



# COLLEGE TOWNSHIP

## PROPOSED CASINO FREQUENTLY ASKED QUESTIONS

### When did Pennsylvania legalize gaming and what types of gaming are allowable?

[Act 71 of 2004](#), also known as the Pennsylvania Racehorse Development and Gaming Act, amended Title 4 (Amusements) the Pennsylvania Consolidated Statutes, authorizing certain racetrack and other gaming (land-based casinos); providing for regulation of gaming licensees; establishing and providing for the powers and duties of the Pennsylvania Gaming Control Board; conferring powers and imposing duties on the Department of Revenue, the Department of Health, the Office of Attorney General, the Pennsylvania State Police and the Pennsylvania Liquor Control Board.

Further it established the State Gaming Fund, the Pennsylvania Race Horse Development Fund, the Pennsylvania Gaming Economic Development and Tourism Fund, the Compulsive and Problem Gambling Treatment Fund and the Property Tax Relief Fund. Finally the bill provided for enforcement; imposing of penalties; making appropriations; and making related repeals.

[Act 42 of 2017](#), which amended Titles 3 (Agriculture) and 4 (Amusements) of the Pennsylvania Consolidated Statutes, was a multifaceted gaming bill that authorized, regulated, and taxes the operation of online fantasy contests, internet gaming websites, and online lottery games within the state. Further, the bill facilitated the expansion of land-based gaming activities through provisions allowing for up to ten (10) Category 4 casino locations throughout the state, an option to add up to 250 slot machines and 15 table games to the two (2) Category 3 casino locations, video gaming terminals at qualifying truck stops and internet-based gaming on tablets at international and other qualified airports.

### Why is a casino an allowable use within College Township?

Act 71 of 2004 legalized casinos and racetracks as a use within the state.

In 2006, College Township established the zoning provisions (§ [200-11.S](#) as amended per Ord. No. O-06-05) that currently exist in the area encompassing the Nittany Mall. These zoning provisions allow for “gaming establishment” uses in the Commercial Zoning District of the Township, including in the area of the Nittany Mall previously occupied by the Macy’s Department Store.

On October 30, 2017, Governor Tom Wolf signed into law Act 42 which included the provision allowing for the addition of up to (10) Category 4 locations within the state. Act 42 also provided municipalities the opportunity to opt-out of being a host municipality for a Category 4 casino by December 31, 2017.

At their meeting on December 7, 2017, College Township Council took no action regarding an opt-out resolution. Instead Council opted to rely on the Township’s Adult Business and Bottle Club Overlay District (§ [200-42](#)), which informs the buffer zones around gaming establishments use, impacting their allowed locations within the C-1 Commercial District.

## Why did College Township choose not to pass an “opt-out” resolution in 2017?

At their meeting on December 7, 2017, the then-seated College Township Council took no action regarding an opt-out resolution. The primary rationale behind this decision can be summarized into the following categories:

### Regulatory Considerations

Council recognized that College Township was positioned differently from a regulatory standpoint than a significant number of other municipalities facing the same decision. Specifically, the Township had been proactive in its decisions related to regulating the location of gaming establishments as a use-by-right within the municipality.

Amendments made within College Township’s zoning ordinance in 2006 allowed gaming within the C-1 Commercial District and, by virtue of the buffers established within the Adult Business and Bottle Club Overlay, limited their location to essentially a small portion of that district encompassing the Nittany Mall.

### Regional Considerations

Council was keenly aware that the larger “State College” market was considered very attractive by those looking to locate a Category 4 casino. In the weeks leading up to the December 31, 2017 deadline to pass a resolution, Council was monitoring the “[opt-out](#)” decisions being made by the municipalities in and adjacent to the Centre Region.

While all of the other Centre Region municipalities signaled their intent to pass “opt-out” resolutions, several municipalities adjacent to the Centre Region, most notably Benner and Spring Townships, did not. By the deadline set forth by the state, [14 of the 35 municipalities within Centre County did not pass an “opt-out” resolution](#). It is worth noting that 13 of these municipalities had significant area within the initial location zone identified within SC Gaming LLC’s winning bid for the Category 4 casino license.

