



N64W23760 Main Street
Sussex, Wisconsin 53089
Phone (262) 246-5200
FAX (262) 246-5222
Email: info@villagesussex.org
Website: www.villagesussex.org

AGENDA
JOINT MEETING PLAN COMMISSION AND VILLAGE BOARD
VILLAGE OF SUSSEX
THURSDAY, DECEMBER 15, 2016
6:30 P.M.
SUSSEX CIVIC CENTER- BOARD ROOM 2ND FLOOR

Pursuant to the requirements of Section 19.84, Wis Stats., notice is hereby given of a meeting of the Village of Sussex Plan Commission, at which a quorum of the Village Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held at the above noted date, time and location. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in attendance at the meeting: Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.)

1. Roll call.
 - A. Village Board
 - B. Plan Commission
2. Public Hearing
 - A. Public Hearing on an ordinance to rezone property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) approximately 33.15 acres with a temporary current zoning of RS-2 Single Family Residential District with Isolated Natural Resource Area, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area. The Petitioner is the property owners Thomas and Erika Ennen.
3. Consideration and possible action on the following:
 - A. Consideration and possible action on an Ordinance to rezone property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) with a temporary current zoning of RS-2 Single Family Residential District with Isolated Natural Resource, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area.
 1. Plan Commission recommendation.
 2. Village Board action.
 - B. Consideration and possible action on a Preliminary Plat for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue).
 1. Plan Commission action.
 2. Village Board action
 - C. Consideration and possible action on the Developers Agreement for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue).
 1. Plan Commission recommendation
 2. Village Board action.

4. Adjournment.

A. Plan Commission. Please note that following this joint meeting, the Plan Commission will proceed to its scheduled 7:30 PM public hearing, and the regularly scheduled Plan Commission meeting.

B. Village Board.

Greg Goetz
Chairperson

Jeremy Smith,
Village Administrator

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request service, contact Jeremy Smith at 246-5200.

NOTICE OF PUBLIC HEARING
VILLAGE OF SUSSEX

TAKE NOTICE that the Village Board and Plan Commission of the Village of Sussex, Waukesha County, Wisconsin, will hold a joint public hearing on December 15, 2016, at 6:30 p. m. at the Sussex Civic Center, N64W23760 Main Street, Sussex to hear comments from citizens on the following matter; an ordinance to rezone property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) approximately 33.15 acres with a current zoning of RS-2 Single Family Residential District with Isolated Natural Resource Area, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area. The Petitioner is the property owners Thomas and Erika Ennen.

A copy of the petition, map and proposed ordinance are available for review at the Sussex Civic Center, N64W23760 Main Street from 8:00 a.m. until 5:00 p.m., Monday through Friday and on our website at www.villagesussex.org.

This hearing shall be public and citizens and persons of interest shall then be heard.

By Order of the Village Board and
Plan Commission

Casen J. Griffiths
Village Clerk-Treasurer

PUBLISH: Sussex Sun 12/1 & 12/8



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Sussex, Wisconsin 53089
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MEMORANDUM

TO: Village Board and Plan Commission

FROM: Kasey Fluet, Assistant Development Director

RE: Joint Village Board and Plan Commission meeting of December 15, 2016

DATE: December 9, 2016

All Code Sections in this memo refer to the Sussex Municipal Code Chapter 17 version dated March 25, 2014 with subsequent amendments thereto.

01. Roll call.

02. Public Hearing.

03. Consideration and possible action on the following:

A. Consideration and possible action on an Ordinance to rezone property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) with a temporary zoning of RS-2 Single Family Residential District with Isolated Natural Resource, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area.

The temporary zoning of the parcel is RS-2 Single Family Residential and Isolated Natural Resource Area. The petitioner is requesting to permanently rezone the parcel to RS-2 Single Family with a Planned Development Overlay (PDO) and Isolated Natural Resource Area (INRA) to create a Single Family Subdivision.

The attachment for this parcel was approved by the Village Board on September 27, 2016. The zoning for this parcel of RS-2 Single Family Residential District with Isolated Natural Resource was given to match the Village of Sussex Land Use Map.

The PDO has been sought to allow greater protection of the trees and more separation from adjoining subdivisions. This Ordinance allows the street setback to be 30' instead of 40' and side yards to be 15' instead of 20' aimed at protecting the trees. The PDO also sets up the roadway width at 33', which is typical for new subdivisions to minimize speeding and also aimed at adding to greenspace.

An important factor is the density of the development. The plat has a density of 1.23 lots/acre, which is lower density than RS-2 (2.1 lots per acres) or RS-1 (1.7 lots/acre). The lots average 27,310, and if you exclude lot 24, the average is 25,909 square feet (again larger than RS-1 lots, which are 25,000 square feet or larger). The PDO is geared towards allowing a conservation subdivision, protecting as many trees as possible.

Surrounding Subdivision Densities

RS-2 PDO Woodside Ridge 1.56 lots per acre (Less dense than RS-1 Standard 1.75)

RS-2 Centennial Oaks 1.48 lots per acre (Less dense than RS-1 Standard 1.75)

RS-1 Pine Ridge 1.29 lots per acre (Less dense than RS-1 Standard 1.75)

RS-2 PDO (Hidden Hills) 1.23 lots per acre (Less dense than TS-1 Standard 1.25)

*CR-1 Majestic Heights .64 lots per acre (Less dense than CR-1 Standard of 1)

* This subdivision was started illegally in the Town of Lisbon and was built at Town (non-sewer and water) standards.

The developer will be addressing and treating several stormwater challenges. Stormwater currently enters the site and settles into Pine Ridge and the Lisbon pond from a portion of Centennial Oaks, Majestic Heights, Woodside School, and the Lisbon lots. This creates two challenges for Pine Ridge residents along the northern edge of the subdivision.

Pine Ridge problem #1: In a 100 year rain event on frozen ground some Pine Ridge homes could experience flooding

Pine Ridge problem #2: Through Pine Ridge home construction and lot owner changes to swales along the northern boundary lots, the water no longer flows through as designed and while unlikely to cause home flooding would result in standing water for longer periods of time.

The development will capture, divert, and treat a large portion of the stormwater flowing into Pine Ridge from other areas reducing the standing water issue, The developer through the construction of a new stormwater pipe bypass this water to the wetland complex down Maple Avenue eliminating the potential flooding problem for Pine Ridge that exists today.

The petitioner should address all the conditions as required in Section 17.0435 (D) of the PDO zoning Ordinance. The PDO is intended to allow for a more effective layout of lots given the goal of protecting a large area of trees and slopes occurring on the site.

Staff has prepared the Ordinance for your consideration at this meeting.

Policy Questions:

1. Are there any concerns with the rezoning Ordinance?
2. Are there any concerns with rezoning the parcel to RS-2 Single Family with PDO and INRA?

Action Items:

1. Act on the Ordinance.

Plan Commission - Staff Recommendation: Staff recommends the Plan Commission recommend to the Village Board to approve the Ordinance to rezone the property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) with a temporary current zoning of RS-2 Single Family Residential District with Isolated Natural Resource Area, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area subject to approval of the Preliminary Plat, Developer's Agreement, and payment of all fees and special assessments.

Village Board – Staff Recommendation: Staff recommends the Village Board approve the Ordinance to rezone property north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue) with a temporary current zoning of RS-2 Single Family Residential District with Isolated Natural Resource, to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area subject to approval of the Preliminary Plat, Developer’s Agreement, and payment of all fees and special assessments.

B. Consideration and possible action on a Preliminary Plat for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue).

The petitioner submitted the concept plan for this parcel at the September 15, 2016 Plan Commission meeting and prior to this meeting was the public hearing for the rezone of the property to a RS-2 Single Family Residential with a Planned Development Overly District and Isolated Natural Resource Area.

The Preliminary Plat creates a subdivision to include 39 single family house lots with existing house lot for a total of 40 lots. This is one less lot then previously presented at the Plan Commission as the developer looked to address the Plan Commission’s comments and set up more separation from Pine Ridge per their request.

Policy Questions:

1. Are there any concerns with the Plat?

Action Items:

1. Act on the Plat.

Plan Commission - Staff Recommendation: Staff recommends the Plan Commission approve the Preliminary Plat and recommend to the Village Board to approve the Preliminary Plat for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue), subject to the standard conditions of approval for Plats, final review and conditions by the Village Engineer, and subject to the standard conditions of Exhibit A.

Village Board – Staff Recommendation: Staff recommends the Village Board approve the Preliminary Plat for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue), subject to the standard conditions of approval for Plats, final review and conditions by the Village Engineer, and subject to the standard conditions of Exhibit A.

C. Consideration and possible action on the Developers Agreement for Hidden Hills Subdivision to be located north of Good Hope and east of Maple Avenue (W239N7542 Maple Avenue).

The Developers Agreement is part of the approval process for a new subdivision. The language in the agreement helps establish the responsibility of the developer and time frames to complete items. Please see the agreement for more information.

Policy Questions:

1. Are there any concerns with the Developers Agreement?

Action Items:

1. Act on the Developers Agreement.

Plan Commission - Staff Recommendation: Staff recommends the Plan Commission approve the Developers Agreement for Hidden Hills Subdivision and subject to the standard conditions of Exhibit A.

Village Board – Staff Recommendation: Staff recommends approval of the Developers Agreement for Hidden Hills Subdivision and subject to the standard conditions of Exhibit A.



REZONING PETITION

TO: The Honorable President and Members of the Village Board for the Village of Sussex

I (we), the undersigned, being the owner(s) of all the area herein described, hereby petitions the Village Board of the Village of Sussex, Wisconsin, to rezone the following described property:

Address: W239 N7542 Maple Avenue (approximately 33.15 acres)
(Please attach a legal description)

Current zoning: RS-2 Requested zoning: PDO Overlay

Purpose of rezoning:

To facilitate the concept plan and preliminary plat approval of the project.

