquiries regarding the vacation and/or ownership of unopened streets (also known as “paper streets”). This handout has been prepared in an effort to answer the most common questions on this subject. This information is not a substitute for legal advice, and property owners and others contemplating the status of unopened streets are strongly advised to seek their own legal counsel.

What is an “Unopened Street”?

When a subdivision plan is approved and recorded, building lots and street right-of-ways are created. Under present day subdivision regulations, the developer of the subdivision is required to complete the construction of the streets at his expense, and then turn them over to the City for perpetual maintenance. Once the construction is completed to City standards, the streets become public streets with the adoption of a Resolution by the Hermitage Board of Commissioners.

However, in the case of older subdivision plans, these requirements were not in place and so many street right-of-ways were created but the roadways were not constructed to acceptable standards. The City therefore has never accepted these streets for perpetual maintenance.

Who owns an unopened street?

According to Pennsylvania Law, a street is dedicated to public use for 21 years from the date the subdivision plan is recorded. After 21 years, if the street has not been constructed and accepted, it is considered to be abandoned and the ownership of the street reverts to the abutting property owners. In most cases, this means that ½ of the street right-of-way reverts to the property owner on each side of the street. In Hermitage, majority of unopened streets have been on record for 21 years or more.

However, it is important to understand that although the ownership of the street may revert to the abutting property owners, all other property owners in the original subdivision plan still have private rights to utilize the street right-of-way. Therefore, the abutting property owner cannot block access within the right-of-way to other owners in the plan.

The City legally cannot enforce private rights regarding unopened streets. Disputes among property owners over unopened streets must be resolved privately or through the civil court system.

What is the “Vacation” of an unopened street?

The Board of Commissioners of the City of Hermitage can pass an Ordinance “vacating” an unopened street. This action finalizes any possibility of the street being opened as a public street. Some attorneys advise their clients to seek a vacation as a way to clarify the status of the street. A written request for vacation of a street must be submitted to the City Manager and must be signed by **all** abutting property owners (including each person listed on each deed) in order to be forwarded to the Commissioners for consideration.

Once a request is received, an Ordinance vacating the street will be introduced by the Commissioners at a regularly scheduled meeting. Recommendations will be obtained from City Department Heads and the Hermitage Planning Commission. Then a Public Hearing will be scheduled and held. Finally, the Commissioners will adopt or reject the Ordinance. Because the timing of meetings and advertising requirements, this process can take approximately 2-3 months from the time of the request to the final vote on the Ordinance.

If City utilities or storm drainage facilities are located in the right-of-way, easements may need to be executed and recorded before the vacation is approved.

What is a “Quit Claim” deed?

The purpose of a Quit Claim deed is to extinguish the private rights of others to the unopened street, and therefore it must be signed by all current owners in the original subdivision plan. Depending on the size of the original subdivision, this could involve a small or very large number of other property owners. Once such a deed has been obtained and recorded, the abutting portion of the unopened street becomes part of the owner’s lot, and will be treated as though no street ever existed. Buildings or other obstructions can then be located on what was formerly the street, subject to the zoning and other applicable requirements. Any property owner wishing to seek a Quit Claim deed should consult his or her own attorney for advice.

How can an unopened street become a public street maintained by the City?

If the property owners served by an unopened street wish for it to be maintained by the City, there are two steps that must take place:

- 1) The street must be constructed to standards acceptable to the City at the property owner’s expense. If all the property owners abutting an unopened street wish to pursue City acceptance, they should send a letter to that effect to the City Manager. The City Manager will then direct the City Engineer to evaluate the condition of the street and estimate the cost to improve the street to City standards. The abutting property owners will then be able to discuss their options as to completing and financing the project further with the City.
- 2) All abutting property owners must deed the right-of-way back to the City, since as explained above, the street is no longer dedicated for public use after 21 years.

What effect does an unopened street have on building permits?

When a property is abutted by an unopened street which is more than 21 years old, then the property owner’s portion (usually ½) of the unopened street can be used to meet building setback requirements.

However, the building or any portion of the building cannot be physically located within any part of the unopened street, due to the private rights of other property owners, discussed above.

Can I build a home on a lot located on an unopened street?

Lots abutting unopened streets usually are legally subdivided, and the City therefore must issue building permits for these lots, provided that all zoning and other requirements are met.

Persons considering building or purchasing an existing home on a lot served only by an unopened street should be fully aware that the City will **not** provide any road maintenance, including snow plowing or road repairs, unless the street is upgraded and accepted as described above. The process of getting an unopened street accepted can be very difficult, if not impossible, unless all property owners agree to share in the cost. Even when the property owners are in agreement, the expense to each can be very significant.

In conclusion:

Hopefully, this information will answer most general questions regarding unopened streets. The information should be applicable in the majority of situations, however, sometimes there are special circumstances or conditions on a particular street that must be considered on an individual basis.

The best advice for any property owner with questions about a particular unopened street is to consult with his or her own attorney.