Of the three municipalities in question, (College, Benner & Spring Townships) Council recognized that College Township was best equipped in terms of local regulations, infrastructure, utilities, police and emergency response capacity to address any potential negative impacts associated with a Category 4 casino.

### Economic Considerations

Council was also advised that serving as the potential host municipality for the Category 4 casino offered the unique opportunity to address the following three community economic considerations:

- Stabilizing the struggling Nittany Mall property.
- Inducing redevelopment of commercial and industrial zoning districts in Dale Summit.
- Creation of new jobs.

It was acknowledged that by serving as the potential host municipality, College Township would stand to receive and put to good use a significant new revenue stream derived from gaming taxes paid by the proposed casino. However, as a financially sound municipality, this consideration was secondary to the other considerations listed above.

### Can College Township still “opt-out” of being a host municipality?

No. Based upon the legal opinion of the Township Solicitor, College Township is no longer able to “opt-out” of being a host municipality.

[Act 63 of 2019](#) amended Title 53 of the Pennsylvania Consolidated Statutes, specific to the *Option to Prohibit the Location of an Establishment Licenses*. As noted in the Solicitor’s opinion, within Title 53, Chapter 5, Section 502(a) (1) it is very clear that the township’s right to opt out expired 60 days after the effective date of the act which was July 2, 2019. At the time of this amendment there were no Category 4 casino licenses available.

Additionally, Title 53, Chapter 5, Section 502(b) permits rescission of the prohibition of gaming but does not permit the subsequent prohibition of gaming.

### Can College Township still deny the land development plan for the proposed casino?

No. The [Pennsylvania Municipalities Planning Code](#) (“MPC”) authorizes a municipality to adopt a subdivision and land development ordinances, thus enabling the ability to conduct local review and approval of proposed plans for the subdivision and development of land. It is important to note that per the MPC, College Township’s regulatory powers for land developments under its [subdivision and land development ordinance](#) are limited to the exterior elements of the property such as streets and sidewalks, lighting, utility location and capacity to serve, easements, erosion & sedimentation, and stormwater management.

Additionally, the MPC also authorizes and provides guidance on the development of zoning regulations. In short, a zoning ordinance divides all land within a municipality into districts, with different types of land uses permitted within each district, and creates the regulations that apply to the entire municipality as well as specifically to individual districts. Under the MPC, College Township’s regulatory control under its [zoning ordinance](#) are limited to location of allowable uses within each defined district and enforcing the requirements within those districts such as setbacks, outdoor storage, lighting, landscaping, buffering, screening, off street parking, signage and motor vehicle access.

College Township has both a subdivision and land development ordinance and a zoning ordinance in place. Through the procedural requirements outlined in the MPC, Council, along with staff and the Township’s Planning Commission, are tasked with balancing growth and progress with the needs and desires of the community through both short and long-term community planning and development decision making.

Provisions within the Pennsylvania MPC stipulate that if a land development meets the regulations outlined within the municipality’s zoning and subdivision and land development ordinances it cannot be denied without cause.

At its [September 16, 2021 meeting](#), Council approved the [Nittany Casino preliminary/final land development plan](#) for the proposed casino with the following conditions:

- 1) Obtain all required signatures.
- 2) Pay all outstanding review fees.
- 3) Fully comply with College Township Code Section 180-12 of the Township Ordinance.

- 4) Address to the satisfaction of the Township Engineer, any outstanding comments, including those regarding traffic flow, signage, lighting, planting variety, & the bollard at the loading dock.
- 5) Post surety in an amount approved by the Township Engineer.
- 6) Satisfy any outstanding comments from the College Township Water Authority.
- 7) Provide proof of NPDES permitting.
- 8) Sign and record DSAME.
- 9) Obtain PennDOT Highway Occupancy Permit.
- 10) Add a note on the plan indicating the sidewalk waiver to include linear feet totals.