Please provide the following:

Site Plan/Survey/Plot Plan, drawn to scale of one inch equals one hundred (100) feet, showing the area to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within two hundred (200) feet of the area proposed to be rezoned.

Needed at time of submittal:

Rezoning application fee of \$500.00

Signature of Thomas Ennen
Owner, Thomas Ennen

Signature of Erika Ennen
Owner, Erika Ennen

1478 W. Sand Pebble Dr
Oro Valley, AZ 85737
Address, City, St & Zip

1478 W. Sand Pebble Dr
Oro Valley, AZ 85737
Address, City, St & Zip

Contact Name : George B. Erwin, III Address: 2300 N. Mayfair Rd., #1175, Milwaukee, WI 53226

Phone #: (414) 258-4300 E-mail: gbe@sdelaw.com

For office use only

Payment received: 9/28/2016 Plan Commission recommendation:
Date filed with Village Clerk: Publish dates:
Public Hearing date: Village Board date:

REZONING EXHIBIT "B"

LEGAL DESCRIPTION:

That part of the Northwest 1/4 of the Southwest 1/4 of Section 14, Town 8 North, Range 19 East, Town of Lisbon, County of Waukesha, State of Wisconsin, bounded and described as follows:

Commencing at the Northwest corner of the Southwest 1/4 of said Section 14; Thence North 89°00'14" East along the North line of said Southwest 1/4 436.00 feet to the place of beginning of lands hereinafter described;

Thence continuing North 89°00'14" East along said North line 892.65 feet to a point on the West line of "Certified Survey Map No. 10450"; Thence South 00°16'06" West along said West line 1314.02 feet to a point on the North line of "Pine Ridge Subdivision"; Thence South 88°44'42" West along said North line and its extension 1323.29 feet to a point on the West line of said Southwest 1/4; Thence North 00°01'47" East along said West line 1.86 feet to a point; Thence North 88°30'47" East 435.58 feet to a point; Thence North 00°01'47" East 100.02 feet to a point; Thence North 00°23'13" West 161.35 feet to a point; Thence North 00°01'47" East 58.80 feet to a point; Thence North 67°32'13" West 213.84 feet to a point; Thence North 86°38'13" West 237.00 feet to a point on the West line of said 1/4 Section; Thence North 00°01'47" East along said West line 590.95 feet to a point; Thence North 89°00'14" East 436.00 feet to a point; Thence North 00°01'47" East 300.00 feet to the point of beginning of this description

Said Parcel contains 1,444,270 Square Feet (or 33.1559 Acres) of land, more or less.

Date: 10/5/2016



Andrew J. Miazga, P.L.S.
Professional Land Surveyor, S-2826
TRIO ENGINEERING, LLC
12660 W. North Avenue, Building "D"
Brookfield, WI 53005
Phone: (262)790-1480 Fax: (262)790-1481

**NARRATIVE IN SUPPORT OF
PETITION FOR PLANNED UNIT DEVELOPMENT
OVERLAY DISTRICT (PDO)**

Hidden Hills

Currently the Development has not adopted a specific name for the subdivision but for purposes of this presentation we will assume that it is Hidden Hills. The materials presented herewith are in support of a planned development overlay district designation for the project. The project consists of an approximately 33 acre site located on Maple Avenue. Total area is 33.15 acres; 32.58 acres after deducting for additional Maple Avenue right-of-way in connection with the development. The following provides general characteristics of the proposed subdivision:

- Total Area = 33.15 acres; 32.58 acres after deducting Maple Avenue right-of way
- Density = 1.26 lots/acre
- Proposed Zoning = Rs-2 PDO
- Minimum Lot Size = 20,000 s.f.
- Average Lot Size = 26,805 s.f. (excluding existing residence)
- Lot Width = 100' minimum
 - 110'+ width is typical
 - Lot width at cul-du-sacs = 90' min. at front setback; 100' at 40' from front lot line
- Setbacks:
 - Front = 30'
 - Side = 15'
 - Rear = 25'
- Area of Open Space/Tree Preservation Area = 8.3 acres

I. Relationship of Proposed PDO to Village's Adopted Master Plan

There are a number of matters in the Village's Master Plan which are impacted by the planned development district designation. The subject property includes woodlands. Under the cultural and natural resource portion of the Master Plan contemplated developments require an

inventory of existing trees. That ordinance was subsequently embodied in the tree preservation ordinance. The tree preservation ordinance will be complied with under the PDO.

Secondly, there are a number of housing and residential initiatives detailed in the Master Plan. They each recognize that the Village of Sussex is essentially surrounded by a number of existing communities and its borders are fixed. The growth that can be anticipated is based on a limited supply of land. The plan asserts that the future growth potential should be directed in a way that affords a number of housing options within the single family category. As housing develops away from the center of the Village, clustered subdivisions to minimize impact on the community's rural character and sensitive land are to be encouraged. The lot density should not jeopardize the health and safety or physically negatively effect surrounding manmade and natural environments. If there are subdivisions proposed in isolated natural resource areas, they should be designed in a way to preserve those portions of the land that are suitable to be preserved while maintaining the objective of facilitating growth needs for the future given the finite availability of future lands for development.

The comprehensive plan was codified by the Land Division and Development Chapter 18 and specifically codified under 18.0204 and titled land suitability. A land suitability analysis mandates that the Planning Commission determines suitability of lands by reason of flooding and adequate drainage, suitability of soils or unfavorable topography or slopes. At 18.0204(l), lands having a slope greater than 12 percent should be maintained as open space unless the Planning Commission finds that the lands may be graded or sloped below 12 percent through an approved Grading Plan. The intent of the Village embodied in the ordinance is to balance growth with protection of environmentally sensitive land. *The PDO sought for the subject land is in furtherance of the Planning Commission's objective of protecting and maintaining the slopes of lands greater than 12 percent.* The PDO as sought proposes (i) a 30 foot setback versus a 40 foot setback at the front lot line, (ii) a 90 foot width in cul-du-sacs versus a 100 foot width at setback, and finally (iii) a 60 foot right-of-way versus a 66 foot right-of-way. In all instances the effect of the PDO changes are to accomplish the following:

A. Maximize the tree preservation areas. By reducing the building pad by potentially bringing the homes closer to the road right-of-way, we expand and enhance the availability of lands suitable for tree preservation. As a result, more than one-fourth of the site would be held in tree preservation. This balances growth with protecting the environmental futures.

B. The reduced setbacks minimize the intrusion into slope areas.

C. The tree preservation promotes visual attractive development by ensuring a maximum tree canopy.

D. These changes facilitate the protection of the unique topography features of the site and preserves the old growth wooded areas.

Areas to be included in the PDO are all of the lands sought to be included in the subdivision. The proposed zoning of RS2 PDO would have minimum lot sizes of 20,000 square feet with an average lot size of 26,805 square feet. At 40 lots with an average price of home and lot package of \$650,000 would generate approximately \$28,000,000 in estimated value of the fully improved subdivision.

There would be a storm water feature which would be transferred to the Village to be maintained in the future.

Deed Restrictions would be put of record to ensure high quality development, and provide an enforcement mechanism to protect the tree preservation areas as well as compliance with other deed restrictions that are placed of record as approved by the Village. Individual home and lot packages would be developed pursuant to those deed restrictions. Those deed restrictions would anticipate homes at a *minimum* of 2200 to 2500 square feet single story and 2500 to 2800 square feet two story construction.

Appended hereto is a legal description of the boundary of the subject property included in the proposed PDO and its relationship with the surrounding property. The attached also includes the location of public and private roads, driveways and public facilities.

The proposed plat identifies the size, arrangement and location of individual building sites and proposed building sites in the subdivision.

The proposed plat identifies all open space areas and areas intended to be reserved and/or dedicated for public uses.

There are no architectural plans, elevation or prospective drawings associated with the design and character of proposed residential lots.

In summary the proposed planned development overlay district is consistent in all respects with the intent and purpose of the comprehensive plan in that it identifies and preserves lands that contain isolated natural resource features consisting of high slope and woodlands. The cluster type development minimizes intrusions within those high slope areas, provides for adequate drainage for surface and storm water, is accessible by public utilities, proposed public streets are suitable and meet the minimum standards of all applicable ordinances and administrative regulations of the Village.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George B. Erwin, III", is written over the typed name below it.

George B. Erwin, III

Brian Tetting

ORDINANCE NO. _____

AN ORDINANCE TO CONDITIONALLY REZONE
CERTAIN LANDS IN THE VILLAGE OF SUSSEX FROM
RS-2 SINGLE FAMILY RESIDENTIAL DISTRICT WITH
ISOLATED NATURAL RESOURCE AREA,
TO
RS-2 SINGLE FAMILY DISTRICT WITH A
PLANNED DEVELOPMENT OVERLAY DISTRICT AND
ISOLATED NATURAL RESOURCE AREA

WHEREAS: A petition has been filed by Thomas and Erika Ennen (“Petitioners”) of certain lands in the Village of Sussex to rezone said properties as described in Exhibit A attached hereto and incorporated herein (“Subject Properties”); and

WHEREAS: Said rezoning petition was submitted to rezone the subject properties to RS-2 Single Family Residential District with a Planned Development Overlay District and Isolated Natural Resource Area as described on Exhibit A; and

WHEREAS: The Petitioner has supplied all required data pursuant to the Village of Sussex Zoning Code; and

WHEREAS: Upon due notice as required by Section 17.1300 of the Village Code, the Village Board and Plan Commission held a joint public hearing on December 15, 2016, as required by Section 17.0435(C)(4) of the Village Code; and

WHEREAS: The Plan Commission has reviewed the basis for approval described in Section 17.0435(D) of the Village Code and has made the following findings, subject to all terms and conditions of this zoning ordinance being satisfied:

1. That the petitioners for the proposed Planned Development Overlay District have indicated that they intend to begin the physical development of the PDO within nine (9) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.
2. That the proposed Planned Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance; is in conformity with the adopted master plan or any adopted component thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the community.
3. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.

4. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
5. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
6. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
7. Public water and sewer facilities shall be provided.
8. The entire tract or parcel of land to be included in a Planned Development Overlay District is held under single ownership.
9. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
10. The total net residential density within the Planned Development Overlay District will be compatible with the Village master plan or component thereof.
11. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
12. Adequate, continuing fire and police protection is available.
13. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
14. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.

WHEREAS: The Village Plan Commission of the Village of Sussex has recommended to the Village Board of the Village of Sussex that said zoning change be made upon certain conditions; and

WHEREAS: The Village of Sussex has reviewed the basis for approval of the petition described in Section 17.0435(D) of the Village Code, and concurs with the Village Plan Commission, and makes the same findings, subject to all terms and conditions of this zoning ordinance being duly satisfied as required herein; and

WHEREAS: The Village Board of the Village of Sussex having carefully reviewed the recommendation of the Plan Commission of the Village of Sussex, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others hereby determine that the rezoning will not violate the spirit or intent of the Zoning Code for the Village of Sussex, will not be contrary to the public health, safety or general welfare of the Village of Sussex, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendation found in the Village of Sussex master plan.

NOW, THEREFORE, the Village Board of the Village of Sussex, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1: The subject property as described on **Exhibit A** is hereby rezoned to RS-2 Single Family Residential District with a Planned Development Overlay District and Isolated Natural Resource Area and the Zoning Map of the Village of Sussex is hereby amended, subject to the terms and conditions described herein.

SECTION 2: The above rezoning and zoning map amendment is conditioned upon the following conditions, which must be complied with or this ordinance is null and void:

1. Presentation Compliance. The subject property must be developed in substantial conformity with the plans presented to the Plan Commission on December 15, 2016 and in substantial conformity with the presentation at the joint public hearing with the Plan Commission and Village Board on December 15, 2016 as presented shall be attached hereto and incorporated herein as **Exhibit B.**
2. Preliminary and Final Plat Conditions. The Petitioner shall submit and receive all necessary approvals for a preliminary plat and a final plat, and shall satisfy all conditions of the same.

3. Lot Sizes. Will not be less than 20,000 square feet with a width of each lot being 100 feet. For cul-de-sacs lot width to be 90 feet at 30 feet front setback and 100 feet width at 40 feet from front lot line for cul-de-sacs presented shall be attached hereto and incorporated herein as **Exhibit B**.
4. Setbacks. *Street yard setbacks are not less than 30 feet from lot line and* Side yard setbacks are not to be less than 15 feet from lot line as presented.
5. Road Width. The Public Road widths shall be 33' measured back of curb to back of curb. The Plan Commission and Village Board find that this width is appropriate to provide safe and convenient access in accordance with this neighborhood plan, 18.0701 and 18.0703 of the Village Code.
6. Special Assessment. The payment of outstanding special assessments owed on this property must be paid in full prior to starting any site work.
7. Construction Sequencing Plan. Subject to the Developer submitting to and receiving approval from the Village Engineer a construction sequencing plan to ensure safe and adequate construction development of the site for public safety access, utility development, and customer access at all times.
8. Housing Monotony Clause. As required in the Village Design Standards and Chapter 17 Section 17.1002 (B)(2), no building shall be permitted that design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates monotony or drabness.
9. Required Plans and Engineer Satisfaction. Subject to the Petitioner submitting to and receiving written approval from the Village Plan Commission of all of the following plans for the entire subject property, prior to the rezoning ordinance taking effect. Said plans shall satisfy all comments, conditions, and concerns of the Village Engineer.
 - A. Utility Plans for the entire site including any necessary utility extensions or oversizing necessary to properly connect the development site's utilities with the Village system. Including, but not limited to:
 1. Sewer System Plans
 2. Water System Plans
 3. Storm water Management Plans with the appropriate maintenance requirements and outlots.
 - B. Master Street Lighting Plan for the entire site.
 - C. Sidewalk for the entire site shown on the plat including location, width, and materials of the sidewalks.

- D. Street Tree Plan and landscape plan for common areas and buffer between existing residential homes including necessary easements for ongoing maintenance by homeowners association.
 - E. Tree Mitigation and Preservation Plan and payment of any fees associated with said plan, and the proper deed restriction in a form approved by the Village Attorney being placed against said lots where the trees and soil are to be left preserved according to said plan.
9. Developer's Agreement. Prior to development of the Subject Property or any portion thereof, the Developer of the Subject Lands or portion thereof is required to enter into a Developer's Agreement as approved by the Village prior to the approval of permits for grading and start of construction.
 10. Professional Fees. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this rezoning petition, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional rezoning ordinance due to a violation of these conditions.
 11. Payment of Charges. Any unpaid bills owed to the Village by the owner of subject lands or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village: shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of billing by the Village, pursuant to Section 66.0627. Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional rezoning ordinance that is subject to all remedies available to the Village, including possible cause for termination of the conditional rezoning ordinance.
 12. Acceptance. Subject to the petitioner approving in writing the issuance of the conditional rezoning ordinance, and that the petitioner understands and accepts the same, and that upon failure to satisfy these conditions, this conditional rezoning ordinance is void, and the same is deemed not to have been approved, and the Petitioner will therefore need to re-commence the application process for rezoning of the property.
 13. One Year to Satisfy Conditions. Subject to the petitioner satisfying all of the aforementioned conditions within one year of the Village Board adopting this conditional rezoning ordinance. The Village Board may grant additional time solely at the discretion of the Village Board upon request for an extension by the Developer.

SECTION 3: The Village Engineer is hereby authorized and directed to note this rezoning on the Official Zoning Map of the Village of Sussex upon successful development of the property and satisfaction of all conditions in section 2 of this Ordinance.

SECTION 4. SEVERABILITY. The several sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of the court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portions thereof the ordinance which shall remain in full force and effect. Any other ordinances are hereby repealed as to those terms that conflict.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this _____ day of _____, 2016.

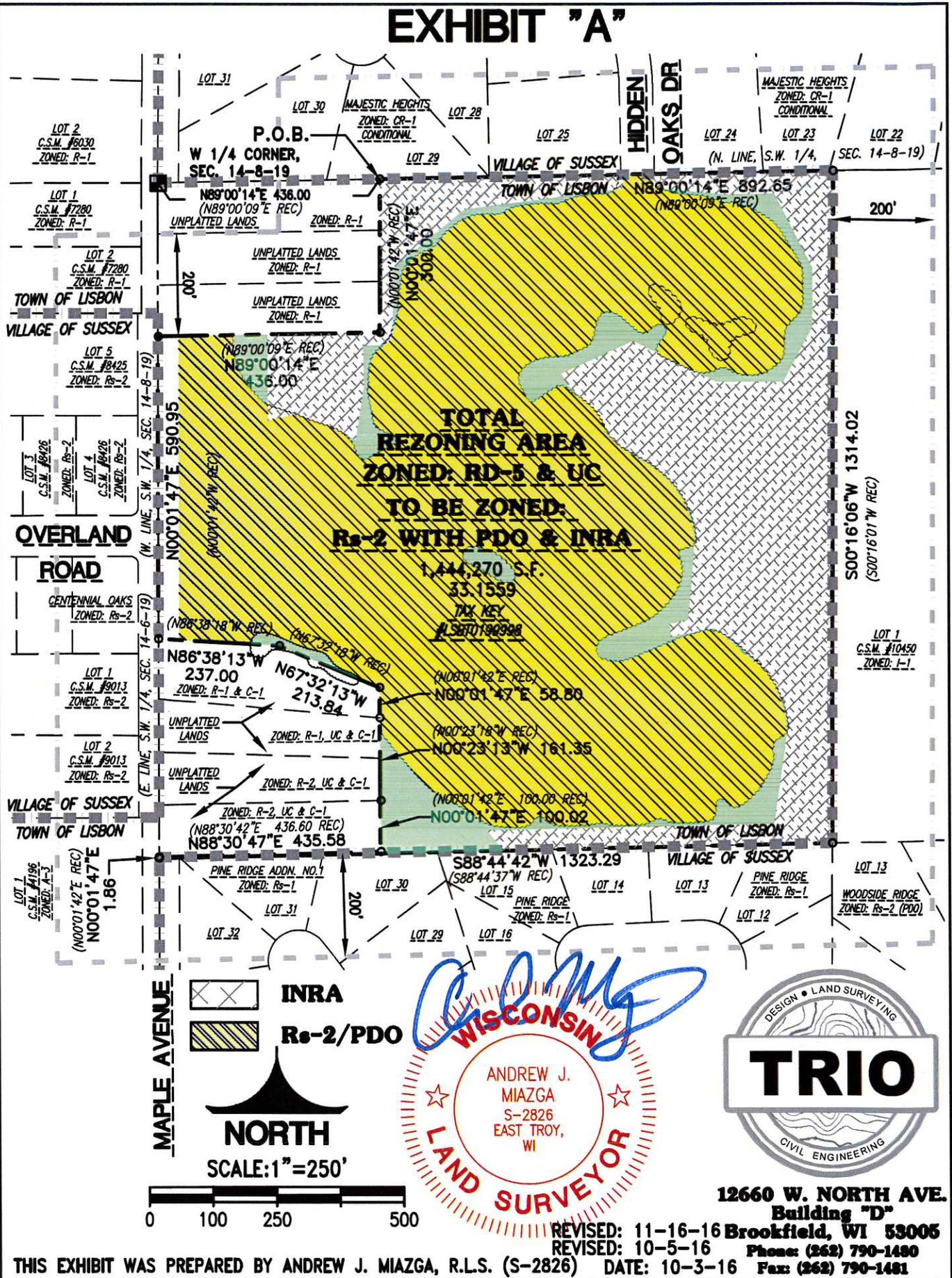
VILLAGE OF SUSSEX

Gregory L. Goetz
Village President

ATTEST: _____
Casen J. Griffiths
Village Clerk-Treasurer

Published and/or posted this _____ day of _____, 2016.

