

Questions about Draft Site Plan Ordinance

General questions:

Who decided to develop this DRAFT plan and why?

Is it required? By whom?

The county has codes / ordinances / laws why do we need more?

If the township wants to attract new businesses and residents why do you want to make additional requirements that are very restrictive? This ordinance prohibits people from locating in the township and new businesses. Small Farms have been on the decline for many years. They sell to larger farms, corporate farms or let the land sit idle.

What do the residences of the township and people who own property in the township want as they are your constituents? You need to ask them / take a vote.

I trust all questions and comments will be read at the public meeting for this ordinance and next steps agreed upon by the majority of the public.

1.2 Authority: Police powers. It is our understanding they regulate activities not land use. Zoning ordinances regulate land use. Is this your understanding?

1.3 Scope: All lands being developed of 4 acres or more. Should be larger possibly 20 acres? What if I want to build a house on my acreage, why would I have to go through the additional requirements and expense in this DRAFT plan?

3.3 Application Process: Should include the number of days the Planning Committee is required to meet once all forms are submitted, such as 14 days. There should be a time limit set for each stage unless agreed upon prior to each step in writing and signed by both parties.

3.5 Compliance: The words divide any land and land division should be removed in first sentence.

I bought land in the township with the understanding that I could divide the land into smaller parcels and sell some of it if I wanted. Now the township wants to control what you can divide and who I can sell it too with an additional ordinance?

Are my taxes going to decrease significantly if this ordinance is passed?

Any land that is 4 acres or more and the person want to build a house or something else has to go through the time and expense of these additional requirements?

If a person owns 120 acres of land and decides to sell 40 acres he has to go through the expense of these additional requirements? The county has adequate requirements for construction of residential and non-residential requirements. We don't need more regulations or ordinances.

When a property owner is planning on selling their property and it is over 4 acres does the property owner need to disclose to potential buyers that there is a Comprehensive Plan in place in the township the property is located and list it on the Condition Report that is signed when selling the property?

If this is for developed parcels only why do you want to control the sale of 20, 40 or more acres in which additional property is owned by the seller and no development takes place?

Section 4.1 b,c,d,e,f,g,h and Section 4.2

Who is the town road Engineer? Qualifications?

It states Compliance with Comprehensive Plan? In the comprehensive plan it states "New roads shall be built according to Town standards". The town does not have standards therefore past practice of existing roads takes effect. We are curious why existing roads take are considered in this document and when North Stefczak is being considered to become a public road it is not?

Are you going to require an Engineer to view the road and the board / planning committee place stringent restrictions/ standards on North Stefczak Lane for the township to make it a public road?

What are the standards for new and existing roads? Are they different?

Getting a Core Sample has also been discussed; core samples are not performed on gravel roads. Gravel is usually inspected prior to being spread on the road. When blacktop is applied then core samples are taken. Do you require core samples on every new and existing road whether blacktop or gravel?

North Stefczak Lane meets all DOT requirements, serves little traffic and is as good if not better than Lorkowski Lane, Stefczak Lane, Paul Lane, Musk-Pyk-Kamp Road, Kernwein Road, Golat Lane and River Road to name a few. Why do you take existing roads into effect in this document and not North Stefczak Lane when under discussion to become a public road?

Why do you require material slips if paid for by owner?

Section 6&7

6.1 Violations not less than \$500 nor more than \$5,000 per violation and each day a violation exists is a separate violation. This is an extreme penalty and each day? Eliminate or possibly state each violation will be dealt with on a case by case basis and should range from \$0 to \$100 Maximum?

Provide your view and several examples of what constitutes habitual law enforcement are?

General Questions

- 1) Does this ordinance pertain to residential site development only?
- 2) Does this site plan ordinance pertain to any type of solar construction at all, or any part of solar development. Residential and/or commercial/industrial?
- 3) Is this ordinance appropriate for a rural town (18 pages?). Is this along the lines of other site plan ordinances that you have drawn up in the past?

Specific Questions (sighting specific parts of ordinance)

Section 1

1.1 – What is considered a non-residential land development? What are some examples? Gravel pits? Large dairy expansions?

1.1 – What is considered a ‘wholesome community environment’? What is the definition in relation to this ordinance?

1.3 – Why is the ordinance set at 4 acres? Is that a state requirement/measurement?

- Will the 4-acre limit pertain to subdividing a parcel into smaller sections? Ex. Taking 20 acres and dividing it into 5-acre parcels to give to children.

1.3 – Ordinance states that it is for ‘new or expanded residential or non-residential development’ – would this include the expansion of existing gravel pits, salvage yards, farming operations, golf course, etc. If so, this ordinance would be the process at which these expansions would have to follow?

