11

PERMIT ME TO EXPLAIN

Up to this point, you have been dealing with individuals in the private sector that may include architects, contractors, and attorneys. Now it is time for the local government to step in to ensure that both the work and workers meet state standards. Even you, if acting as your own contractor, must meet certain standards set forth by the state.

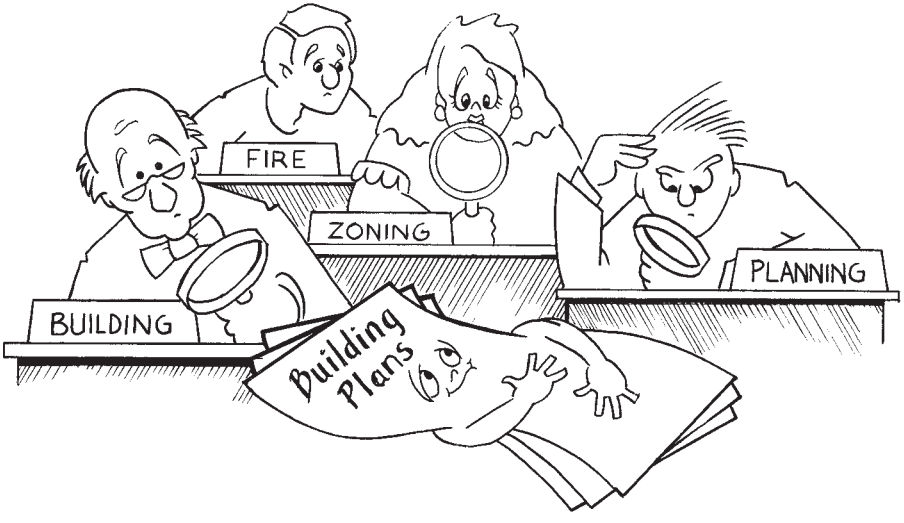
The Building Department is the state's first line of defense against unlicensed and non–code compliant construction. Through the permitting and inspection of construction work, the state regulates who does the work, how they do it, and where they do it. This requires the participation of a number of trained professionals, such as plan reviewers, urban planners, and building inspectors, who occupy positions within the municipal government. These professionals and others will review your project specifically but they will also consider how your project impacts the entire community. Your project is part of a much bigger picture and it must fit within this comprehensive design that addresses the community's safety, functionality, and quality of life. To accomplish this goal, several specialists must review your project.

In addition to the Building Department, which reviews the building plans for structural integrity and overall code compliancy, the following departments are often involved with the permitting of a new home:

- Zoning Department (and/or Planning Department), which reviews the type of building (residential, commercial, industrial, mixed use, etc.) and its location on the lot as well as within the community. This is broadly defined as "land use."
- Public Works Department (and/or Engineering Department), which reviews the project's road access and drainage. If the project is located in an area prone to flooding, the elevation of the building's floor (and septic tank if applicable) may need to be higher than historical flood levels or meet other conditions. In addition, the Public Works Department may oversee projects that impact environmentally sensitive land and waterways.
- Health Department, which ensures that any wells and septic systems meet state requirements.

Other government entities, such as the Fire Department and environmental agencies, may also be involved in the permitting process.

Please note that department names and functions differ at various municipal governments because each local government has a unique structure and each department performs unique duties. In a small town, the Building Department may perform all of the duties listed above. In contrast, a larger city will have numerous offices that participate in the permitting process.



Here's looking at you, Kid

In order for officials to perform their duties, they require a variety of documents that describe your project. These documents create the permitting package that is collected by the permit technician at the Building Department who then distributes it to the various departments. Depending on the nature of your project, this tech may require some or all of the following documents:

- Application
- Notice of Commencement
- Building plans
- Site plan (plot plan)
- Proof of ownership
- Engineered truss plans
- Energy calculations
- Utility affidavit
- Address notification form
- Subcontractor list
- Owner/builder affidavit
- Approved flood plain permit
- Approved water and septic permit

Although the number of documents may seem excessive, their purpose is to ensure that your project meets zoning, building, fire, and health codes.

The specific documents required for permitting depend on the nature of your project and the requirements of your Building Department. If your house is simply being re-roofed, the Building Department may not require anything more than a permit application and a Notice of Commencement. Other minor repairs or improvements may require no permit at all. Larger and more complex projects typically require a significant amount of documentation. Some of these documents, such as the building plans and site plan, may need to be stamped by a state-licensed architect, engineer, or surveyor. In addition, the Building Department may require preapproval from other departments before it accepts your permitting package. For example, the Building Department may require the approval from the Health Department for the well and septic portion of a project before it will review the building plans. This allows the Building Department to postpone the labor-intensive plans review until other subordinate requirements are first met.

Because each project has special permitting requirements, ***it is important to visit the Building Department early in the process*** to determine what documents you need. In fact, it is wise to consult with officials at the Building Department before you make expensive

purchases such as building plans or costly materials. Consider a situation where you would not be allowed to build a structure because your property is designated as environmentally sensitive land that prohibits the construction of a building. Although this is rare, you certainly do not want to spend thousands of dollars on things that cannot be used. The Building Department can also advise you about the types of utilities available to you and where they are located in relationship to your property. Because Building Department officials know the issues that can affect your project, you should meet with them well in advance of the permitting process. To ensure that this meeting is productive, you should provide them with a clear description of your project and any pertinent information such as rough drawings, photos, and property location.

Permitting documents and their objective

The documents in the permitting package help local government establish whether the project meets state and local standards. While some documents are elementary, others are quite sophisticated.

The building permit application

The purpose of the permit application is to consolidate some basic information about the project, its location, and the participants. The application contains the names and contact information about the homeowner, contractor, architect, engineer, and lender. The property itself must also be properly identified and the project described in broad terms. Some applications require you to list the number of new light fixtures, outlets, sinks, toilets, etc., so that the permit fee can be calculated.

Notice of Commencement: A notice before you begin

Before a construction project commences, it is important to let the public know about it by recording a notice that becomes public record. The Notice of Commencement (NOC) is a legal document that announces the commencement of work that will improve a specific property. Once the NOC is recorded at the municipal Recording Office, it becomes public record, thereby enabling any person to obtain information about the project's location as well as the homeowner, the contractor, etc. Most importantly, the NOC provides a lienor—any person with lien rights—with the information needed to properly execute a claim of lien. (Liens are discussed in depth in Chapter 13.)