EXHIBIT "A"



Andrew J. Miazga

ANDREW J. MIAZGA
S-2826
EAST TROY, WI
LAND SURVEYOR



12660 W. NORTH AVE.
Building "D"
Brookfield, WI 53005

REVISED: 11-16-16
REVISED: 10-5-16
DATE: 10-3-16

THIS EXHIBIT WAS PREPARED BY ANDREW J. MIAZGA, R.L.S. (S-2826)

Phone: (262) 790-1480
Fax: (262) 790-1481

EXHIBIT "A"

LEGAL DESCRIPTION:

That part of the Northwest 1/4 of the Southwest 1/4 of Section 14, Town 8 North, Range 19 East, Town of Lisbon, County of Waukesha, State of Wisconsin, bounded and described as follows:

Commencing at the Northwest corner of the Southwest 1/4 of said Section 14; Thence North 89°00'14" East along the North line of said Southwest 1/4 436.00 feet to the place of beginning of lands hereinafter described;

Thence continuing North 89°00'14" East along said North line 892.65 feet to a point on the West line of "Certified Survey Map No. 10450"; Thence South 00°16'06" West along said West line 1314.02 feet to a point on the North line of "Pine Ridge Subdivision"; Thence South 88°44'42" West along said North line and its extension 1323.29 feet to a point on the West line of said Southwest 1/4; Thence North 00°01'47" East along said West line 1.86 feet to a point; Thence North 88°30'47" East 435.58 feet to a point; Thence North 00°01'47" East 100.02 feet to a point; Thence North 00°23'13" West 161.35 feet to a point; Thence North 00°01'47" East 58.80 feet to a point; Thence North 67°32'13" West 213.84 feet to a point; Thence North 86°38'13" West 237.00 feet to a point on the West line of said 1/4 Section; Thence North 00°01'47" East along said West line 590.95 feet to a point; Thence North 89°00'14" East 436.00 feet to a point; Thence North 00°01'47" East 300.00 feet to the point of beginning of this description

Said Parcel contains 1,444,270 Square Feet (or 33.1559 Acres) of land, more or less.

Date: 10/5/2016

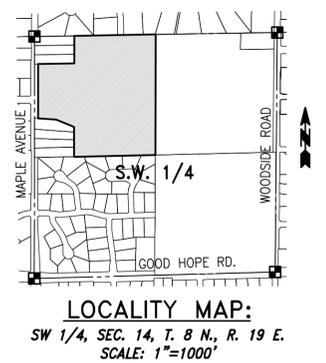
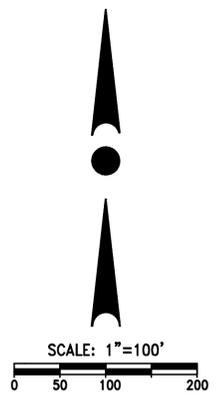
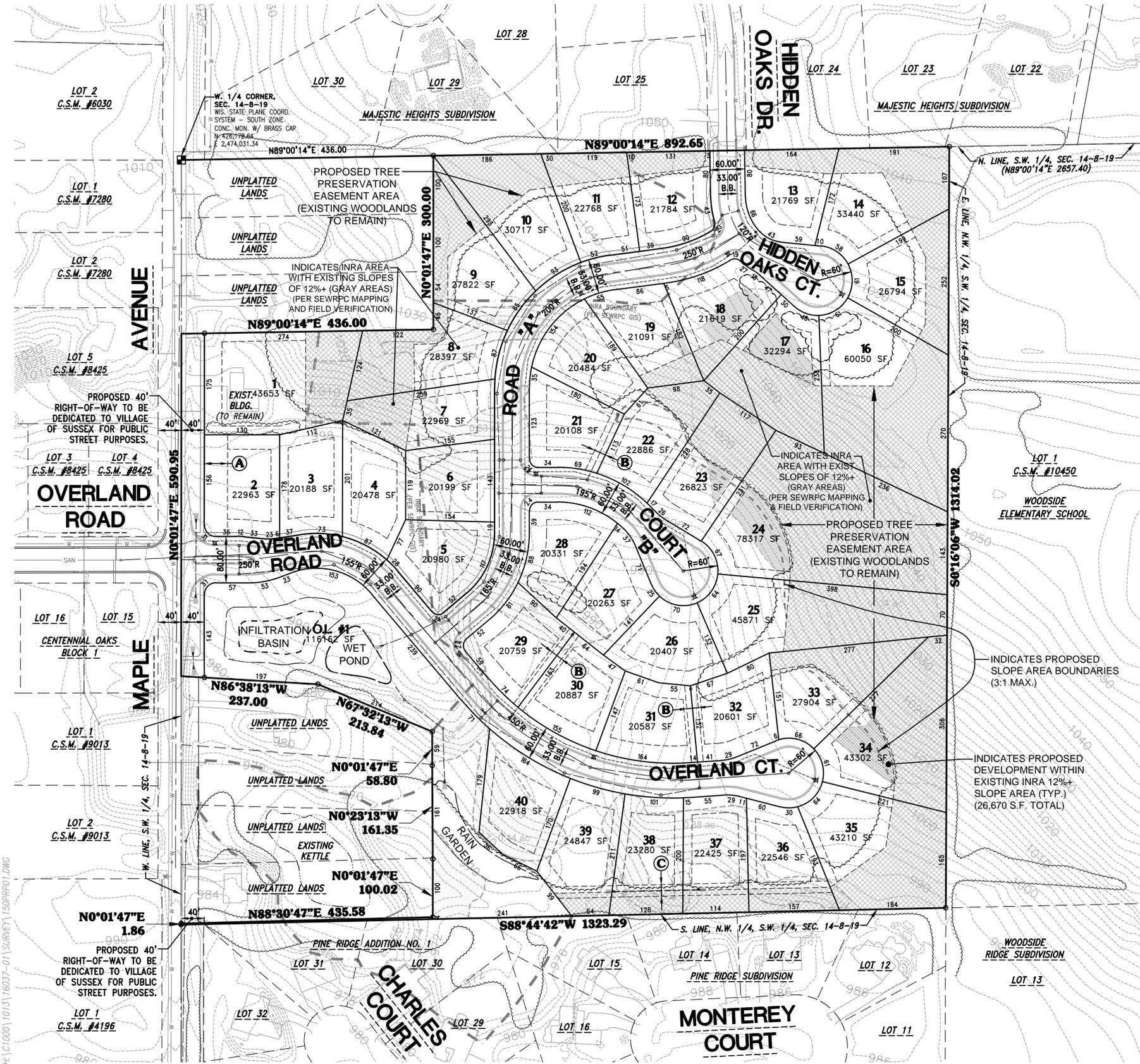
Revision Date: 11/16/2016



Andrew J. Miazga, P.L.S.
Professional Land Surveyor, S-2826
TRIO ENGINEERING, LLC
12660 W. North Avenue, Building "D"
Brookfield, WI 53005
Phone: (262)790-1480 Fax: (262)790-1481

PRELIMINARY PLAT OF HIDDEN HILLS SUBDIVISION

BEING A PART OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 14, TOWN 8 NORTH, RANGE 19 EAST,
IN THE VILLAGE OF SUSSEX, WAUKESHA COUNTY, WISCONSIN.



EASEMENT LEGEND:

- (A) 40' WIDE LANDSCAPE EASEMENT
- (B) 20' WIDE (UNLESS OTHERWISE NOTED) PUBLIC STORM SEWER AND DRAINAGE EASEMENT
- (C) 20' WIDE PRIVATE STORM SEWER AND DRAINAGE EASEMENT

DEVELOPMENT SUMMARY

Clustered Conservancy
39 lots + Existing Residence = 40 lots
Total Development Area = 32.61 acres
Density = 1.23 lots/ac
Minimum Lot Area = 20,000 s.f.
Average Lot Size = 27,310 s.f. (excluding Existing Residence)

Total Road Length = 3,060 l.f. (76.5 l.f./lot)

Site Summary

- Proposed Zoning: Rs-2 PDO
- Village of Sussex
- Design Criteria:
 - Lot Area = 20,000 s.f. (minimum)
 - Lot Width = 100' minimum
 - Lot Width at cul-de-sacs = 110' typical
 - 90' width at 30' front setback
 - 100' width at 40' from front lot line
- Setbacks:
 - Front = 30'
 - Side = 15'
 - Rear = 25'

- DEVELOPMENT SUMMARY:**
1. Tax Key No. LS8T0199998
 2. Subdivision contains approximately 33,155 Acres.
 3. Subdivision contains 40 Lots and 1 Outlot.
 4. All lots to be served by Sanitary Sewer and Watermain.
 5. Public Roads to have Concrete Curb and Gutter, Asphalt Pavement with Storm Sewer.
 6. All lots to have Underground Telephone, Electric, and Gas Service.
 7. Zoning = Rs-2 PDO
 8. Stormwater Management Facilities are located on Outlot 1 of this Subdivision. Outlot 1 shall be owned and maintained by the Village of Sussex.

TREE PRESERVATION EASEMENT RESTRICTIONS:

The Tree Preservation Easement areas shall be subject to the following restrictions:

1. The removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses, etc. is prohibited, with the exception that dead, diseased or dying vegetation may be removed, at the discretion of the landowner and with approval from the municipality in which this land is located. Silvicultural thinning, upon the recommendation of a forester or naturalist and with approval from the municipality in which this land is located, shall also be permitted. The removal of any vegetative cover that is necessitated to provide access or service to an approved residence or accessory building, shall be permitted only when the access or service cannot be located outside of the Tree Preservation Easement and with the approval of the municipality in which this land is located.
2. Grading, filling and removal of topsoil or other earthen material are prohibited unless specifically authorized by the municipality in which this is located.
3. The introduction of plant material not indigenous to the existing environment is prohibited unless specifically authorized by the municipality.

