

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

Minutes of the Plan Commission meeting held on October 20, 2016.

The meeting was called to order at 6:30 p.m. by Chairman Greg Goetz.

Members present: Deb Anderson, Annette Kremer, Roger Johnson, Pat Tetzlaff, Steve Pellechia, Amanda Schauer and Greg Goetz.

Members excused: None

Others present: Administrator Jeremy Smith, Attorney John Macy, Assistant Development Director Kasey Fluet, Administrative Services Director Casen Griffiths, Village Engineer Judith Neu, applicants and members of the public.

**Consideration and possible action on the minutes of the Plan Commission meeting of September 15, 2016.**

A motion by Kremer, seconded by Tetzlaff, to approve the minutes of the September 15, 2016 meeting as submitted. Motion carried.

**Comments from citizens present**

William Goodfellow, W238N7381 Monterey Court, stated that he has concerns that the proposed subdivision would be pushing excess water to his property. His neighbor to the east already gets water. Mr. Goodfellow stated that the proposed subdivision needs to accommodate water and that he has sent letters to elected officials. Two of the proposed houses should be removed, and there are too many houses being proposed for this site. Drainage needs to be examined, details need to be looked at and the Village's tree preservation ordinance has no teeth. Stated that he has contacted Waukesha County and they are not pleased with the proposed development.

Jennifer Barnish, W238N7651 Hidden Oaks Drive, stated that she has expressed her concerns at previous meetings. The proposed Rs-2 Zoning is wrong, as the land is designated as isolated natural resources area. Ms. Barnish stated that her review of the Village's comprehensive plan contemplates this property as an isolated natural resource area. If land is developed under existing zoning then the proposed subdivision would only have five lots. The Rs-2 zoning is a mis-match to the other abutting subdivisions. Area residents have concerns about the overcrowding of schools. There has been a lack of opportunity to provide input by residents during the review process. Machines and clearing of the land were being used before any rezoning was completed. The proposed lots are too small and need to be the same size as Majestic Heights or that the proposed subdivision should not be connected to Majestic Heights.

Jerry Unruh, W238N7615 Hidden Oaks Drive, stated that he stood in support of Ms. Barnish.

Mr. Pellechia stated the process for review and approval of subdivisions in the Village of Sussex.

**Consideration and possible action on Permitted Uses and Plans:** None

**Conceptual review of a Legal Nonconforming Conditional Use, Plan of Operation and site plan for R&S Sussex Investment BP Gas Station (N62W23456 Silver Spring Drive).**

Mohammad Ghaffar, 1215 Manor Lane, River Hills, stated that the proposed use is the same as the existing gas station located on the property. Mrs. Fluet reviewed the plan staff memo (copy attached), noting that the proposed use is legal non-conforming as the property is zoned B-4. Any modification to the existing pole sign will need to be approved by the Plan Commission. Additionally there are concerns about a fallen tree on the property near the creek, the banner signage for the car wash was not approved and should be removed and the parking lot should be re-stripped.

Mr. Goetz asked if the parking lot would be restriped. Mr. Ghaffar stated that he intended to paint new parking stripes.

The consensus of the Plan Commission was to instruct staff to schedule a public hearing for the November Plan Commission meeting.

**Consideration and possible action on a request for an extension of the Conditional Use for Kwik Trip to be located at the Sussex Town Center Development.**

Mrs. Fluet reviewed the plan staff memo (copy attached) and stated that Kwik Trip has requested an extension as the developer is in the process of preparing the site.

A motion by Johnson, seconded by Kraemer to approve an extension of the conditional use with the condition as stated in the motion for approval in the minutes of the meeting of October 15, 2105 for Kwik Trip until August 1, 2017. Motion carried.

**Notice of administrative renewal of the following Conditional Use: Quikrete (W225N6236 Village Drive).**

Mrs. Fluet reviewed the plan staff memo (copy attached) and stated that conditional uses are administratively renewed for 5 year periods, and notice is given to the Plan Commission. Unless it is requested for review the conditional use for Quikrete will be administratively reviewed. This does not preclude the Plan Commission from reviewing and or acting on changes or the termination of the conditional use permit.

**Consideration and possible action on a grading plan and a finding of Section 18.0204(l) to allow grading on slopes greater than twelve (12) percent for Hidden Hills Subdivision located at W239N7542 Maple Avenue east of Maple Avenue north of Good Hope Road.**

George Erwin, the principal of the proposed subdivision project stated that the site is 33 acres, but it is not all isolated natural resources area, approximately 8.3 acres are isolated natural resource area. There has been 1 to1 tree preservation with a bulk of the trees remaining on the eastern portion of the site. There has been a concentrated effort to preserve lands that are within the isolated natural resource area. The proposed 40 lots of Hidden Hills are less dense than the Pine Ridge, Centennial Oaks and Woodside subdivisions. The proposed average lot in the subdivision is 26,000 sq. ft.