The developer has continued to work toward addressing these conditions and has properly requested extensions on the plan. The most recent time extension through December 11, 2022, was approved by Council at its [September 1, 2022 meeting as part of the Consent Agenda](#).

As noted by the Solicitor, failure of the applicant to proceed or obtain all of the required approvals is a delay caused by the government, not the applicant, and cannot be used to deny an already conditionally approved plan. Further, the applicant has acted in reliance of the Township's approvals, spending a considerable amount of money, which further solidifies the applicant's position.

### Who owns the building where the casino is proposed to be located?

The proposed location for the Category 4 casino is the former Macy's Department Store in the Nittany Mall at 2901 East College Avenue. It is important to note that despite the access to the interior of the Nittany Mall, this property is formally subdivided from the remainder of the Mall and owned separately.

Per the land development plan, deed and County parcel data, the current owner of record is 2901 ECA Associates LLC, a Pennsylvania based Limited Liability Corporation, located at 2929 Walnut Street, Suite 1550, Philadelphia, PA 19104.

### What was included in the Local Impact Report provided by the casino developer?

The developer, SC Gaming OpCo LLC, hired Econsult Solutions, Inc. ("ESI") from Philadelphia to conduct a local services and economic impact analysis as part of its application for a Category 4 casino to be located in College Township.

Per the [Local Impact Report](#) narrative:

*"ESI undertook a multi-step approach. ESI analyzed College Township's 2021 budget to understand the existing municipal expenditures in discrete spending areas. ESI then consulted College Township's government administrators and managers to better understand the baseline of local services and how additional activity at the Nittany Mall by the proposed casino may increase various departments' capacities. Based on these potential impacts, we completed a fiscal impact analysis that details the overall impact of the proposed casino on College Township's departments. Together, these analyses comprise the local impact of the casino on municipal services, resources, and tourism."*

A summary of the Local Impact Report, ongoing Traffic Impact Study, economic impact along with a broad overview of the project that included renderings, a conceptual layout of floor plan zones, anticipated employment opportunities, provisions for diversity and inclusion and approach for responsible gaming was made available in the [developer's Public Input Hearing presentation](#).

### What are the criteria that the PA Gaming Control Board use for licensing of a casino?

The provisions, authority and processes utilized by the Pennsylvania Gaming Control Board in licensing and regulating gaming establishments and personnel are outlined in [Title 4 of the Pennsylvania Consolidated Statutes](#). This is specifically referenced in Part II. Gaming, beginning with Chapter 11. General Provisions.

### What is the term of a casino license in PA?

A gaming license by the Pennsylvania Gaming Control Board has a term of five years, although the period depends on the specific type of the license. A renewed license has a duration of three years. Throughout this period, the Board follows how the applicants integrate the license requirements in all regards, such as social responsibility, game testing, or personnel qualification and training.

### What are the remaining procedural steps for approval of the casino license?

The Pennsylvania Gaming Control Board hearing officer's scheduling order, dated July 12, 2022, noted that any party petitioning to intervene in the license application from Philadelphia investor Ira Lubert, whose company operates as SC Gaming OpCo LLC, had until August 26, 2022, to file the appropriate paperwork. By that deadline, there was one petition to intervene in the licensing application filed by Stadium Gaming LLC.

The Pennsylvania Gaming Control Board was scheduled to hear arguments on the Petition for Intervention at its meeting on October 19, 2022. Given the number of filings issued by Stadium Gaming LLC and SC Gaming OpCo LLC, the Pennsylvania Gaming Control Board has delayed the hearing. It is now tentatively scheduled for November 16, 2022.

Following the conclusion of an action related to the Petition for Intervention, the Pennsylvania Gaming Control Board will schedule a second public hearing on the license application to be held at a later date in Harrisburg. Testimony at that public hearing is limited to parties to the proceeding including:

- SC Gaming LLC;
- Office of Enforcement Counsel/Bureau of Investigations and Enforcement, and;
- Stadium Gaming LLC, but only if granted intervention.