1.4 (para a.1) – Abrogation: Does the statement in the proposed ordinance mean that if the state and town have an ordinance concerning the same situation, the ordinance that is more restrictive is the one that the Town of Stubbs will follow?

Ex. If a town ordinance is more restrictive than what the state ordinance is, the town ordinance will override the state one.

1.4 (para 2) – Private Covenants: Please break down this long sentence and explain in detail.

1.4 (para B) – Liberal Construction: Please break down paragraph and explain in detail.

1.4 (para E): Costs – Does the town board have the legal right to out-price projects so citizens can't afford project to attempt to better themselves? The applicant is at the will of the board to pay for everything the board imposes, there aren't any limits established.

Section 2

Industrial Development: Does this definition include solar projects? The definition given states that it includes 'power production.'

Setback: What is the legal state measurement for a setback? That should be listed in the definition to set some type of working standard.

Section 3

3.1 – Statement: The planning commission does not have any legal authority to approve or deny anything within the town. They can provide recommendations, but they cannot approve or deny anything.

3.3 (para a) – Why is the applicant appearing before the board at this stage? To ask for permission?

3.3 (para b) – Why would the applicant go through all the work to get the packet completed and expenses if they don't know if the project will get approved or not?

3.3 (para c) – How does the town have the authority to tell a private taxpaying landowner what they can and can't do with their private property, base off of whatever criteria. As long as they are not endangering the safety of the public. It states that the board has the authority to deny the project, even though it is private property.

3.3 (para d) – Why would you have to get another site plan done again after it was approved once?

Section 4

4.1 (para a) – What is the definition of a subdivision?

4.2 (para a.2) – Project Costs: Survey. Once the project survey is completed and it is determined that a town road is not consistent with the survey markers. Will the town move the road and construct it correctly, paid for by the town? Ex. Two acres were purchased for the town hall and that transaction was never surveyed, it was done in good faith.

4.2 (para a.3) – Material Slip: Why would you have to purchase all materials and then provide the material slip to the town for approval? If the town were to deny the slip, you just purchased all this material for nothing.

4.5 (para a.1) – Who determines if a project is denied based off the criteria listed?

The planning commission? In layman's terms, these entities can decide what a farmer can/cannot build on his/her private property (in the scope of 4 acres or more).

4.5 (para b.6) – Criteria states 'Development envelopes should not be located on ridges, hilltops, along peripheral public roads or in other visually prominent areas'. Where are you supposed to construct a development then, if you can't build in view of a road?

4.5 (para c.5.1) – As stated above, based off the criteria in this section, where can an applicant build if one has to avoid farmland, woods, streams, and grasslands? – AND can't be seen from the road (stated above).

4.7 (para a.2) – What is the definition of a non-residential subdivision? Provide explanations and examples.

4.7 (para a.2) – What is 'additional standards required by the town' refer to?

Additional ordinances? If so, please provide an example.

Section 5

5.1 (para a) – What is the point of providing 10 sets of documents to the board?

What will they be used for?

5.1 (para d) – Why was a 2-mile radius determined? What is the state's radius?

Does the WM Landfill follow this rule? As well as gravel pits and salvage yards?

5.1 (para d) – What if the value of the adjacent land within the 2-mile radius rises due to the project? Will the landowners reimburse the project for their increase in value?

5.1 (para f) – Financial Surety. What is going to be done with this money that is collected?

Section 6

6.1 – Violations. Who determined the amount of the fine? What is the state's violation law and amount?

6.8 – Severability. Who is liable for the court cost if the ordinance should go into court and deemed illegal?

I've read the plan and am ok with most of the plans and regulations, the exception is item # 5. in its entirety. I don't want government to create any more regulations then is necessary. The State and County regulations should be enough. I can't believe that you would ask any business to put up the cost of removal of a business before it is even up and running? That they have to pay 120% of the estimate cost to dismantle their business and they have 90 days to sell or remove the build(s). That someone 2 miles away can object to a property they can't see from their own property? What would have happened if Waste Management was required to meet the proposed plan? Would we have the low taxes that everyone enjoys? The good roads that the township now enjoys? The township should not be restricting future businesses.

I believe this item # 5 is in regard to the request to build a solar farm in the township and I do not have a problem with a farmer trying to increase his/her farm income. If the farmer meets all the State and County current land and building requirements, they should be able to do so. In the future we all will need and use more electricity. Adding more electric generation will keep our electric cost down and I believe reduce pollution and will not hurt the environment. I believe that the UW of Madison is doing and has done studies on the effects of a number of different solar farm design. I have not heard of any issues with them.

Having read through the entire Site Plan Ordinance Draft for our township, having had our questions answered, and with our understanding of the material, we feel this would be of benefit for the people of our township. We feel it explains the procedural process and guidance to work with the Comprehensive Plan to keep the natural beauty and integrity of our rural/agricultural township intact.