SLOPE DISTURBANCE

PROPOSED DEVELOPMENT WITHIN 12%+ SLOPE INRA [AREA = 26,670 S.F. TOTAL]

ISOLATED NATURAL RESOURCE AREA

Onsite INRA Area = 25.07 acres
Existing INRA Area with 12%+ Slopes = 8.3 acres
Proposed Tree Preservation Easement Area = 8.3 acres

HORIZONTAL DATUM PLANE:

All bearings are referenced to Grid North of the Wisconsin State Plane Coordinate System, South Zone (NAD-27), in which the North line of the S.W. 1/4 of Section 14, Town 8 North, Range 19 East, bears North 89°00'14" East.

VERTICAL DATUM PLANE:

All elevations are referenced to the National Geodetic Vertical Datum of 1929. Topography shown herein is per Waukesha County GIS digital files.

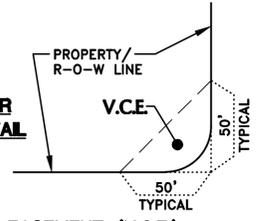
AGENCIES HAVING THE AUTHORITY TO OBJECT:

- State of Wisconsin, Department of Administration
- Waukesha County, Department of Parks and Land Use

APPROVING AUTHORITY:

- Village of Sussex

VISION CORNER EASEMENT DETAIL



VISION CORNER EASEMENT: (V.C.E.)

Corner lots & outlots are herein subject to a Vision Corner Easement in that nothing may be grown, stored or erected to a height more than two feet above ground surface.

LEGEND

- (Symbol) INDICATES SOIL BORING LOCATION
- (Symbol) INDICATES PROPOSED FIRE HYDRANT
- (Symbol) INDICATES EXISTING WATERMAIN
- (Symbol) INDICATES PROPOSED WATERMAIN
- (Symbol) INDICATES EXISTING SANITARY SEWER
- (Symbol) INDICATES PROPOSED SANITARY SEWER
- (Symbol) INDICATES EXISTING STORM SEWER
- (Symbol) INDICATES PROPOSED STORM SEWER
- (Symbol) INDICATES EXISTING CONTOUR

DEVELOPER:
GEORGE B. ERWIN, III
2300 N. MAYFAIR ROAD, STE 1175
MILWAUKEE, WISCONSIN 53266
PHONE: (414) 258-4300
FAX: (414) 258-5487

ENGINEER / SURVEYOR:
TRIO ENGINEERING, LLC
12660 W. NORTH AVENUE, BLDG D
BROOKFIELD, WISCONSIN 53005
PHONE: (262) 790-1480
FAX: (262) 790-1481

SURVEYOR'S CERTIFICATE:

I hereby certify that this preliminary plat is a correct representative of all existing land divisions and features and that I have fully complied with the provisions of the subdivision and platting code of the Village of Sussex.

Date: 09-30-16
Revised: 11-30-16



Andrew J. Miazga, R.L.S.
Surveyor Registration Number S-2826
TRIO ENGINEERING, LLC
12660 W. North Avenue, Building D
Brookfield, WI 53005
Phone: (262)790-1480 Fax: (262)790-1481



PROJECT:
HIDDEN HILLS SUBDIVISION
SINGLE FAMILY RESIDENTIAL SUBDIVISION
VILLAGE OF SUSSEX, WISCONSIN
BY: GEORGE B. ERWIN, III
2300 NORTH MAYFAIR ROAD
MILWAUKEE, WISCONSIN 53266

REVISION HISTORY

DATE	DESCRIPTION
11/30/2016	40-LOT SITE UPDATES
9/30/2016	VILLAGE SUBMITTAL

DATE:
NOVEMBER 30, 2016

JOB NUMBER:
16037

DESCRIPTION:
PRELIMINARY PLAT

SHEET

H:\1000\1013\16037-01\SURVEY\150PRP01.DWG

DEVELOPER'S AGREEMENT FOR

**The Hidden Hills
Single Family Development**

VILLAGE OF SUSSEX, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of _____, 2016,
between _____ a Wisconsin-based limited liability
corporation, with offices at _____,
hereinafter called "DEVELOPER", and the VILLAGE of Sussex in the County of
Waukesha and the State of Wisconsin, hereinafter called the "VILLAGE".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the VILLAGE, said
land being described on **EXHIBIT A** attached hereto and incorporated herein,
hereinafter called "SUBJECT LANDS"; and

WHEREAS, the DEVELOPER desires to divide and develop the SUBJECT
LANDS for residential purposes by use of the standard regulations as set forth in
Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land
division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a
condition of approval, the governing body of a municipality within which the
SUBJECT LANDS lie may require that the DEVELOPER make and install any
public improvements reasonably necessary and/or that the DEVELOPER provide
financial security to ensure that the DEVELOPER will make these improvements
within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned RS-2 Single
Family, with a Planned Development Overlay District and Isolated Natural
Resource Area, under rezoning ordinance No. _____ shown as **EXHIBIT B** which
allows the above-described development; and

WHEREAS, the DEVELOPER may be required to grant additional easements over a part of the SUBJECT LANDS for sanitary sewer, storm sewer, water, and sidewalks; and

WHEREAS, the DEVELOPER and VILLAGE desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the VILLAGE, provided that said public improvements are constructed to municipal specifications, all applicable government regulations, this agreement and as required by the VILLAGE Engineer, without cost to the VILLAGE; and

WHEREAS, this agreement is necessary to implement the VILLAGE zoning and land division ordinances; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the VILLAGE Plan Commission and VILLAGE Board, conditions of certain agencies and individuals in the County, all VILLAGE ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission of the VILLAGE of Sussex has given conditional Preliminary Plat approval to the development, as shown on the document marked "Preliminary Plat" as **EXHIBIT C** and on file in the VILLAGE Clerk's office, conditioned in part upon the DEVELOPER and the VILLAGE entering into a DEVELOPER's Agreement, as well as other conditions as approved by the VILLAGE Board; and

WHEREAS, the DEVELOPER will soon be seeking from the Plan Commission and VILLAGE Board of the VILLAGE of Sussex Final Plat approval upon completion of the required improvements for the development as shown in **EXHIBIT D**, which shall be attached as approved, if it is.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by VILLAGE ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS

A. **PUBLIC STREETS AND SIDEWALKS**: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all public street and sidewalk plans are in conformance with all federal, state, county and VILLAGE specifications, regulations and ordinances, and written proof from the VILLAGE Engineer evidencing review and approval of said plans.
2. The DEVELOPER shall grade and install all planned public streets and sidewalks in accordance with the Preliminary Plat, approved development plan of said subdivision, or Final Plat as the case may be and the plans and specifications on file in the VILLAGE Clerk's office.
3. Construction of the public streets and sidewalks providing access to and fronting a specific Lot will be completed, presented and accepted by the VILLAGE Board through the first lift of asphalt before any building permits are issued for said Lot.
4. The first lift of asphalt on the public streets and the sidewalk for Phase 1 of the Development shall be completed and presented to the VILLAGE Board no later than November 1, 2017, or as extended by the VILLAGE Board. The first lift of asphalt on the public streets and the sidewalk for Phase 2 of the Development shall be completed and presented to the VILLAGE Board no later than November 1, 2018, or as extended by the Village Board.
5. The final lift of asphalt shall be placed on all public streets after at least one winter season, but the stated goal shall be for the final lift not to be placed until 85% of the homes in a phase have permit issued, but in no event later than two (2) winter seasons. Notwithstanding the foregoing, the VILLAGE Board may require placement of the final lift at an earlier date if it determines in its discretion that it is necessary or appropriate to do so.

6. The DEVELOPER shall maintain public streets, sidewalks, and paths, including snowplowing, unless otherwise approved by the VILLAGE Administrator, until accepted by resolution by the VILLAGE Board. Once the first lift of asphalt is established VILLAGE will provide snowplowing service for the public roadways and DEVELOPER shall pay VILLAGE at a rate of \$250 per hour for said plowing service to ensure the roadway is open and safe for public and emergency access until the roadway is accepted by resolution by the VILLAGE Board. The VILLAGE shall provide snow plowing service in a manner consistent with that of the rest of the Village and shall in no way be responsible to DEVELOPER for any damage caused to infrastructure by snow plow operations. The DEVELOPER shall properly ramp any manholes prior to November 1 of each year to ensure safe snow plow operations. The rate per hour for snow plowing shall remain the same through January 1, 2018 and shall increase 3% annually each year thereafter. During construction sidewalks shall be blocked and labeled with signage saying "closed during construction." Sidewalks shall be maintained by the DEVELOPER once the first home occupancy is granted within the area designated for sidewalk.

7. The DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Said "as-builts" shall be on reproducible Mylar and digital file, and shall include data as set forth in the VILLAGE Development Requirements.

8. Contractors working on the development or on individual buildings are required to clean up all mud, dirt, stone or debris on the streets, sidewalks, and paths no later than the end of each working day. In addition, the DEVELOPER shall have ultimate responsibility for cleaning up any and all mud, dirt, stone or debris on the streets until such time as the final lift of asphalt has been installed by the DEVELOPER and accepted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for placing the mud, dirt, stone or debris on the street, sidewalk, and path, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the streets, sidewalk, and path within twenty-four (24) hours after receiving a notice from the VILLAGE. If said mud, dirt, stone or debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER's and/or subject property owner's expense, at the option of the VILLAGE.

9. An Easement, attached as **Exhibit E**, hereinafter known as the “Sidewalk Easement” shall be established over the public sidewalks to the maximum extent of 10 feet off of the edge of the sidewalk towards the Lot where said area falls outside of the proposed right-of-way area to ensure the VILLAGE is able to repair the sidewalk.