Josh Pudelko, representing Trio Engineering stated that the review of the proposed site has taken a holistic approach to reviewing drainage. The south lot line was reviewed and the solution to drainage is to have a release valve for the kettle that exists on the southwest corner of the lot that would work in conjunction with a stormwater pipe that is located on Maple Avenue. Mr. Johnson asked for clarification on the proposed locations of development within the 12% slope areas. Mr. Pudelko stated that the purple areas indicated on the plan are where proposed development within these areas would be located.

Judy Neu, Village Engineer stated that the Village will be reviewing the proposed plans in details and will be examining the drainage of the site.

Mr. Pellechia noted his concern that drainage would be affected further south from the proposed site. Mr. Pudelko stated that the drainage plan notes the area flows into ponds. The water would be taken across the street which eventually is taken to a large marsh area.

A motion by Goetz, seconded by Johnson to approve the grading plan and find that the land may be graded to have slopes below 12% through said plan based upon the plan balancing the needs for growth with environmental protection, that the grading plan does not create safety risks to the development or adjacent lands and that each lot meets the space requirement for construction on slopes less than 12% and further based upon maintaining the 12% and greater slopes in those areas shown on the plan to remain to further enhance the environmental protection of those areas. Motion carried.

**Consideration and possible action on a Petition for rezoning for Hidden Hills Subdivision the property is to be annexed to the Village of Sussex, located W239N7542 Maple Avenue east of Maple Avenue north of Good Hope Road with a current zoning of RD-5 and UC to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area.**

George Erwin stated that the proposed subdivision is less dense than the subdivisions to the south and west and denser than the subdivision to the north. The lots are proposed to be developed in a clustered manner, with roads designed to calm traffic. The Planned Development Overlay was requested to allow for flexibility related to setbacks of the proposed home footprints and allow for trees to be preserved.

Mr. Pellechia asked about the proposed building footprints. Mr. Erwin stated that due to configuration of some lots, the PDO setbacks will allow for flexibility in preserving old growth trees or natural features as necessary.

Mr. Smith reviewed the plan staff memo (copy attached). The property is currently located in the Town of Lisbon and the Town has accepted the detachment so the property is able to be in the Village. The current Town zoning is RD-5 and UC. The temporary zoning for the attachment is Rs-2 Single Family Residential with Isolated Natural Resource Area. The rezoning request is to Rs-2 with a PDO with 41 lots and 2 outlots. The use matches permitted uses in the Rs-2 zoning district, the site is more than 10 acres and the development held a pre-petition conference with staff.

A motion by Johnson, seconded by Tetzlaff to recommend that staff prepare an Ordinance and scheduling a joint Plan Commission and Village Board public hearing for the proposed rezoning.

Motion carried.

**Consideration and possible action on a Petition to create Sub Section 17.0506(A)(8)(d) Fitness centers in the M-1 district in Section 17.0500 entitled Conditional Uses.**

Mrs. Fluet reviewed the Plan Staff memo (copy attached) noting the applicant is proposing a Cross-Fit gym to be located in the M-1 District. The proposed change will have a blanket effect of gyms as conditional uses in the M-1 District.

**Consideration and possible action on an Ordinance to create Sub Section 17.0506(A)(8)(d) Fitness centers in the M-1 district in Section 17.0500 entitled Conditional Uses.**

A motion by Pellechia, seconded by Goetz to recommend to the Village Board approval of the Ordinance to create Sub Section 17.0506(A)(8)(d) Fitness centers in the M-1 district in Section 17.0500 Conditional Uses.

Motion carried.

**Consideration and possible action on CSM's and Plats:** None

**Other items for future discussion.** There were none.

A motion by Kremer, seconded by Pellechia, to adjourn the meeting at 7:50 p.m.

Motion carried.

Respectfully Submitted,

Casen J. Griffiths  
Administrative Services Director



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

## MEMORANDUM

TO: Plan Commission

FROM: Kasey Fluet, Assistant Development Director

RE: Plan Commission meeting of October 20, 2016

DATE: October 3, 2016

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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. **Consideration and possible action on the minutes of the Plan Commission meeting on September 15, 2016.**
03. **Comments from citizens present.**
04. **Consideration and possible action on Permitted Uses and Site Plans:**
05. **Consideration and possible action on Conditional Uses and Plans:**
  - A. **Conceptual review of a Legal Nonconforming Conditional Use, Plan of Operation and site plan for R&S Sussex Investment BP Gas Station (N62W23456 Silver Spring Drive).**

This site is zoned B-4. The gas station with carwash service in the B-4 Central Mixed Use District is a legal nonconforming use in accordance with Section 17.0507 (A). The BP gas station is being purchased, due to the new ownership they are required to file a Plan of Operation. The new owners will continue to operate the gas station, convenience store and carwash station in the same manner. The gas pumps and car wash is available 24 hours seven days a week, the convenience store will be open 5:00 a.m. to 10:00 p.m. The site has sufficient parking with 15 stalls and room to add more.