We appreciate all the time and effort that obviously has gone into this document.

The ordinance is very precise about the requirements for a subdivision much like the rural suburbs of Minneapolis.

What it does not seem to cover is someone building a single family house on their back forty for their kid.

What is the rule when it is another house on the farm acres?

Hello, just wanted to comment on the proposed site plan ordinance. Seems like a reasonable tool to help the town have a say in future development.

Perhaps this is a different topic but I'd like to see the definition of development to also include cutting/clearing land to greatly increase the size of fields. This kind of activity also changes the look and feel of our town.

I spoke with the Town Supervisor and explained that I would like to build a home on the 25-acre parcel behind my current residence and that my son also wants to build a home on that same parcel. He did not feel that there would be an issue with us doing that despite the new Site Plan Ordinance. I just wanted to reach out one more time and verify that we would be able to build two home sites on the 25-acre piece in the near future.

I appreciate the time and effort that has gone into this Draft Site Plan Ordinance. As someone who wants to preserve and improve the quality of life in the Town of Stubbs and Rusk County, I understand that achieving this may require tools such as the Draft Site Plan Ordinance. However, I also believe this should be done fairly, in conformance with the Comprehensive Plan, and that there must be a balance between land use regulations, individual property rights, and community interests.

As I reviewed the cover letter and draft Site Plan Ordinance, there were several items that jumped out at me immediately, and several more of concern after reviewing the documents and the 2019 Comprehensive Plan. There are other areas of specific concern throughout the draft Site Plan Ordinance that seem to be adequately covered by other laws or ordinances, are more restrictive than necessary, and may place an undue burden on the impacted party (ies) in the Town of Stubbs, including Town officials and staff. While some oversight and guidance is necessary to carry out the goals and objectives of the Comprehensive Plan, there must be consistency with the Comprehensive Plan. Goal #2, of the 2019 Comprehensive Plan, pg. 20, uses these words "... balance land use regulations with individual property rights with community interests." My concerns and comments are directed toward achieving that balance.

Section 1,

1.2 AUTHORITY

Please consider rewording this section. The phrase “police power” may be very alarming to anyone who is not familiar with “police powers” in the context of an ordinance. Yes, it is defined in a subsequent section of the document, but by that time, a negative tone has already clouded the intent of the document which purports to be drafted as guidance. If the Town has direct statutory authorization or has complied with the statutory requirements of the cited statutes, the Town does have the authority to enact ordinances, including those that are referred to as “police power ordinances”. The use of the words “police power ordinances”, without including other types of ordinances that are necessary and appropriate to carry out the intent of the Comprehensive Plan and the draft Site Plan, seems to infer that the Town’s intent is to create or classify the Site Plan Ordinance as a “police power ordinance”. While there may be some portions of the draft Site Plan Ordinance that have attributes of “police power ordinances”, there are other portions within the scope of other types of ordinances such as zoning.

Perhaps this section could be redrafted. Examples: “Pursuant to which the Town Board is authorized to enact ordinances for and on behalf of the public health, safety, general welfare, and convenience of the public that are necessary to carry out the goals and objectives of the Comprehensive Plan”, or “Pursuant to which the Town Board is authorized to enact ordinances, including police power ordinances, for and on behalf of the public health, safety, general welfare, and convenience of the public that are necessary to carry out the goals and objectives of the Comprehensive Plan”.

I assume the Town of Stubbs Ordinance exists that is needed for the authorization in Wis. Stats. 60.10(2)(c), It would also be helpful to include a cite, either in the text of this section or by footnote, the Town of Stubbs Ordinance that was passed to implement Wis. Stats. 60.10(2)(c).

1.3 SCOPE

The first sentence states it applies to all lands. However, the last sentence indicates it applies to new or expanded residential or non-residential development of four (4) or more acres. For clarity, it is suggested that this be reworded so it is clear that it only applies to lands in the Town of Stubbs that is a new or expanded residential or non-residential development of four (4) or more acres.

What is the rationale for selecting four (4) or more acres? Perhaps a larger acreage would be more appropriate as the minimum threshold. Are there already existing statutes or zoning ordinances with minimum thresholds that should be considered? I envision a land owner with 4 acres who wants to subdivide it into 2 parcels, and they would be required to

jump through additional hoops and steps to accomplish it. I also envision the same scenario for farmers who have owned property for years and want to subdivide into a parcel for their residence and several other parcels which was their retirement plan. Surely there are other options for a minimum threshold that better accomplishes a balance of land use regulations with individual property rights and the community interest. (2019 Comprehensive Plan, pg. 20)

1.4 INTERPRETATION

A.2. Private Covenants

The first sentence states the regulations are not intended to “abrogate”, yet the last sentence seems to state that if there is a conflict between such and the regulations, the more restrictive of them shall control. This may abrogate these agreements, and the concept of “reliance”, if the regulations are more restrictive than a previous agreement. Please review this and perhaps reword. .

