

STATE OF WISCONSIN
COUNTY

VILLAGE OF SUSSEX

WAUKESHA

ORDINANCE NO. 788

AN ORDINANCE TO CONDITIONALLY REZONE
CERTAIN LANDS IN THE VILLAGE OF SUSSEX FROM
SFRD-3 SINGLE FAMILY ATTACHED RESIDENTIAL DISTRICT,
RS-3 SINGLE FAMILY RESIDENTIAL DISTRICT
AND I-1 INSTITUTIONAL DISTRICT TO
RS-3 SINGLE FAMILY DISTRICT WITH A
PLANNED DEVELOPMENT OVERLAY DISTRICT

WHEREAS: A petition has been filed by Arthur Sawall, Developer and the Village of Sussex (“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-3 Single Family Residential District with a Planned Development Overlay District as described on Exhibit A; and

WHEREAS: The Petitioner has supplied all required data pursuant to the Village of Sussex Zoning Code, and a joint public hearing was conducted by the Village Plan Commission and Village Board of the Village of Sussex on FEBRUARY 24, 2015; and

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 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 properties are hereby rezoned to RS-3 Single Family Residential District with a Planned Development Overlay District as described on Exhibit A and the Zoning Map of the Village of Sussex is hereby amended.

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 January 15, 2015 and in substantial conformity with the presentation at the joint public hearing with the Plan Commission and Village Board on February 19, 2015.
2. Preliminary or 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. May be less than 15,000 square feet, but not less than 10,000 square feet with a width of each lot being not less than 80 feet.
4. 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.
5. 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.
6. ARB Findings and Housing Monotony Clause. Subject to following the approved submitted plans to the ARB on November 5, 2014. The housing materials must match those required by Village Zoning Code and the Village Design requirements such as no vinyl siding, etc.
7. Exiting Stormwater Facility. Subject to the Petitioner repairing and enlarging the existing Stormwater Facility that serves the Villas of Brandon Oaks Condo Association and the subject development to the satisfaction of the Village Engineer by the Petitioner at Petitioner's cost.
8. Floodplain. The Petitioner is in the process of updating the floodplain with the DNR and FEMA. Prior to each phase of the development proceeding, the Village Administrator must make a determination that new floodplain mapping and any

requests for filling in the floodplain for that phase has been approved. An outlet covering the restrictions for this floodplain area shall also be established.

9. Emergency Access Interconnect. The emergency access interconnect between the Villas of Brandon Oaks Condo Association and the subject development shall be installed by the Petitioner at Petitioner's cost and Petitioner shall arrange for the maintenance of the same in perpetuity to allow year round fire, police, and emergency access between the two developments. The Petitioner shall not impede traffic through the interconnect, but proper signage shall be installed by Petitioner to minimize any through traffic and recognize this as an emergency access point.
10. Land Purchase. Subject to the Petitioners completing the land contract acquisitions for parcel SUX0252995085 and SUX0277998002. If those acquisitions do not complete per the contract than the rezoning is not in effect for those parcels.
11. 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. 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 including.
 - C. Sidewalk and Trail Plan for the entire site shown on the plat including location, width, and materials of the sidewalks and trails.
 - D. Street Tree Plan and landscape plan for common areas and buffer between condo association including necessary easements for ongoing maintenance by homeowners association.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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 for conditions 2, 8, 9, and 10 as the development is a phased development that may take up to 5 years to complete.

SECTION 4: 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 5. 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 6. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 24th day of FEBRUARY, 2015.

VILLAGE OF SUSSEX


Gregory L. Goetz
Village President

ATTEST: 
Susan M. Freiheit
Village Clerk-Treasurer

Published and/or posted this 4th day of March, 2015

EXHIBIT A

1. SUXV0252995086, Property located west of Maple Avenue south of Maple Grove Lane, Current zoning I-1 Institutional, proposed zoning RS-3 Single Family Residential District Planned Development Overlay.
2. SUXV0252995087, Property located west of Maple Avenue south of Maple Grove Lane, Current zoning I-1 Institutional, proposed zoning RS-3 Single Family Residential District Planned Development Overlay.
3. SUXV0252995063, Property located west of Maple Avenue south of Maple Grove Lane, Current zoning SFRD-3 Single Family Attached Residential District, proposed zoning RS-3 Single Family Residential District Planned Development Overlay.
4. SUXV0277998002, Property located west of Maple Avenue south of Maple Grove Lane, Current zoning RS-3 Single Family Residential District, proposed zoning RS-3 Single Family Residential District Planned Development Overlay.

Proposed Zoning Map Exhibit



Legend

-  Rs-3
-  Planned Development Overlay (POD)

Zoning Classification Addition
from SFRD-3 and I-1 to R-3
Village of Sussex