Not every construction project requires an NOC. For example, an NOC may not be required if the cost for the work is below a certain amount, say $2,500. If an NOC is required, the Building Department may require a stamped copy from the Recording Office. In addition, state law may require you to post a copy of the NOC in a visible loca-

EXAMPLE OF A BUILDING PERMIT APPLICATION

APPLICATION FOR RESIDENTIAL PERMIT

PROJECT # 09-1768

MY COUNTY BUILDING OFFICE
12 BUSINESS SQUARE, SUITE 260, ANYTOWN, FL 55582 | PHONE NO: (555) 794-3050 FAX NO: (555) 794-3065

1 CONSTRUCTION STREET ADDRESS: ***2526 Tyson Road Anytown, FL 55584***
PARCEL NUMBER OR LEGAL DESCRIPTION: ***Map of Haulover S ½ Lot 15 less W. 50 Ft. PB 1 Pg 77ORB 587 Pg 289***

2 OWNER: ***Christina Masters***
PHONE: ***(555) 891–1433*** FAX: ***(555) 891–1423***
ADDRESS: ***2526 Tyson Road, Anytown, FL 55584***
FEE SIMPLE TITLE HOLDER'S NAME (IF OTHER THAN OWNER) ***N/A***

3 CONTRACTOR: ***IMA Contractor Inc*** LICENSE #: ***CGC 087943***
PHONE: ***(555) 973–0947*** FAX: ***(555) 892–7985***
ADDRESS: ***3546 Magnolia Way, Anytown, FL 55582*** EMAIL: ***IMA@IMA.com***
CONTACT NAME/EXT. ***Paul Richards ext. 49***

4 ARCHITECT/DESIGNER: ***D-sin Company*** LICENSE #: ***AR 0487564***
PHONE: ***(555) 894–7865*** FAX: ***(555) 894–7866***
ADDRESS: ***7876 Straight Ln, Anytown, FL 55583*** EMAIL: ***info@d_sin.com***

5 ENGINEER: ***Tip Top Engineers*** LICENSE #: ***PE 897654***
PHONE: ***(555) 785–5643*** FAX: ***(555) 894–0937***
ADDRESS: ***4857 Calculus Ln, Anytown, FL 55584*** EMAIL: ***info@tiptopeng.com***

6 MORTGAGE LENDER: ***Loaded Lenders***
ADDRESS: ***7846 Bigbucks Ln, Anytown, FL 55582***
PHONE: ***(555) 789–6754*** FAX: ***(555) 789–6755***

7 DESCRIBE THE NATURE OF PROPOSED IMPROVEMENTS:
NEW HOME CONSTRUCTION ☐ ADDITION ☒ REMODEL ☐ SHED/STORAGE ☐
CARPORT/GARAGE ☐ OTHER (DESCRIBE) _____

8 SQUARE FOOTAGE: LIVING (AIR CONDITIONED SPACE) ***1, 259 s.f.*** UN-AIR CONDITIONED SPACE ***N/A***

9 ESTIMATED CONSTRUCTION VALUATION (INCLUDE LABOR AND MATERIALS) ***$49,200***

10 IF YOU ARE CHANGING THE USE OF AN EXISTING BUILDING, PLEASE FILL OUT THE FOLLOWING:
EXISTING USE: _____ PROPOSED USE: _____

********** NOTICE **********

APPLICATION IS HEREBY MADE TO OBTAIN A PERMIT TO DO THE WORK AND INSTALLATIONS AS INDICATED. I CERTIFY THAT NO WORK OR INSTALLATION HAS COMMENCED PRIOR TO THE ISSUANCE OF A PERMIT AND THAT ALL WORK WILL BE PERFORMED TO MEET ALL PROVISIONS OF LAWS AND ORDINANCES REGULATING CONSTRUCTION IN THIS JURISDICTION. THE GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE THE PROVISIONS OF ANY OTHER APPLICABLE STATE OR LOCAL CODES AND/OR ORDINANCES. ADDITIONAL RESTRICTIONS APPLICABLE TO THIS PROPERTY MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. ADDITIONAL PERMITS MAY BE REQUIRED FROM OTHER GOVERNMENTAL ENTITIES SUCH AS WATER MANAGEMENT DISTRICTS, STATE AGENCIES, OR FEDERAL AGENCIES. I CERTIFY THAT THE INFORMATION CONTAINED IN THIS PERMIT APPLICATION IS ACCURATE AND TRUE.

Paul Richards — President IMA Contractor Inc.10-24-09 *Paul Richards* ***10-24-09***
TYPE/PRINT NAME OF CONTRACTOR/OWNER- BUILDER (DATE) SIGNATURE OF CONTRACTOR/OWNER- BUILDER (DATE)

STATE OF ***FL*** COUNTY OF ***Orange***

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ***24th*** DAY OF ***October 2009*** BY ***Paul Richards***

WHO ☐ IS PERSONALLY KNOWN TO ME OR ☒ HAS PRODUCED ***DL R8985746*** AS IDENTIFICATION,
AND ☐ DID TAKE AN OATH ☒ DID NOT TAKE AN OATH. *Nancy Notary*

NANCY NOTARY
COMMISSION # DO 5555555
EXPIRES: 02/17/2010

EXAMPLE OF A NOTICE OF COMMENCEMENT

Instrument prepared by: Constance Miller. Loaded Lenders

NOTICE OF COMMENCEMENT

PERMIT #: _____ TAX PARCEL #: ***R153787-57869374895717898***

STATE OF ***Florida*** COUNTY OF ***Orange***

THE UNDERSIGNED HEREBY GIVES NOTICE THAT IMPROVEMENT WILL BE MADE TO CERTAIN REAL PROPERTY, AND IN ACCORDANCE WITH CHAPTER 713, FLORIDA STATUTES, THE FOLLOWING INFORMATION IS PROVIDED IN THIS NOTICE OF COMMENCEMENT.

1 LEGAL DESCRIPTION OF PROPERTY (AND STREET ADDRESS IF AVAILABLE):
Map of Haulover S ½ Lot 15 less W. 50 Ft. PB 1 Pg 077 ORB 587 Pg 289
2526 Tyson Road Anytown, FL 55584

2 GENERAL DESCRIPTION OF IMPROVEMENT(S): ***Addition to existing home***

3 OWNER'S NAME: ***Christina Masters***
ADDRESS: ***2526 Tyson Road Anytown, FL 55584***
Phone: (555) 891-1433 Fax: (555) 891-1423
a. INTEREST IN PROPERTY: ***Owner***
b. NAME AND ADDRESS OF FEE SIMPLE TITLEHOLDER (IF OTHER THAN OWNER)

4 CONTRACTOR: NAME: ***IMA Contractor Inc.***
ADDRESS: ***3546 Magnolia Way Anytown, FL 55582***
PHONE: ***(555) 973-0947*** FAX: ***(555) 892-7985***

5 SURETY: NAME AND ADDRESS: ***N/A***
PHONE: FAX:

6 LENDER: NAME AND ADDRESS: ***Loaded Lenders 7846 Bigbucks Lane, Anytown, FL 55582***
PHONE: ***(555) 789-6754*** FAX: ***(555) 789-6755***

7 PERSONS WITHIN THE STATE OF FLORIDA DESIGNATED BY OWNER UPON WHOM NOTICES OR OTHER DOCUMENTS MAY BE SERVED AS PROVIDED BY SECTION 713.13(1)(A)7, FLORIDA STATUES:
(NAME, ADDRESS, PHONE NUMBER, AND FAX NUMBER).