E. Costs

What is “reasonable”? Guidance on making this determination would be extremely helpful. Without such, I anticipate that litigation may occur more often than necessary to determine what is “reasonable”. There is case law to draw on to provide a starting point or standard.

Section 2.

DEFINITIONS

Please include the definition of Development. In addition to defining Reasonable and Development there may be other definitions that would be helpful to the community/public and the Town.

Sections 3 – 5

Please review to assure that requirements that are more restrictive than State, County, or local requirements are necessary, not burdensome, and truly comply with the Comprehensive Plan.

Some of the items in these sections are likely better addressed by other types of ordinances and not “police power” ordinances; or by already existing law. The cost/benefit of this ordinance is also an area of concern: What will be the cost to the Town to fulfill additional responsibilities this appears to place on it?

LEGAL REVIEW OF SECTION 6 & 7 – BELOW – Is this just a note that was left in the draft

and will be removed?

OTHER ITEMS

1. What is the appeal process for denials?
2. Are there timelines for action to take place in section 3 – 5?
3. Is there a public input plan and where is it? There is a plan contained in the Comprehensive Plan but it appears to be specific to the Comprehensive Plan and not this process.
4. Page 17 or 17 indicates there may be an Appendix A. Is there a fee schedule, or is this a template and this language will be removed?
5. Cover Letter sent with Draft Site Plan Ordinance.

I have debated whether or not to include this concern, but feel this is relevant to this process. In the cover letter sent with the proposed draft ordinance it is stated that a professional planning firm was engaged by the Town in 2019 to assist with the update of the 2009 Comprehensive Plan. The cover letter then states “As a result, the Town was advised to develop a site plan ordinance to provide process, guidance and consistency with the Comprehensive Plan.” It’s possible I may have missed language in the Comprehensive Plan specifically stating the Town is advised to develop a site plan ordinance, but what I have found does not appear to rise to the level of advice or a requirement to develop a site plan. The following is stated on pg.35: 4.2.7 Land Use Action, #2: Consider adopting a local ordinance requiring a site plan for new development ... The Town may choose to develop a local site plan review ordinance (emphasis added). On the face of this statement, it appears to be a suggestion - not advice or a requirement. If the Town was advised outside of the Comprehensive Plan document, the Town’s disclosure to the public of the source of the advice and when, would add transparency and credibility to this process, as well as clarify the statement in the letter, which on its face appears to be an incorrect statement or misrepresentation. If not, it would seem that this action is being taken because the Town feels it needs or wants to enact the ordinance at this time. An action it is legally authorized to do as long it is done so in compliance with Wisconsin law. In that case, please take ownership of the decision to enact the ordinance, and do not infer that it is being done because the Town was advised to enact an ordinance.

The Town Board and Planning Commission may believe a Site Plan Ordinance is reasonable and necessary to carry out the goals and objectives of the Comprehensive Plan, but in doing so please be mindful of the need to balance all interests: land use regulations, individual property rights, and community interests.

Questions for attorney:

What is the benefit for the Town of Stubbs to adopt a site plan ordinance?

Why would the Town of Stubbs want to adopt a site plan ordinance?

How does the site plan ordinance compliment the comprehensive plan?

SCOPE -Option 1

This Ordinance applies to lands in the Town of Stubbs, County of Rusk, Wisconsin. Any new residential subdivision (as defined by Wis. Stat. 236) or new non-residential development of 4 acres or more shall obtain all necessary approvals before construction. NOTE: Properties exempt from this ordinance are those located within shoreland zoning; new or existing permitted quarries/gravel pits and the landfill (as shown on the existing and future land use maps in the Comprehensive Plan) The Town Board in cooperation with Rusk County shall be responsible to administer this Ordinance.

SCOPE- Option 2

This Ordinance applies to lands in the Town of Stubbs, County of Rusk, Wisconsin. Any new residential subdivision (as defined by Wis. Stat. 236- (subdividing land is the act of dividing a lot, parcel, or tract of land into five or more parcels that are 1.5 acres or less in size. This can be done by a single division or by multiple divisions over a five-year period) or new non-residential development of 4 acres or more shall obtain all necessary approvals before construction. NOTE: Properties exempt from this ordinance are those located within shoreland zoning; new or existing permitted quarries/gravel pits and the landfill (as shown on the existing and future land use maps in the Comprehensive Plan) The Town Board in cooperation with Rusk County shall be responsible to administer this Ordinance.