A final decision on the license application will be rendered following the second public hearing.

It is currently unclear what, if any, impact the pending Pennsylvania Commonwealth Court case between Cordish Companies, which operates in Pennsylvania as Stadium Gaming LLC, SC Gaming OpCo LLC, and the Pennsylvania Gaming Control Board will have on the licensing decision schedule.

### Will College Township prepare its own Impact Report?

Yes. College Township Council has directed staff to begin evaluation and preparation its own objective impact report. As Council noted when directing staff on this work task, this Impact Report will be beneficial in the following ways:

1. A study will help inform their discussions leading up to a decision by the Pennsylvania Gaming Control Board on SC Gaming OpCo LLC's license application, and/or;

2. Should the license be awarded, the report will help inform Council's discussions with the proposed casino operators and the potential actions needed to address possible impacts associated with the casino post-opening.

Per Council's direction, this impact report shall consider available data on Category 4 casinos operating within the State of Pennsylvania and under the regulatory authority of the Pennsylvania Gaming Control Board. The intent of this study is to provide relevant, factual information drawn from true comparable facilities within fellow Pennsylvania municipalities. It is anticipated that this study will involve both windshield and site tours, key person interviews and data research.

Recognizing the requests coming from the community, staff has begun evaluating the aspects of this study that can reasonably be compiled using existing staff resources, those elements that will fall outside of staff capacity, and those elements that potentially cannot be delivered due to lack of available objective data.

### **How much tax revenue will College Township and Centre County receive should the casino be developed?**

Per Act 42 of 2017, there will be a Local Share assessment of 4% on slot machine revenue at a Category 4 casino, distributed as follows:

- 2% to College Township through a direct payment.
- 2% to Centre County through the Commonwealth Financing Authority.

There will also be a Local Share assessment of 2% on table games revenue, distributed as follows:

- 1% to College Township through a direct payment.
- 1% to Centre County through the Commonwealth Financing Authority.

The local impact report prepared by Econsult Solutions, Inc. on behalf of the developer estimates that these respective Local Share assessments will generate first year revenue of approximately \$1,380,000 for College Township and an additional \$1,380,000 to Centre County through the Commonwealth Financing Authority.

There is also a Local Share assessment of 2% on sports wagering, distributed as follows:

- 2% to the Commonwealth Financing Authority for grants available to any and all counties in the Commonwealth.

The local impact report prepared on behalf of the developer estimates this Local Share assessment will generate first year revenue of approximately \$186,000.

### **Will College Township send a letter in opposition to the casino development?**

No. College Township Council held an Executive Session on Thursday, September 22, 2022 at 10:30 AM to discuss the Solicitor's opinion on any potential legal and/or financial ramifications of sending a letter to the Pennsylvania Gaming Control Board during the licensing application review process.

As agenda item OB-1 at their meeting on October 6, 2022, Council discussed [the opinion issued by the Solicitor](#), potential next steps and took public comment. A motion was made *to send the correspondence and the minutes related to the casino received since the close of public comments on June 12, 2022, to the Pennsylvania Gaming Control Board with a note stating what is in the contents* was offered at the conclusion of the discussion.

Prior to the vote, the Solicitor opined that with Council sending a this correspondence as a body, it may not be construed as public comment but as a formal action of Council to deny or delay

The motion subsequently failed in a zero (0) in favor, five (5) opposed vote.

Later in the same meeting, due to some confusion over the initial vote, Council reconsidered the same motion *to send the correspondence and the minutes related to the casino received since the close of public comments on June 12, 2022, to the PA Gaming Control Board with a note stating what is in the contents*.

The motion subsequently failed in a one (1) in favor, four (4) opposed vote.

### What happens if the casino license is approved or denied?

College Township has sought a legal opinion from its Solicitor on a number of topics. This question is included in that request and will be answered once that legal opinion is received.