8 IN ADDITION TO HIMSELF, OWNER DESIGNATES THE FOLLOWING PERSON(S) TO RECEIVE A COPY OF THE LIENOR'S NOTICE AS PROVIDED IN SECTION 713.13(1)(B), FLORIDA STATUES:
(NAME, ADDRESS, PHONE NUMBER, AND FAX NUMBER).

9 EXPIRATION DATE OF NOTICE OF COMMENCEMENT (THE EXPIRATION DATE IS ONE (1) YEAR FROM THE DATE OF RECORDING UNLESS A DIFFERENT DATE IS SPECIFIED).

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

SIGNATURE OF OWNER *Christina Masters* PRINT OWNER'S NAME: ***Christina Masters***

Note: per section 713.13(1)g, Florida Statutes "Owner must sign... and no one else may be permitted to sign in his or her stead."

STATE OF ***Florida*** COUNTY ***Orange***

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS ***24th*** DAY OF ***October 2009*** BY ***Christina Masters*** ___ WHO ___ IS PERSONALLY KNOWN TO ME OR _***X***_ HAS PRODUCED ***DL M8985746*** AS IDENTIFICATION AND ____DID TAKE AN OATH _***X***_ DID NOT TAKE AN OATH.

NANCY NOTARY
COMMISSION # DO 5555555
EXPIRES: 02/17/2010

Nancy Notary	***Nancy Notary***	***10/24/09***	
NOTARY SIGNATURE	PRINTED NAME	DATE	SEAL

tion on the jobsite, thereby allowing lienors and others to easily access this information.

It is your responsibility as the homeowner to execute the NOC unless the project is being financed by a construction loan, in which case the lender will execute the document. Lenders often insist on filing the NOC themselves and do not allow work to commence until after the NOC is filed.

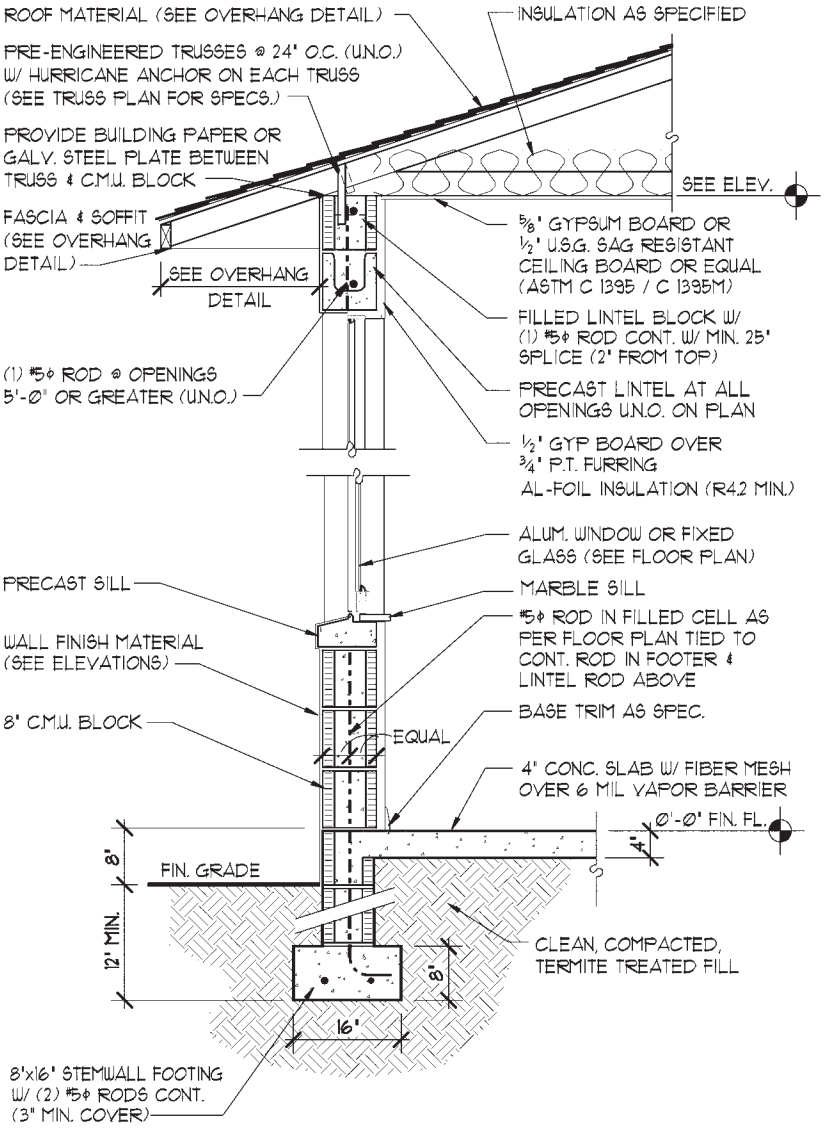
Because the NOC is an important legal document, you should be sure that it lists your contact information correctly so that any notices or claims can be properly delivered. Also, you should know that once the Notice of Commencement is filed, construction must begin within a specified time.

Building plans: Your dreams defined

Building plans are the drawings and text that describe the building and its features. Sometimes called "blueprints" because of an earlier printing process that cast a blue color to the paper and lines, the plans are often printed on large sheets of paper that measure approximately 2' x 3'. Today, many drawings are created on a computer using specialized programs that allow draftsmen to work more quickly and thoroughly. Because the drawings are much smaller than the actual structure they represent, they are drawn ***to scale***. This establishes a ratio between the drawing and the structure. For example, a drawing may be rendered at ¼ inch to the foot (¼" = 1') so that every ¼-inch increment on the drawing translates to 1 foot in ***as built*** length. Therefore, a wall measuring 1 inch long on a drawing will measure 4 feet long when constructed. A wall measuring 2 inches high on a drawing will measure 8 feet high when built. You can quickly take measurements from the scale drawings contained in the building plans by using a scale ruler. Because the scale can change throughout a set of plans, each drawing should include a scale notation. For example, a close-up drawing of a specific detail is often rendered in ¾-inch scale (¾" = 1') and must be noted as such.

Depending on the project, the plans may include drawings that show the exterior of the building, called elevations, as well as drawings called the floor plan of the various rooms, their size, and their location. The floor plan will often show the size and location of doors, windows, stairs, bathroom fixtures, kitchen appliances, and cabinets. Lights, outlets, and their circuitry are often shown on a separate sheet, as is the case with plumbing and mechanical systems. Building plans also contain details: detailed drawings of a single component that requires special attention. Although building plans consist primarily of drawings, there may also be several pages of written material that includes general specifications for the project. For example, a specification for fill dirt may require the fill to be free of debris, compacted to 2,500 pounds per square inch (PSI), and chemically treated for termites.

