

Developer Agreements:

Protecting Town Infrastructure
through Collaboration

The Basics

- ▶ Developer agreement is an enforceable contract
- ▶ Can be used in many situations
- ▶ Is used to help build and protect town infrastructure by shifting costs

The Process

- Craft an ordinance
- Pre-application meeting
- Create Developer Agreement
- Preliminary plat approval
- Inspection of infrastructure
- Final plat approval

Sub-Division Ordinance

- ▶ Chapter 236 of Wisconsin Statutes governs division of land
- ▶ Must have a plan commission
- ▶ Wis. Stat. 236.13 and 236.45 grant local governments more control than statute
- ▶ Must specifically spell out requirements and standards

Sub-Division Ordinance Restrictions

- ▶ Only restrictions are:
 - ▶ Time limits/deadlines
 - ▶ Notice requirements
 - ▶ Other provisions of Chapter 236 that provide protections for a subdivider.

Pre-Application Conference

- ▶ A chance for developer and town officials to sit down and discuss plans
- ▶ Lays the groundwork for developer agreement
- ▶ Can ask questions about community impacts
- ▶ Develop implementation strategy
- ▶ Must include this step in ordinance

Preliminary Plat Review

- ▶ Name is deceiving
- ▶ Need map with many specifics e.g. road placement, utility lines, drainage, etc.
- ▶ Finalized developer agreement
- ▶ Special studies, impact assessments
- ▶ Must be included in ordinance

Preliminary Plat Review Procedure

- ▶ Have 90 days to act on submission of plat
- ▶ First goes to plan commission
- ▶ Then to town board
- ▶ Once approved by board, hard to turn back

Final Plat Approval

- ▶ This must be approved by plan commission and town board
- ▶ If it conforms with preliminary plat it should be approved
- ▶ Must act within 60 days of submitting, must be submitted within 36 months of preliminary plat.
- ▶ Once approved then land/property transfers final unless noted differently

The Developer Agreement

- ▶ Can be a requirement in the ordinance
- ▶ What you can ask for depends on your ordinance.
- ▶ Ultimately it is a contract that lays out terms and requirements

Roads

- ▶ Integral part to the agreement and the plat.
- ▶ Ordinance should lay out requirements for streets depending on use and traffic
- ▶ Agreement should also consider impact on surrounding areas
- ▶ Most importantly, it can require developer to construct the roads
- ▶ Don't accept until approved by commissioner or engineer

Road Considerations

- ▶ Type of road:
 - ▶ Arterial
 - ▶ Collector
 - ▶ Sub-collector
 - ▶ Minor streets/residential
 - ▶ Cul-de-sacs and alleys

Further Road Considerations

- ▶ How will development affect surrounding area?
- ▶ What type of development is this?
- ▶ Do roads need upgrades for traffic increase?
- ▶ Who bears costs of upgrades?

Other Possible Road Requirements

- ▶ Signs
- ▶ Lighting
- ▶ Trees
- ▶ Driveways
- ▶ Intersections

Drainage

- ▶ Developer agreement could include building drainage infrastructure and impact study
 - ▶ Curb and gutter
 - ▶ Ditches
 - ▶ Culverts
- ▶ Specifications and when required should be in ordinance

Water Treatment

- ▶ If part of sanitary district could require hookup with facility
- ▶ On site water treatment is another option
- ▶ Install private wells
- ▶ Specifications and requirements should be included in ordinance

Utilities

- ▶ Electric
- ▶ Natural gas
- ▶ Broadband installation

Environment

- ▶ Could have provision that natural landscape is a factor in approval
- ▶ Vegetation
- ▶ Soil erosion
- ▶ Baseline tests or other assessments
- ▶ Green spaces/parks
- ▶ Put requirements in the ordinance

Financing Development

- ▶ The best laid plans often go awry
- ▶ Can require a letter of credit or surety bond
- ▶ Construct the project in phases

The Sub-Division Ordinance Revisited

- ▶ Very important that your ordinance spell things out
- ▶ Specifications for infrastructure
- ▶ Standards for material and quality
- ▶ Inspection of infrastructure
- ▶ Condition approvals and compliance with developer agreement

Developer Agreements in General

- ▶ Can be used in other situations as well
 - ▶ Mines, large factories, CAFOs
- ▶ Less authority for those situations and can't force anyone to bargaining table