10. DEVELOPER is permitted to have a roadway width of 33’ back of curb to back of curb for the DEVELOPMENT. Said roadway width is narrower than the Village standard width of 35’ back of curb to back of curb. DEVELOPER shall provide the normal 60’ right of way for all proposed local roadways. Said narrowed roadway enhances the DEVELOPMENT, providing for more greenspace for the subject lands and creates a better atmosphere for the development along with providing cost reductions, which benefit the DEVELOPER. The narrowed roadways shall require parking to be allowed on one side of the street only, which the VILLAGE shall establish on the roads.

11. Storm Water Offsite. DEVELOPER is required to install storm water facilities on and offsite which address regional storm water issues. The cost shall be paid by DEVELOPER but the VILLAGE shall reimburse \$11,520 as and for its contribution for the regional upgrade.

B. SANITARY SEWER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans.

2. To construct, furnish, install and provide a complete sewerage system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.

3. To clean all sanitary sewers in the SUBJECT LANDS prior to acceptance of the improvements and issuance of building permits by the VILLAGE of Sussex.

4. To furnish "as-built" plans of the sanitary sewage system for the SUBJECT LANDS, including locations of laterals to lot lines, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of building permits.

5. To televise the sanitary sewer system for the SUBJECT LANDS, repair any defects as determined by the VILLAGE Engineer, supply the video tape to the VILLAGE of Sussex, and clean all sewer lines prior to the issuance of building permits and acceptance of the improvements by the VILLAGE.

6. That no building permits shall be issued until the sanitary sewer system for of the SUBJECT LANDS has been dedicated to and accepted by the VILLAGE.

C. WATER: The DEVELOPER hereby agrees:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans.

2. To construct, furnish, install and provide a complete water system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of water systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.

3. The DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Subject to intellectual property rights, said "as built" plans shall be on reproducible Mylar and digital file, and shall include field locations of hydrant valves and curb stops, if any.

4. That no building permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to and accepted by the VILLAGE. The VILLAGE may require that parts or all of the water system for the SUBJECT

LANDS be installed, dedicated, and approved prior to the issuance of any building permits for any phase to ensure that the system will function properly.

5. In conjunction with the final lift of asphalt in each phase the Hydrants shall be sandblasted and repainted at DEVELOPER's cost to address damage done to the paint of the Hydrant by DEVELOPMENT and Home construction.

D. SURFACE AND STORM WATER DRAINAGE: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all surface and storm water drainage facilities and erosion control plans are in conformance with all federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and written proof that the VILLAGE Engineer, DNR, and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, have reviewed and approved said plans.

2. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and storm water drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and where appropriate from adjacent property, in accordance with all plans and specifications on file in the VILLAGE Clerk's office, and all applicable federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, including where necessary as determined by the VILLAGE Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/ detention basins.

3. The DEVELOPER agrees that the site grading and construction of surface and storm water drainage facilities shall be completed and accepted by the VILLAGE before any building permits are issued.

4. To maintain roads free from mud and dirt from construction of the development.

5. The VILLAGE Board will not accept the surface and storm water drainage system until the entire system serving a given phase is installed and landscaped in accordance with plans and specifications to the satisfaction of the VILLAGE Engineer.

6. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits and acceptance of improvements by the VILLAGE Board.

7. The VILLAGE retains the right to require DEVELOPER to install additional surface and storm water drainage measures if it is determined by the VILLAGE Engineer that the original surface and storm water drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.

8. The DEVELOPER shall establish the stormwater facilities within outlots that the Village shall maintain but only according to a Stormwater Facility Maintenance Agreement, attached herein as **EXHIBIT F** and hereinafter known as the "SFMA". The SFMA shall state that the VILLAGE shall agree to maintain the stormwater management facilities in the Development except for specific annual maintenance activities such as grass mowing, etc.; which shall be spelled out in the SFMA. DEVELOPER shall provide the necessary easement hereinafter known as the "2017 Stormwater Easement" and attached herein as **EXHIBIT F-1** for any stormwater facilities that are located outside of the right-of-way or have the necessary maintenance zone outside of the right-of-way, which shall also be addressed in depictions and in language on the Plat.

9. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of building permits.

E. GRADING, EROSION AND SILT CONTROL: The DEVELOPER hereby agrees that:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of

Natural Resources, if applicable, and written proof that the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, and the Army Corps of Engineers, if applicable, have approved said plans.

2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the VILLAGE Engineer, the Waukesha County Department of Park and Land Use, Land Resources Division, and Army Corps of Engineers, if applicable.

3. All disturbed areas shall be restored to the satisfaction of the VILLAGE Engineer within seven (7) days of disturbance. Any cash or letter of credit posted with the VILLAGE will not be released until the VILLAGE Engineer is satisfied that no further erosion measures are required.

F. LANDSCAPING AND SITE WORK: The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainage ways, building foundation sites, private driveways, paths and trails by use of sound conservation practices as specified in the Tree Mitigation Plan and Landscape Plan attached herein as **(EXHIBIT G and G-1)**. Areas in the Site are identified as Tree Preservation Area and shall be maintained in forested and natural condition pursuant to a deed restriction showing the area to remain as such with language specifically approved by the Village Attorney for the same to ensure the site retains the forested canopy as called for in the mitigation plan. The Developer shall also pay the VILLAGE \$100,000 for tree removal per the maximum requirement under Village Ordinance and policy subject to any offset to be credited in the event additional plantings are required by SEWRPC and such additional plantings in comparison to the tree removals causes the mitigation to fall below the \$100,000 cap. Any credit shall require Park Board review and approval. Said payment shall be made prior to grading permits being issued to start construction.

2. The DEVELOPER, as required by the VILLAGE, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the VILLAGE Engineer prior to the issuance of any building permits.
4. The DEVELOPER has delineated the site and there are no wetlands that are on the Property.
5. The VILLAGE has the right to trim and remove any features which would interfere with safe operation and maintenance of the VILLAGE right-of-ways and drainage ways.
6. The Association formed by DEVELOPER under the Deed Restriction shall ensure individual lot owners maintain the landscaping separating the Pine Ridge and Majestic Heights Subdivision. Furthermore any landscape area within the right of ways shall be depicted with proper easement and maintenance requirements on the Plat so that the homeowners association has the obligation to maintain those areas in perpetuity.
7. The DEVELOPER shall establish Street Trees per the Street Tree Plan attached as **Exhibit G-2**. The Street Trees shall be established only within the appropriate times per year as listed on the plan and the trees shall not be installed until construction activity is completed in the area as determined by the VILLAGE to avoid damage from construction. The Village acknowledges that the DEVELOPER intends to require Lot Owners to install such trees after the homes are built and will require a monetary deposit to insure the trees are installed; provided, however, the Village requires and the Developer shall cause the tree installation to be fully completed not later than the date of the completion of the second lift of asphalt. Street Trees shall be maintained by the DEVELOPER until the warranty period ends for said STREET Trees unless otherwise approved by the VILLAGE Board.
8. The DEVELOPER shall establish the necessary easements attached as **Exhibit G-3** for any landscape and or monument sign areas within the right of ways to require the homeowners association to maintain those areas.

H. STREET SIGNS AND TRAFFIC CONTROL SIGNS: The DEVELOPER hereby agrees that:

1. Street signs, traffic control signs, culverts, posts and guard rails as required by the VILLAGE shall be obtained and placed by the VILLAGE, or by the DEVELOPER with approval of the VILLAGE, and the cost thereof shall be paid by the DEVELOPER.

2. All traffic control signs and street signs, as required by the VILLAGE will be installed by the VILLAGE at the cost of DEVELOPER within fifteen (15) working days of the placement of the first lift of asphalt.

I. STREET LIGHTS: The DEVELOPER hereby agrees to install or cause WE Energies to install a street lighting system in the development according to a plan prepared by We Energies and on file with the VILLAGE Clerk and approved by the VILLAGE of Sussex prior to issuance of building permits unless waived by VILLAGE Staff. The Lighting Plan shall be **EXHIBIT H**, which shall be attached to this agreement prior to the approval of the Final Plat of Phase 1.

J. ADDITIONAL IMPROVEMENTS:

The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the VILLAGE Engineer determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the VILLAGE is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the VILLAGE may cause such work to be carried out and shall charge against the financial guarantee held by the VILLAGE pursuant to this agreement.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:

The improvements set forth in Sections I above shall be completed by the DEVELOPER, in total within twelve (12) months of the date of this Agreement being signed except as otherwise provided for in this Agreement Board approval.

SECTION III. FINAL ACCEPTANCE.

Throughout this agreement, various stages of the development will require approval by the VILLAGE. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by separate resolution of the VILLAGE Board. The two-year guarantee period provided for in this agreement shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the two-year guarantee period.

SECTION IV. DEDICATION OF IMPROVEMENTS:

Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the VILLAGE, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the VILLAGE, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the VILLAGE shall have the right to connect or integrate other improvements as the VILLAGE decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the VILLAGE Board. All improvements will be accepted by the VILLAGE Board by separate resolution at such time as such improvements are in acceptable form and according to the VILLAGE specifications. Said resolution shall be recorded, if needed, with the Waukesha County Register of Deeds. DEVELOPER will furnish proof to the VILLAGE, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.

SECTION V. ACCEPTANCE OF WORK AND DEDICATION:

When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the VILLAGE as set forth herein, the same shall be accepted by the VILLAGE Board if said improvements have been completed as required by this agreement and as required by all federal, state, county or VILLAGE guidelines, specifications, regulations, laws and ordinances and approved by the VILLAGE Engineer.

SECTION VI. APPROVAL BY VILLAGE NOT TO BE DEEMED A WAIVER.

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and all other improvements are upon the DEVELOPER. The fact that the VILLAGE or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

SECTION VII. GUARANTEES OF IMPROVEMENTS:

A. Guarantee. DEVELOPER shall guarantee after Final Acceptance, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance by providing the VILLAGE with cash or a letter of credit in a form acceptable to the VILLAGE Attorney in an aggregate amount of 10 percent of the total costs of the improvements. The DEVELOPER shall pay for any damages to VILLAGE property and/or improvements resulting from such faulty materials or workmanship. This guarantee shall not be a bar to any action the VILLAGE might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to VILLAGE property and/or improvements, and the VILLAGE is required to draw against the cash or letter of credit on file with the VILLAGE, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all improvements.