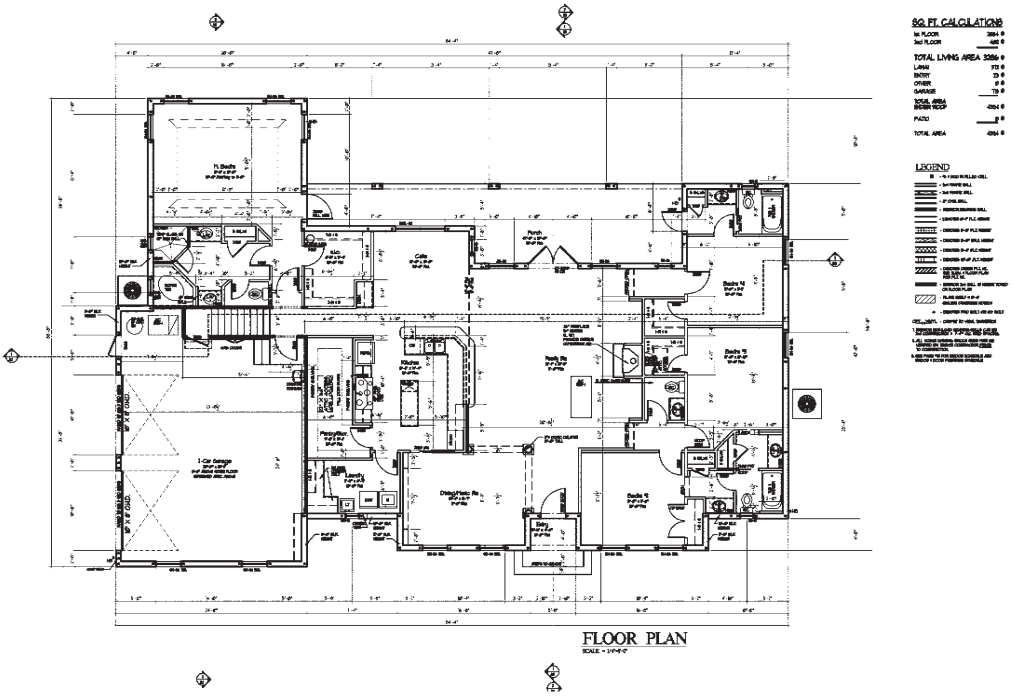
EXAMPLE OF A PLAN DETAIL

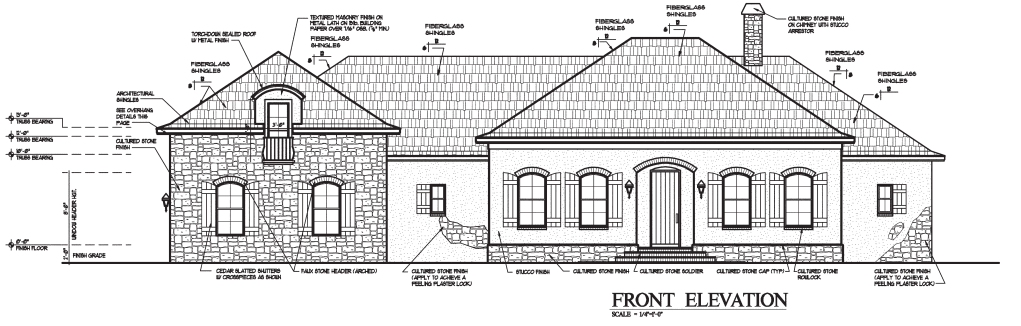


ONE STORY BLOCK WALL DETAIL — 1 / 7.1

SCALE: 3/4"=1'-0"

EXAMPLE OF A FLOOR PLAN AND ELEVATION





Design professionals create building plans. In order to create drawings that are acceptable to Building Department authorities, design professionals must be familiar with the building codes and zoning restrictions that affect your project so that your construction documents are in compliance with these standards. Architects are professionally licensed individuals with specialized knowledge in building design. To obtain a license, architects must pass an extensive test about structural, mechanical, plumbing, and electrical systems. They must also be knowledgeable about fire protection systems and site planning, as well as aesthetic design.

To better ensure the success of a project, building plans need to be clear, inclusive, code compliant, and well organized. Otherwise, delays and cost overruns will occur. If the plans contain errors and do not meet building code requirements, the Building Department will reject them. These deficiencies must then be corrected and resubmitted to the Building Department for approval. Not only does this delay the commencement of work, it may also lead to the assessment of additional fees.

More importantly, building plans must contain all the information needed to construct the building. Significant increases in the project cost arise when the plans fail to include all the work you desire and, subsequently, the contractor overlooks these costs when bidding on the project. Only with inclusive plans can a contractor determine the needed work and its cost. In addition, contractors are more productive on the jobsite when building plans are well organized and contain the information they need in order to perform their work. If the plans lack information and are difficult to read, productivity slows—which costs time and money.

Considering these delays and the additional costs, it is often worth hiring an architect to create a good set of plans. It is important to work closely with this professional so that all fixtures (lights, faucets, sinks, toilets, etc.), coverings (carpet, tile, wallpaper, etc.), and appliances are selected before work commences because often these items can be purchased as a package for a better price than when purchased individually. Also, the project will progress in a timely manner if all materials and products are purchased prior to their installation date. People who procrastinate may end up spending more money than is necessary.

Sometimes ***stock plans*** are purchased from a plans house as a cost-saving alternative to the often more costly plans drafted by architects. Stock plans are pre-drawn plans. In contrast, customized plans are drawings that are created for your specific project. Before purchasing stock plans, it is wise to consider the following questions:

- Does the Building Department require building plans to be stamped by an architect or engineer? If so, does this architect or engineer need to be licensed in the state where the work is to be performed? Do the stock plans

meet this requirement?

- Do the stock plans contain sufficient and accurate code-related information to meet the Building Department's requirements? For example, in Florida, plans must specify the window and door manufacturers and evidence that these items have been approved by the state for windstorm loading (the ability to withstand the physical loads from strong winds). This is critical in areas prone to hurricanes.
- Do the stock plans contain enough detail to enable a contractor to estimate the cost of construction accurately and perform the work efficiently?

If stock plans do not meet these requirements, they can still be used to provide a basic design that can be further revised to meet site conditions, local building codes, and environmental factors such as snow, hurricanes, and earthquakes. The plans house itself can possibly provide these revisions. Otherwise, an architect can make these revisions as long as the modifications do not infringe on copyrights. If the plans require significant revision, inexpensive stock plans may end up costing more than custom plans that are drafted entirely by a licensed architect.

The need for drawings, as well as the level of detail for these drawings, depends on your project and your Building Department's requirements for your project. Whereas the plans documenting the construction of a new home may contain many pages of highly detailed information, some projects, such as the replacement of roofing shingles, may require no plans at all. For information regarding the need for drawings and requirements concerning the drawings' level of detail, contact your municipal Building Department.

