

ORDINANCE NO. 793

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

WHEREAS: A petition has been filed by the Representatives of the Estate of Rescella T. Butler, Marjorie Mae Boe, John H. Hoff, Mike Kaerek, Kaerek Homes (“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 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 June, 18, 2015, 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 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 February 19, 2015 and in substantial conformity with the presentation at the joint public hearing with the Plan Commission and Village Board on _____ 2015 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. May be less than 20,000 square feet, but not less than 15,000 square feet with a width of each lot being not less than 80 feet as presented shall be attached hereto and incorporated herein as **Exhibit B**.
4. Setbacks. 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.

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

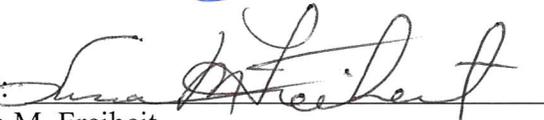
competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portions thereof the ordinance which shall remain in full force 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 28th day of April, 2015.

VILLAGE OF SUSSEX


Gregory L. Goetz
Village President

ATTEST: 
Susan M. Freiheit
Village Clerk-Treasurer

Published and/or posted this 6th day of May, 2015.
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