B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good

and sound condition, satisfactory to the VILLAGE Board at the expiration of the guarantee period.

C. Notice of Repair. If during said guarantee period, the improvements shall, in the reasonable opinion of the VILLAGE Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the VILLAGE of the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the VILLAGE in the aforementioned notification, after notice has been sent as provided herein, the VILLAGE Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the VILLAGE Board may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the VILLAGE Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the DEVELOPER shall immediately pay any excess cost or expense incurred in the correction process.

D. Maintenance Prior to Acceptance.

1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the VILLAGE Board. This maintenance shall include routine maintenance, such as crack filling, roadway patching and the like. In cases where emergency maintenance is required, the VILLAGE Board retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the guarantee period.

2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the VILLAGE Board. Should the DEVELOPER fail to meet this requirement, the VILLAGE Board will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.

3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the VILLAGE Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches, storm sewers, and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the VILLAGE Board is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development.

SECTION VIII. VILLAGE RESPONSIBILITY FOR IMPROVEMENTS:

Except as otherwise provided herein, the VILLAGE shall not be responsible to perform repair, maintenance, or snow plowing, unless otherwise approved by the VILLAGE Administrator, on any improvements until accepted by the VILLAGE Board.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT:

If a DEVELOPER proceeds with the installation of public improvements or other work on the site prior to approval of the Final Plat, it proceeds at its own risk as to whether or not the Final Plat will receive all necessary approvals. The DEVELOPER, prior to commencement of the installation of public improvements or other work on site, shall notify the VILLAGE of the DEVELOPER'S intention to proceed with the installation of public improvements or other work on site, prior to approval of the Final Plat. Additionally, DEVELOPER shall make arrangements to have any public improvements and/or other work on site inspected by the VILLAGE Engineer.

SECTION X. FINANCIAL GUARANTEE:

Prior to the execution of this agreement by the VILLAGE Board, the DEVELOPER shall file with the VILLAGE cash or a letter of credit (**EXHIBIT I**)

setting forth terms and conditions in a form approved by the VILLAGE Attorney in the amount as approved by the VILLAGE Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement. If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements within one (1) year from the signing of this agreement unless otherwise extended by this agreement or by action of the VILLAGE Board, or
- C. The letter of credit on file with the VILLAGE is dated to expire sixty (60) days prior to the expiration of the same if the same has not been extended, renewed or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by VILLAGE Engineer, and in a form approved by the VILLAGE Attorney, to pay the costs of improvements in the development, the DEVELOPER shall be deemed in violation of this agreement and the VILLAGE Board shall have the authority to draw upon the letter of credit.

The amount of the letter of credit may be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed and paid for, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the VILLAGE Administrator.

The lending institution providing the irrevocable letter of credit shall pay to the VILLAGE Board all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the VILLAGE shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS:

It is expressly understood and agreed that no building or occupancy permits shall be issued for any homes, including model homes, until the VILLAGE Engineer has determined that:

- A. The installation of the first lift of asphalt of the public street(s) providing access to and fronting a specific building for which a building permit is requested has been completed and accepted by the VILLAGE Board.
- B. The site grading and construction of surface and storm water drainage facilities required to serve such homes are completed, are connected with an operating system as required herein, are cleaned as needed, and are accepted by the VILLAGE Board.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the VILLAGE Engineer.
- D. All required grading plans have been submitted to, reviewed by and approved by the VILLAGE Engineer.
- E. The DEVELOPER has paid in full all permit fees and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the VILLAGE, filed with the VILLAGE Clerk and recorded with the Register of Deeds.
- G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish including buildings and unwanted items are removed from the development and disposed of lawfully.
- H. All required "as built" plans for the SUBJECT LANDS have been submitted and approved by the VILLAGE Engineer.
- I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures (unless waived by the VILLAGE Administrator), the sanitary sewer system, and the water system.
- J. The DEVELOPER is not in default of any aspect of this agreement.
- K. There is no default of any aspect of this agreement as determined by the VILLAGE Administrator.

L. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the VILLAGE Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING PERMITS:

The VILLAGE reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement.

SECTION XIII. VACANT LOT MAINTENANCE EASEMENT.

Developer shall grant a vacant lot maintenance easement to the VILLAGE, in a form that is subject to the approval of the VILLAGE Attorney, and which shall be recorded with the Waukesha County Register of Deeds. The easement shall grant the VILLAGE the right (but not the obligation) to enter upon any vacant lot in the SUBJECT LANDS in order to inspect, repair, or restore the property so that it is in compliance with all applicable provisions of the VILLAGE of Sussex Municipal Code, including but not limited Chapter 10, entitled "Public Nuisance", and Chapter 11, entitled "Health and Sanitation", including Section 11.07 entitled "Property Maintenance Code". A vacant lot shall include any Lot that does not have an occupied principal structure that is used for residential purposes at the time of inspection, repair or restoration. All costs incurred by the VILLAGE in exercising its right to inspect, repair or restore the Lot shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid for by such Lot owner within forty-five (45) days of receipt of any invoice therefore, may be placed against the tax roll for the Lot and collected as a special charge by the VILLAGE.

SECTION XIV. PROMOTION OF ARCHITECTURAL UNIQUENESS.

The parties intend that all homes in the Subject Land shall be owned, occupied and used for residential purposes. The parties further intend that there shall be architectural uniqueness to the neighborhood between buildings. Therefore, no two identical buildings may be constructed directly adjacent to one another or directly across the street from one another. No more than 7 homes per any phase of development shall be of the same design model as determined by the VILLAGE.

SECTION XV. MISCELLANEOUS REQUIREMENTS

The DEVELOPER shall:

A. EASEMENTS:

Provide any easements including vision easements on SUBJECT LANDS deemed necessary by the VILLAGE Engineer before the Final Plat(s) are signed or on the Final Plat(s) and such easements shall be along lot lines if at all possible.

B. TREE PLANTING:

Tree planting shall follow the plan approved by the VILLAGE and attached hereto as **Exhibit G-1 through G-3.**

C. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workmanlike manner.

D. SURVEY MONUMENTS:

Properly place and install any Lot, block or other monuments required by State Statute, VILLAGE Ordinance or the VILLAGE Engineer.

E. HOME-OWNERS ASSOCIATION DECLARATION:

Execute and record a HOME-OWNERS ASSOCIATION Declaration, which may be embodied in the Deed Restriction, in a form that is subject to the approval of the VILLAGE Board and VILLAGE Attorney, and provide proof of recording prior to sale of Lots for the SUBJECT LANDS.

F. DEED RESTRICTIONS:

Execute and record deed restrictions in a form that is subject to the approval of the VILLAGE Board and VILLAGE Attorney, and provide proof of recording prior to sale of Lots for the SUBJECT LANDS. The Deed Restrictions shall contain language to require the lot owners and/or homeowner's association within the

subdivision to maintain all stormwater management facilities in accordance with the "Owners Maintenance Requirements: Stormwater Management Systems Detention/Retention Ponds and Grass Swales" specifications on file with the Village of Sussex, dated July, 2002, including such amendments as may be made thereto from time to time by the Village Engineer. The deed restrictions shall also contain the following language:

"Each lot owner must strictly adhere to and finish grade its lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the VILLAGE Engineer on file in the office of the VILLAGE Clerk. The DEVELOPER and/or the VILLAGE and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same."

The DEVELOPER shall also have language in the restriction that obligates the Association to maintain the landscaping islands being placed in the right of ways and any other landscaping features in or along the right of way. The VILLAGE shall have the right, but not the obligation, to maintain the landscaping and charge the Homeowner's Association if the Association fails in the Village's sole determination to adequately maintain the landscaping areas.

G. GRADES:

Prior to the issuance of a building permit for a specific Lot, the DEVELOPER or their agent shall furnish to the Building Inspector of the VILLAGE a copy of the stake out survey showing the street grade in front of the Lot, the finished yard grade, the grade of all four corners of the building, and the building corner grades of the adjacent buildings where applicable, as existing and as proposed.

H. RESERVE CAPACITY ASSESSMENTS - SANITARY SEWER:

As provided in the VILLAGE Land Division Ordinance, the DEVELOPER agrees to pay a reserve capacity assessment to be used for the costs of reserve capacity created by the VILLAGE in the VILLAGE's sanitary sewerage collection and treatment facilities for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be in an amount established by the VILLAGE's

Land Division Ordinance and including annual increases and due at the time of issuance of the BUILDING PERMIT.

The DEVELOPER hereby waives, pursuant to Section 66.0703(7) (b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein.

The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of special assessment levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property. In addition, the DEVELOPER waives its right under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

I. RESERVE CAPACITY ASSESSMENTS - WATER:

The DEVELOPER agrees to pay a reserve capacity assessment as required in Section 22.23(2) (b) and other relevant sections of the VILLAGE Code, to be used for the costs of reserve capacity created by the VILLAGE in the VILLAGE's water system for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be an amount established in the VILLAGE's Land Division Ordinance and is subject to annual increases and due at the time of issuance of the BUILDING PERMIT..

The DEVELOPER hereby waives, pursuant to Section 66.0703(7) (b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein. The DEVELOPER further waives its right to appeal from the special

assessments and stipulates that the amount of the special assessments levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property.

In addition, the DEVELOPER waives its rights under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

J. UNDERGROUND UTILITIES:

Install all existing and proposed electrical, telephone, cable and gas utilities underground. Coordination of installation and burial and all costs shall be the responsibility of the DEVELOPER.

K. PERMITS:

Provide and submit to the VILLAGE requesting the same, valid copies of any and all governmental agency permits.

L. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the VILLAGE Engineer. Excess topsoil may be removed as DEVELOPER determines based upon the approved Grading Plan and VILLAGE Engineer consent.