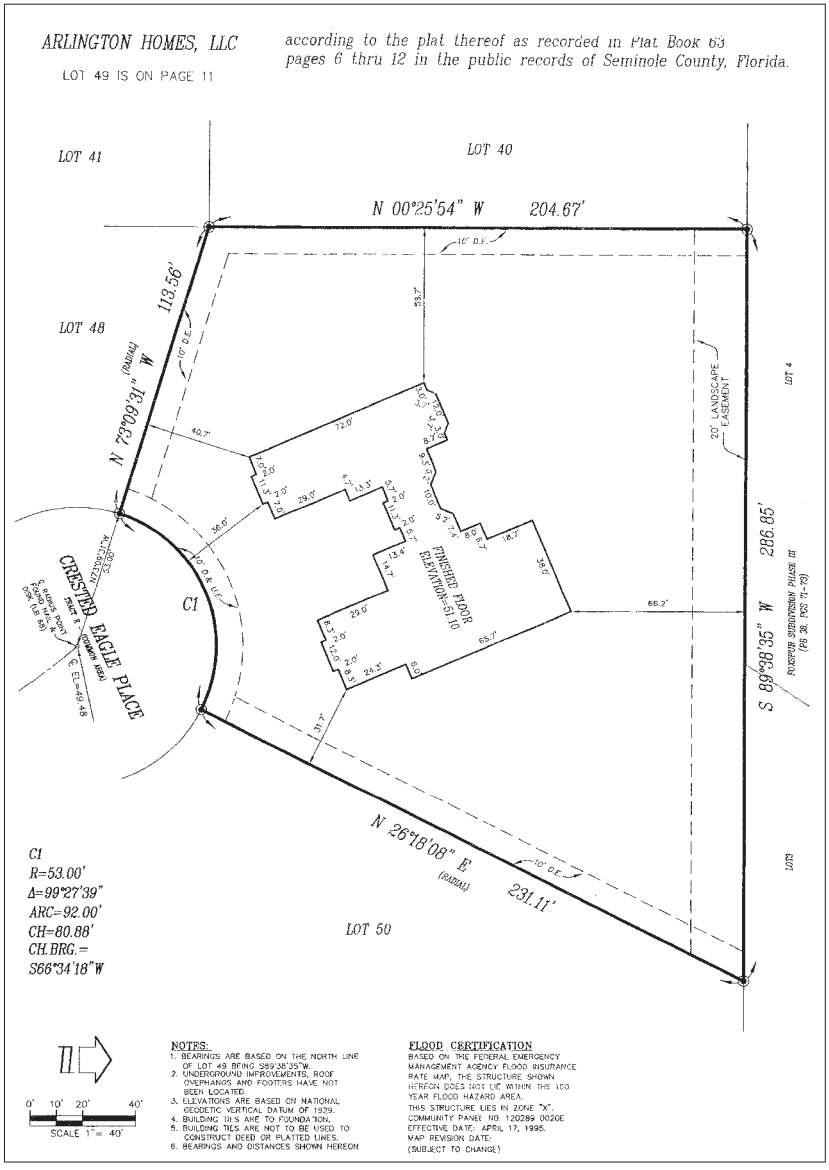
The site plan

In addition to providing building plans that show how your structure will be built, it is necessary to show where the construction will occur within the community and within the building lot itself. The site plan is a drawing that shows the building lot, the existing and proposed buildings, adjacent streets, and other features. The applicable department, such as the Zoning, Planning, or Building Department, reviews the site plan to ensure that your project meets standards that reflect the broad vision of the community.

The comprehensive plan: It's the broad vision

It is easy to think that communities just happen—that you simply buy a lot, build a house, and when enough people follow suit, a community is formed. But unlike the past, when a person staked out a homestead, put down a well, and built a house, today's development is a planned affair that requires a broad vision.

EXAMPLE OF A SITE PLAN



A comprehensive plan comprises guidelines created by the municipal government and community leaders, businesses, and citizens. This plan addresses the needs of the community, as well as future growth and its impact on the environment.

A community requires services such as sewer, water, electricity, gas, police protection, fire protection, education, and transportation. In addition, the community also has recreational, cultural, economic, and housing needs that must be considered. Because these needs are extensive and complex, the community must be arranged in a manner that is functional and efficient. This ***urban design*** facilitates the intent of a comprehensive plan that provides for the community's requirements.

Although many consider urban design a recent concept, traces of early urban design exist in ancient cities such as Harappa, which is located in present-day Pakistan. Harappa contained major and minor roadways with symmetrical design, as well as drainage systems for rainwater and sewer. A communal water supply was also available. Ancient Greek and Roman cities also contained urban design elements.

Land use

In order to create a safe, vibrant, and well-functioning community, urban planners must consider how to best use the available land, and the possibilities are many.

Land use designations include broad categories such as residential, commercial, industrial, and agricultural. These categories can be further subdivided into subcategories such as single-family homes, two-family homes, and multiple-family homes, abbreviated as R-1, R-2, and R-3 respectively. Each category has special requirements that address lot size, building height, density, setbacks, use, etc.

EXAMPLE OF POSSIBLE LAND USE DESIGNATIONS

A	Agriculture	MH-2	Mobile Home Park
RE	Single-Family Residential	PUD	Planned Unit Development
R-1	Single-Family Residential	CBD-1	Central Business District 1
R-1A	Single-Family Residential	CBC-2	Central Business District 2
R-1B	Single-Family Residential	NB	Neighborhood Business
R-2A	Single-Family Residential	BC	Business Community
R-2	Single- and Two-Family Residential	P	Professional
		HB	Highway Business
R-3	Multi-Family Residential	I-1	Industrial 1
R-4	Multi-Family Residential	I-2	Industrial 2
MH-A	Mobile Home Annexed	I-2A	Industrial 2A
		I-3	Industrial 3

Variations within a given land use category may be due to slightly differing requirements. For example, an R-1 designation may require the lot size to be a minimum of 10,000 square feet, while a R-1A designation may require a minimum of 15,000 square feet. Other factors, such as building heights, setbacks, etc., may also vary.

In order to achieve compatibility within a community, urban planners assign these land use designations to smaller, independent zones of land so that residential areas are separated from industrial areas, etc. This segregation of land uses into distinct geographic areas with strict use regulations is known as Euclidean zoning, and it has been used extensively because it effectively prevents land use conflicts.

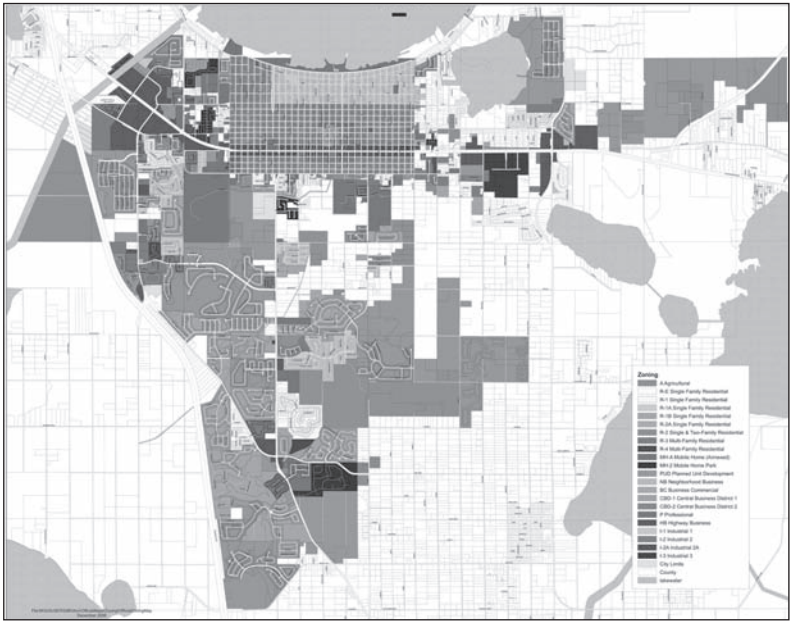
But because of accelerated population growth and the resulting urban sprawl, many planners now design areas that allow mixed use. ***Mixed-use developments*** integrate schools, shops, parks, and homes within an area that is easily accessible by bike, foot, and public transportation. This recent design movement, which aims to create neighborhoods with diverse uses and inhabitants, is called "new urbanism." But surprisingly, this mixed use is not new at all. Historically, many cities combined commercial and residential uses, not only within a neighborhood, but also within the building itself. These buildings had a business, such as a restaurant or store, on the bottom floor with living quarters above. These mixed-use communities existed because travel was primarily by foot. Therefore, basic provisions needed to be available near the home. Once cars and mass transit became more readily available, residential areas began to develop outside the urban centers in *suburban* areas. This trend created isolated pockets of specific land use.

But as the saying goes, "what goes around comes around." Currently, mixed use is again fashionable because there is an awareness of the environment and the need to preserve it. Mixed-use communities are environmentally friendly because they are walkable, thereby reducing car emissions. Additionally, because mixed-use communities are more densely populated, less land is needed to accommodate the growth that might otherwise sprawl into rural areas. These mixed-use areas, as well as the remaining area that comprises a town, city, or county, are documented on zoning maps that graphically illustrate their allowed land use.

Zoning code

Once a design is created and the land use is determined, the plan needs to be put into force. The zoning code is a tool that legally implements the intent of a comprehensive plan. Many

EXAMPLE OF A ZONING MAP



states now call the zoning code the Land Development Code (LDC) because the zoning code, which primarily addresses individual properties, is often incorporated into the LDC. This integration allows the LDC to address the community as a whole.

Most zoning ordinances address the individual properties that make up the community. These ordinances provide for adequate air, light, access, and drainage on your property by regulating the building's size, height, density, and location on the lot. Ordinances restricting height and density may prohibit your neighbor from building a high-rise that blocks your view of a lake or other scenic feature. Ordinances addressing setbacks and easements may prohibit neighbors from building so close to you that you can see what they are eating for dinner.

A ***setback*** is the distance between the building and the property line that cannot be occupied by the primary structure (e.g., the home). Accessory structures such as sheds, gazebos, and pools may be allowed in the setback area if code allows for this. The setback runs along the perimeter of the property and varies in width from zero to 25 feet in a residentially zoned area. While setbacks do create a feeling of uniformity and openness between buildings, they also have practical purposes, such as providing fire separation,

privacy, noise reduction, access, and drainage. Properties in residential areas often have wider setbacks compared to those in commercial areas, which may have no side or rear setbacks at all.

Like setbacks, ***easements*** are also spaces on a building lot that have limited use. Once the easement is recorded, it transfers some of the rights of land use to the grantee, such as a power company, thereby allowing the company to run power lines through your private property. Your local municipality may secure an easement in order to build a sidewalk or provide for drainage and access. Because these improvements may require maintenance, restrictions may limit what you can place in the easement area. Minor accessories, such as a fence, may be allowed if you agree to remove it at your expense, should it interfere with any work required within the easement. Again, it must also be noted that although the easement is being used by the grantee, you retain the title to this property.

Because setbacks and easements affect the development of your property, they should be shown or described on the site plan.

Flood zones

Floodwater can cause severe damage, especially floodwaters from strong storms that cause rivers to overflow, ground water to rise, and coastal areas to flood due to surging storm water. Because flooding can jeopardize the welfare of a community, the site plan (or separate drainage plan) should demonstrate that a property can successfully shed water. Therefore most site plans are required to show the proposed building pad elevation, the fronting road elevation, and the direction of rainwater flow off the lot. If the property is in a planned community, the property must be graded to tie in with the area's overall drainage design that sends water into the public storm water system and not onto your neighbor's property or onto environmentally sensitive land. Many municipalities require that a licensed surveyor or engineer certify any required site and drainage plans.

The 100-year flood elevation is determined by analysis of past flood elevations as well as predictive models, and it reflects the maximum height of a flood that has a 1% chance of occurrence in a given year.

Depending on your project, you may also be required to provide an ***elevation certificate*** if your property is located in a flood zone as determined by the National Flood Insurance Program (NFIP). This certificate verifies whether the building's finished floor elevation is above the 100-year flood elevation. Because floodwaters can have devastating consequences for homeowners, municipalities may prohibit the construction

of buildings in flood-prone areas. Development of properties in designated floodways, such as near streams, canals, and creeks, is severely restricted and may require that the structure be placed on piles or posts. The use of fill dirt in these areas is also restricted.

Variances

Similar to the building code, the general intent of zoning code is to create a functional, safe, and healthy community. But on occasion, zoning ordinances may restrict you from using your property. If this is the case, you can apply for a ***variance*** from an ordinance.

Consider an odd-shaped or very small lot. If the property setbacks prevent, or severely restrict, the size of a house you wish to build, you could request a variance that enables you to encroach into the property setbacks, thereby increasing your buildable land.

Because requests for variances are not uncommon, many municipal governments create a board to review these requests. This board, sometimes called the Board of Adjustments, often consists of officials from the Building, Planning, and Zoning Departments. The Board of Adjustments considers several factors when reviewing a proposed variance. The board reviews site conditions such as the lot size and shape and features such as trees, ponds, and soil. But in addition to physical features of the property, the board must also consider the following:

- Does the existing situation create a hardship that only the variance can remedy?
- Will the variance grant special privileges to the applicant?
- Will the variance harm the public?

Because the public is affected by the board's decision, the community is generally notified of the request for a variance. In many cases, local ordinances address how the public is notified. For example, the property owner, or the Board of Adjustments, may be required to send notices, perhaps via certified mail, to homeowners that live within 200–500 feet of the property that is the subject of the public hearing. Notice of the public hearing may also need to be published in the newspaper. This ensures that the public is made aware of the meeting where they are invited to attend and testify.