M. DIGGERS HOTLINE.

Developer shall become a member of Diggers Hotline and provide evidence of such membership to the VILLAGE Clerk before commencement of any land disturbing activities on the Subject Lands. Developer shall maintain said membership until all subsurface Improvements required under Section I have received final acceptance from the VILLAGE as provided in Section III.

N. PREVAILING WAGE RATES AND HOURS OF LABOR:

If any aspect of the development involves a project of public works that is regulated by Wisconsin Statutes Section 66.0903 then: (1) The Developer shall pay wage rates not less than the prevailing hourly wage rate as described and regulated pursuant to such statutes and related laws; and (2) The Developer shall comply with the prevailing hours of labor as described and regulated pursuant to such statutes and related laws; and (3) The Developer shall fully comply with the reporting obligations, and all other requirements of such laws; and (4) The Developer shall ensure that the Developer's subcontractors also fully comply with such laws. The Developer's General Indemnity obligation of this Agreement shall apply to any claim that alleges that work contemplated by this Agreement is being done, or has been done, in violation of prevailing wage rates, prevailing hours of labor, or Wisconsin Statutes Section 66.0903, for any work arising out of this agreement.

O. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

P. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the VILLAGE Engineer. If said debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER'S and/or subject property owner's expense.

Q. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the VILLAGE Engineer. If said mud, dirt and stone is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER's expense. The VILLAGE will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

R. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

S. IMPACT FEES.

DEVELOPER and VILLAGE acknowledge that the VILLAGE has caused a needs assessment study to be performed pursuant to Wis. Stat. 66.55 and that the VILLAGE has enacted an ordinance (18.10065) that imposes impact fees pertaining to the VILLAGE's parks, playgrounds and land for athletic fields, and that imposes impact fees pertaining to the VILLAGE's Library. The DEVELOPER acknowledges and agrees that the ultimate occupants of the Lots on the SUBJECT LANDS will likely utilize the Village's parks, playgrounds, and athletic fields, and Library and that the impact fees imposed by VILLAGE Ordinances are necessary to pay for the capital costs of the facilities described in this section in order to accommodate land development. These Fee(s) shall be paid prior to the release of the BUILDING PERMIT.

T. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the VILLAGE of Sussex Zoning Code.

U. NO AGRICULTURE USE.

The DEVELOPER shall not permit any open space or undeveloped lands within an area with a Final Plat to be used for any agricultural uses as defined in Tax 18 of the Wisconsin Administrative Code.

SECTION XVI. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:

The DEVELOPER shall pay and reimburse the VILLAGE promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the VILLAGE in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. VILLAGE employee costs shall be based on regular VILLAGE pay rates (or Engineering and administrative overtime, if applicable) plus 60% on the hourly rate for overhead and fringe benefits for any time actually spent on the project. Any costs for outside consultants shall be charged at the rate the consultant charges the VILLAGE. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the VILLAGE pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats.

SECTION XVII. METHOD OF IMPROVEMENT.

Developer hereby agrees to engage contractors for all work performed by the DEVELOPER under this agreement who are qualified to perform the work. Developer further agrees to use materials and make the various installations in accordance with the approved plans and specifications, which are made part of this agreement by reference and including those standard specifications as the Village Board or its Commissions may have adopted and published prior to this date.

SECTION XVIII. GENERAL INDEMNITY:

In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the VILLAGE, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insured on its general liability insurance the VILLAGE, its officers,

agents, employees and any independent contractors hired by the VILLAGE to perform services as to this development and give the VILLAGE evidence of the same upon request by the VILLAGE.

SECTION XIX. VILLAGE RESPONSIBILITY:

A. The VILLAGE agrees to pay for the following oversizing costs, if it is determined by the VILLAGE that the oversizing is necessary. The oversizing costs shall be calculated by viewing bids for similar improvements to determine the cost differences between the stated sizes. The VILLAGE reserves the right to determine the bid amounts to be used in this calculation.

1 Cost of increasing the size of the water main from eight inches to a larger size, including the cost of larger valves.

2 Cost of increasing the size of the sewer main from eight inches to a larger size.

3. The VILLAGE agrees to allow the DEVELOPER to connect to the VILLAGE of Sussex's municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the VILLAGE of Sussex and the appropriate approvals have been granted for such service from all Federal, State, SEWRPC, and local governments and agencies.

SECTION XX. INSURANCE:

The DEVELOPER, its contractors, suppliers and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the VILLAGE.

SECTION XXI. EXCULPATION OF VILLAGE CORPORATE AUTHORITIES:

The parties mutually agree that the VILLAGE President of the VILLAGE Board, and/or the VILLAGE Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability

or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

SECTION XXII. GENERAL CONDITIONS AND REGULATIONS:

All provisions of the VILLAGE Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

SECTION XXIII. ZONING:

The VILLAGE does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the VILLAGE herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

SECTION XXIV. COMPLIANCE WITH CODES AND STATUTES:

The DEVELOPER shall comply with all current and future applicable codes of the VILLAGE, County, State and federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the VILLAGE, County, State or federal government.

SECTION XXVI. PRELIMINARY PLAT, FINAL PLAT, AND REZONING CONDITIONS:

The DEVELOPER acknowledges that the SUBJECT LANDS are subject to a conditional Preliminary Plat approval and a conditional rezoning ordinance by the VILLAGE. The DEVELOPER also acknowledges that if the development is to proceed the SUBJECT LANDS will also be subject to a conditional Final Plat approval, if it is approved. The DEVELOPER further agrees that it is bound by these conditions. A copy of the conditional Preliminary Plat approval for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT C**, and the conditional rezoning ordinance for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT B**. At such time as the Final Plat is approved, if it is, the conditional Final Plat approval shall be attached hereto and

incorporated herein as **EXHIBIT D**. If there is a conflict between the conditions as forth in said conditional approvals and the Developer's Agreement, the more restrictive shall apply.

SECTION XXVII. PHASING OF DEVELOPMENT:

In that the DEVELOPER has voluntarily agreed to develop the subject land in two phases and has further agreed to submit along with the Final Plat of the first phase a phasing plan for the entire development, which shall be in substantial conformity with the phasing plan (**EXHIBIT J**) prepared and discussed by the Plan Commission for the VILLAGE of Sussex and shall be subject to review and must be specifically approved by the VILLAGE Board, Section 236.11(b), Wisconsin Statutes, which requires Final Plats to be filed within thirty-six (36) months of the date of approval of the Preliminary Plat is hereby waived by the VILLAGE provided the DEVELOPER complies with the approved phasing plan and further provided that the Final Plat of each phase complies substantially with the Preliminary Plat, as provided in Section 236.11(b), Wisconsin Statutes.

SECTION XXVIII. AGREEMENT FOR BENEFIT OF PURCHASERS:

The DEVELOPER agrees that in addition to the VILLAGE'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any Lot or any interest in any Lot or parcel of land in the SUBJECT LANDS.

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SECTION XXIX. ASSIGNMENT:

The DEVELOPER shall not assign this agreement without the written consent of the VILLAGE. If required by the VILLAGE, the assignee must agree to all terms and conditions of this document in writing.

SECTION XXX. PARTIES BOUND:

The DEVELOPER or its assignees shall be bound by the terms of this agreement or any part herein as it applies to any phase of the development.

SECTION XXXI. HEIRS & ASSIGNS:

This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS (the “Successors”) This section allows for VILLAGE enforcement of the terms and conditions of this Agreement against all such Successors. This section does not, however, grant rights to such Successors absent VILLAGE written consent, as described in Section XXIX.

SECTION XXXII. SURVIVAL.

All agreements, representations, or warranties made herein shall survive the execution of this Agreement, performance of this Agreement, and the making of the grants hereunder. This Agreement shall be binding upon the Parties their respective heirs, personal representatives, executors, or successors and assigns.

SECTION XXXIII. OWNERSHIP OF SUBJECT LANDS.

DEVELOPER warrants and represents that, as of the date of this Agreement it has title to the Property.

SECTION XXXIV. PARAGRAPH HEADINGS.

The paragraph headings in this Agreement are inserted for convenience only and are not intended to be part of, or to affect, the meaning or interpretation of this Agreement.

SECTION XXXV. INCORPORATION OF RECITALS.

The recitals to this Agreement are hereby incorporated by reference and made a part of Agreement, and are intended to affect the meaning and/or interpretation of this Agreement.

SECTION XXXVI. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

SECTION XXXVI. ENTIRE AGREEMENT.

This Agreement constitutes the entire understanding and agreement between the parties. In the event of a conflict between this Agreement and the Village Code of Ordinances or any other enabling code, law or regulation in effect at the time of this Agreement or thereafter, the terms and conditions of the Village Code of Ordinances in effect at the time of the acceptance by DEVELOPER shall be controlling. If this Agreement is silent with respect to any specific issue, the Village Code of Ordinances and any applicable federal and state statutes shall govern.

SECTION XVII. RECORDING OF AGREEMENT.

This Agreement, or a Memorandum thereof, shall be recorded with the Register of Deeds for Waukesha County.

SECTION XVIII. AMENDMENTS:

The VILLAGE and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the VILLAGE Board.

|

IN WITNESS WHEREOF, the DEVELOPER and the VILLAGE have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

_____.

By: _____

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016,
the above named _____, Authorized Signatory of
_____ the foregoing instrument and acknowledged
the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

VILLAGE OF SUSSEX
WAUKESHA COUNTY, WISCONSIN

VILLAGE President

VILLAGE Clerk-Treasurer

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2016, the above-named Greg Goetz, VILLAGE President, and Casen J. Griffiths, VILLAGE Clerk-Treasurer, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such VILLAGE President and VILLAGE Clerk-Treasurer of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the deed of said municipal corporation by its authority and pursuant to the authorization by the VILLAGE Board from their meeting on the _____ day of _____, 2016.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____