Special-use (or conditional-use) permits

When planners assign land use designations to an area, they establish the permitted uses for that land. But in addition to permitted use, they also establish conditional uses. For example, single-family homes are allowed to be built in an area zoned "residential." But churches and other *nonresidential* structures are often built within these

residential communities as well. Churches, along with schools, fire stations, and other structures, may be built if planners determine that they are acceptable uses of the land. Therefore, if a church desires to build in a residentially zoned area, a ***special-use*** or ***conditional-use permit*** must be issued by the municipality. These permits allow for an exception to the zoning ordinance while preserving the zoning designation. This is much easier than attempting to change the zoning designation to accommodate the proposed change in land use.

As with a request for variance, government officials must review special-use permit applications and consider how the exception will affect the community.

- Will the special use harm the public health or safety?
- Will it adversely affect the value of the adjoining property?
- Is the proposed use in harmony with the surrounding area?

And as with variance requests, the public may also be invited to attend hearings regarding special-use permits.

One more thing about property use

In addition to zoning and building codes, the property may be affected by recorded ***conditions, covenants, and restrictions (CCRs)*** if it is located in a subdivision or other planned community. CCRs are used to establish a uniform look for an area by establishing standards for building size, building setbacks, color schemes, roofing products, etc. If CCRs are in place, you should review these restrictions with your architect, surveyor, and possibly a competent real estate attorney. Once your building plans are complete, the Home Owner's Association (HOA) and its Architectural Review Committee (ARC) should review the site plan and building plans. It is important to note that these organizations are not affiliated with the municipal government. Therefore, although your building design and your building's location on the lot may be acceptable to the Building and Zoning Departments, you may be in violation of CCRs that affect your property. If that is so, you will be subject to the penalties that the CCRs set forth.

Zoning codes and maps are available at your government offices and may also be available online at the county and city websites. Zoning codes, land development codes, and even government charters from more than 1,600 local governments can be viewed at www.municode.com.

Additional documents for permitting

The documents required for your project depend on the nature of your project and the Building Department's requirements for such projects. If you are building a new house, expect to submit several documents. If you are simply remodeling your kitchen, there will be fewer requirements. The following are examples of documents that may be required for the construction of a new house. Please note that your Building Department may title these documents differently.

Energy calculations provide evidence that the proposed heating and air-conditioning unit can adequately provide sufficient heat and air for your building. The size of the unit is determined through calculations that consider the size of the building and the transfer of (or loss of) heat through windows, doors, floors, walls, and ceilings. Your mechanical contractor, as well as an architect or a mechanical engineer, can provide your energy calculations.

The ***engineered truss plan*** ensures that the trusses can withstand loads resulting from wind, snow, etc. The truss plan shows the truss design, spacing, and fastening details. The truss supplier, architect, or engineer can provide these drawings and specifications.

The ***utility affidavit*** provides evidence to the Building Department that electrical service will be available to your building once it has been completed. Affidavits from other service providers, such as trash removal, water, and sewer utilities, may also be necessary. You may be required to establish an account and pay these service providers a fee.

The ***address notification form*** ensures that a physical street address exists so that emergency responders and other agencies can locate you.

Proof of ownership, in the form of a deed or property tax receipt, etc., is important because it establishes the connection between you—as the homeowner—and your property.

A ***subcontractor list*** allows the Building Department to check the status of your subcontractors' licenses and their general liability and workers' compensation insurance.

The ***owner/builder affidavit*** is required if you want to work on your own property and put the permit in your name instead of a contractor's name. Although you do not need to be licensed, you must agree to the restrictions set forth on the affidavit.

Owner/builder permits

Many people consider serving as their own general contractor. Sometimes this works out well; other times the experience is regrettable. Construction can be an exciting process as you watch your dreams become reality. Even a small job that is well done can be a satisfying experience. But an easy undertaking it is not. As this book demonstrates, simply contracting the job is a complicated and time-consuming affair that requires familiarity with construction law and contracts. So much so, that it is often said that the job is half done once you break ground and begin construction.

As discussed earlier, many states require construction work to be performed by licensed and insured contractors because faulty construction can cause harm and illness to the public. Electric, plumbing, and the mechanical trades require licensing in most states. Additionally, a state may require a licensed general contractor to perform structural work and oversee the entire job. By mandating the licensing of contractors, a state helps to ensure these practitioners are competent and ethical.

But many have argued that this requirement restricts homeowners' rights to use their property. In response, many states allow homeowners to obtain a building permit for work on the home they occupy even though they may not meet the state's licensing requirements for contracting. This type of permit is called an owner/builder permit and the owner who obtains it is an owner/builder. In Florida, an owner/builder can build the house from the ground up. Because owner/builders are acting as contractors, they must agree to certain requirements as a condition of permitting. These requirements vary with each Building Department and they may obligate the owner/builder to:

- Occupy the home for one year or longer
- Manage the construction project and not hire an unlicensed construction manager
- Hire licensed contractors for work that is not self-performed or free
- Comply with OSHA regulations
- Comply with workers' compensation regulations
- Comply with building codes
- Withhold employee taxes

The owner/builder may also be restricted to performing work that is under a certain dollar value.

Benefits versus risk

As with most endeavors, there are both benefits and risks associated with assuming the role of general contractor. You may be enticed by the money you may save when acting as

The restriction that requires the owner/builder to occupy a home for a certain amount of time is designed to limit the number of permits he or she may obtain. Without this restriction, an owner/builder might build, or buy and renovate, several homes and sell them—thereby reaping the benefits of a licensed contractor without complying with the state's requirements for this profession.

your own contractor. This sum includes the cost of the general contractor's labor, as well as his overhead and profit. Although this can be a substantial savings, it is only realized if your project does not suffer setbacks from liens, lawsuits, faulty work, and other costly events. People often overlook the fact that licensed contractors are knowledgeable and experienced professionals who meet standards set forth by the state.

When calculating your savings as owner/builder, keep in mind that contractors often purchase materials at a discount. Also, subcontractors may charge less when an experienced general contractor is on board.

What it takes

When a large project is at hand, the duties of a general contractor are numerous and require knowledge and skill to be performed properly. In addition, these duties must often be performed simultaneously, resulting in a juggling act that requires an extraordinary ability to multitask. Therefore before you take on the role of general contractor, you should know the duties that will be required of you. Your duties as general contractor may include:

- Interpreting the building plans and defining the entire scope of work
- Estimating material and labor costs
- Selecting subcontractors and verifying licensing and insurance documents
- Obtaining subcontractor proposals
- Executing contracts with the subcontractors
- Obtaining building permits for the job
- Ordering materials and scheduling delivery
- Scheduling subcontractors
- Supervising subcontractors while on site
- Ensuring jobsite safety
- Inspecting the work for accuracy and code compliancy
- Scheduling and overseeing inspections

- Paying subcontractors and suppliers
- Managing lien releases

If you assume the role of general contractor without experience and knowledge, and the project is of a significant size, you may find that it exceeds your capability. As a result, you may lose any savings that you hoped to retain by not having a general contractor on board.

It is a frequent practice of CONtractors to ask an owner to obtain an owner/builder permit. Beware!

Owner/builder failure

Owner/builders are often surprised by the difficulties they encounter during construction, especially on large projects that require multiple subcontractors. Subsequently, many owner/builders fall short because they do not know what to do, and when to do it.

Before you undertake a challenging project, you should have some knowledge of the various construction trades. Although licensed subcontractors are skilled tradesmen whose work is inspected by Building Department officials when a permit is in place, you will still be called upon to make decisions during the construction process. Sometimes building plans conflict with existing conditions and a change must be made. This changed work may also affect the work that follows it. To make an informed and timely decision, you must have a basic understanding of construction.

Correctly scheduling the various trades is also a challenging procedure if you are unfamiliar with the construction process. The finished product depends on the proper sequence of construction events. Sometimes a scheduling error may have only minor consequences. For example, if the worksite or materials are unavailable, a subcontractor may have to return at a later date. If there is a cost for this inconvenience, it is generally insignificant. But scheduling errors can be costly. Consider the expense of a foundation that is poured before the soil is properly prepared. To provide adequate support for a foundation, the soil must be free of debris, compacted, treated for termites, and at the proper elevation. If this is overlooked, the cost to repair this mistake is great indeed because the foundation would likely have to be demolished and re-poured. Although building inspections often prevent these kinds of catastrophic errors, mistakes of this magnitude do occur.

Underestimating estimating

Estimating the cost of a large project challenges many contractors, let alone someone without construction knowledge. If you do not know what steps are required, how do you allow for this cost? But this is not the only challenge. Once you have identified the steps, you need to correctly estimate their cost. To do this, you must be able to interpret the building plans and perform complex calculations.

Measurements require the use of scale rulers and other instruments. This data must then be manipulated to provide answers. Therefore, you must also know what mathematical formula will provide the information you need. Although building plans provide the information necessary to perform a calculation, the plans do not provide the mathematical formulas. Area, volume, and distance calculations result from specific formulas—and when the wrong formula is used, the wrong answer will result. If material quantities are calculated incorrectly, the estimated cost for these materials will also be incorrect.

Time ... is not on your side

Many owner/builders underestimate the amount of time required to effectively perform their role as contractor. For you to be a successful owner/builder, you must play an active role, start to finish. This includes providing leadership and guidance during the construction phase. Your availability during the workday is essential to a project's timely success because questions arise and must be answered. Nothing goes entirely as planned. Sometimes unknown conditions become evident during construction; these conditions alter the planned course of action. Other times, building plans require clarification. Communication is essential to the success of any project and takes place throughout the day during the entire course of the construction process.

If you undertake a large construction project as owner/builder, be prepared to spend a significant amount of time on your jobsite. The complexity of your project and the quality of the building plans will determine how much time this will be. If you have a full-time job, you may find that you cannot effectively oversee your project. This may compromise both your project and your job! Surely your boss will not be pleased if you spend a large part of your day on the phone with your subcontractors. And if you put off the subcontractors' questions, they may leave for another jobsite, thereby delaying your job and possibly increasing your job cost if they charge you a return trip fee.

If you obtain an owner/builder permit and lack the knowledge and time to perform your duties, you should consider hiring a construction manager to oversee construction.

In fact, it may be required. Florida, for example, requires an owner/builder to directly supervise the work or hire a person who is licensed in the trade that he or she is overseeing. Many construction managers are licensed contractors and their licensing may be a requirement of the owner/builder permit.

A look at liability

Another very important issue to consider as owner/builder is liability. When you obtain an owner/builder permit, you take on the liabilities that would otherwise be the contractor's. As owner/builder you are personally responsible for supervision, performance, safety, and the payment of any required taxes. Did you know that if you pay an unlicensed and uninsured contractor (let's call him Jeff Davis) in contrast to a company (Jeff Davis Carpenters, Inc., for example), you may be considered an employer under state and federal law? As an employer, you may be responsible for payroll taxes, unemployment compensation, and workers' compensation. If you fail to meet your obligations and you are caught, you may owe fines in addition to the money owed. Criminal penalties may also be imposed.

Because the duties and responsibilities of owner/builder are significant, many Building Departments require the owner to sign an affidavit that delineates these duties. In Florida, owners who apply for an owner/builder permit must acknowledge the following statement (or similar language):

DISCLOSURE STATEMENT

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions even though you do not have a license. You must provide direct, onsite supervision of the construction yourself. You may build or improve a one-family or two-family residence or a farm outbuilding. You may also build or improve a commercial building, provided your costs do not exceed $25,000. The building or residence must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within one year after the construction is complete, the law will presume that you built or substantially improved it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person to act as your contractor

or to supervise people working on your building. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. You may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on your building who is not licensed must work under your direct supervision and must be employed by you, which means that you must deduct FICA and withholding tax and provide workers' compensation for that employee, all as prescribed by law. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.

Often, this type of affidavit further clarifies the liabilities of owner/builder. For example, the affidavit may include the following statement:

"I understand that I am legally and financially responsible for proposed construction activity and I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all the applicable laws and requirements that govern owner/builders and employers."

If you are an employer, failure to secure workers' compensation insurance is unlawful and may subject you to criminal penalties and civil fines in addition to the cost of premiums, compensation, and damages.

Look before you leap

Before you step into the contractor's shoes and act as owner/builder, be aware that these may be big shoes to fill. A contractor's duties are numerous and require time and knowledge to be performed effectively. In addition, consider the liability that you assume when a permit is issued in your name. ***There can be serious consequences for the owner/builder who is unprepared and unqualified to assume the responsibilities of construction contracting.*** Although many people have successfully performed as an owner/builder, particularly those with construction experience who undertake small- to medium-sized jobs, many first-time owner/builders have found that the work was not worth the money saved. Before you obtain an owner/builder permit, consider the amount of work and liability involved compared to the cost of the general contractor, who generally charges between 15% and 20% of the project cost.

Financing your project with a lender may be difficult or impossible if you are an owner/builder because owner/builders frequently fail to complete their projects on budget.

Permitting questions and process

Once the Building Department accepts your permitting package for review, a permit number will be issued. Many Building Departments maintain a website that allows you to track the status of your project as it is reviewed by the various departments. Otherwise, the Building Department will most likely contact you once the project review is complete.

Missing or incorrect information is often flagged by various departments and must be corrected as a condition for approval. It is best to anticipate possible errors and allow time to both revise and resubmit the construction documents for review. During this review process, the Building Department may authorize an "early start permit" that allows you to begin preliminary work such as site and foundation preparation. But be aware that if the Building Department rejects your project entirely, this early work may be a costly and wasted effort.

Once the project is approved and the plans reviewed, impact fees may be due. These amounts vary with each municipality and can be a significant expense in urban areas where impact fees help pay for public services such as transportation, education, and fire protection.

Once the permit is issued, laws often stipulate that the work must commence within a certain amount of time, such as six months, or the permit becomes void. During construction, the Notice of Commencement, the permitted plans, the building permit, and inspection card (if a separate document) must be kept on the jobsite—and the accessibility of these documents is often a prerequisite of the first inspection.