Any modification to the existing pole signs is subject to approval by the Plan Commission.

At this time it would be appropriate to address and concerns about the property, staff received a complaint about a fallen tree on the property near the creek, the banner signage for the car wash is not approved signage and should be removed and the stripping for the parking stalls is faded.

### **Policy Question:**

1. Are there any concerns with the Legal Nonconforming Conditional Use application?
2. Are there any concerns with the property?

**Action Items:**

1. Direct staff to schedule the public hearing.

**Staff Recommendation:** Staff recommends scheduling the public hearing for the November Plan Commission meeting.

**B. Consideration and possible action on a request for an extension of the Conditional Use for Kwik Trip to be located at the Sussex Town Center development.**

The Conditional Use (CU) was approved for Kwik Trip by the Plan Commission at the meeting held on October 15, 2015 meeting. The developer of Sussex Town Center is still in the process of preparing the site. Due to the delays, Kwik Trip has not signed the CU and is requesting an extension of the approval and will sign as soon as construction can start.

The request is based on the following language in the CU:

15. *Subject to Acceptance. Subject to the Owner approving in writing the issuance of the same and Applicant acknowledging in writing that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Applicant will therefore need to re-commence the application process.*
- D. *Should the permitted conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the Petitioner be delinquent in payment of any monies due and owing to the municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Plan Commission for the Village of Sussex.*

Kwik Trip is not refusing to sign the CU just requesting to extend the signing of the document until the developer has completed the site improvements.

**Policy Question:**

1. Are there any concerns granting an extension of the CU document approved at the October 15, 2015 meeting?

**Action Items:**

1. Act on the request.

**Staff Recommendation:** Staff recommends the Plan Commission grant an extension of the CU with the conditions as stated in the motion for approval in the minutes of the meeting of October 15, 2015 for Kwik Trip until August 1, 2017.

**C. Notice of administrative renewal of the following Conditional Use: Quikrete (W225N6236 Village Drive).**

Conditional Uses are administratively renewed for 5 year periods. When a renewal comes up the Village Administrator or designee will give notice to the Plan Commission of the intent to renew. Unless requested for review by the Plan Commission the CU for Quikrete Quikrete, which was approved April 19, 2012, will be administratively renewed as of January 1, 2017 until January 1, 2022. Such renewal does not preclude the Plan

Commission from reviewing and or acting on changes up to an including termination of the same during the renewal period per standard rules of the Zoning Code and the CU permit.

**06. Consideration and possible action on Zoning and Planning Items:**

**A. Consideration and possible action on a grading plan and a finding of Section 18.0204 (I) to allow grading on slopes greater than twelve (12) percent for Hidden Hills Subdivision located at W239N7542 Maple Avenue east of Maple Avenue north of Good Hope Road.**

Whenever a site has slopes that exceed 12 percent the Plan Commission needs to make a finding to allow the site to be graded by adopting a specific grading plan. While 12% slopes are not very steep (and many developments in the Village occurred on lands with slopes greater than 12% slopes (Ridgeview, Majestic Heights, Meijers, Seven Stones, Canyon Meadows, etc.) this mechanism affords the Village greater oversight in how the lands will be graded and to protect extremely steep slopes for public safety. It also allows protection of key areas for environmental protection.

Here is the code section.

(I) Lands Having a Slope of twelve (12) percent or more shall be maintained in permanent open space use unless the Plan Commission finds by  $\frac{3}{4}$  vote that the land may be graded to have slopes below twelve (12) percent through an approved grading plan and said plan will meet the intent of the Village to balance growth with environmental protection and will not create safety risks to development on the land or adjacent land. No lot except an outlot or a stormwater management facility shall have more than fifty (50) percent of its minimum required area in slopes of ten (10) percent or greater.

The development has proposed a specific grading plan that will grade out some slopes greater than 12% to allow for safe roadway construction and establish building pads meeting code requirements and design requirements for backyards. In addition the grading plan protects no grading areas over a large portion of the site for those to remain in their native condition. You can see the 12% slope areas on the map provided and the grading plan for more details. The Developer has also submitted a letter explaining the intent of their grading plan and compliance with the law.

Staff finds the grading plan consistent with the law and the intent of this section. The lots and slope for the roadway as designed by said grading will provide for code consistent lots and roadways. The minimum lot size is 20,000 square feet in the RS-2 and each of the lots as presented has greater than 10,000 square feet available with grades less than 12% in order to establish a house and yard per the code, meeting the standard of the Ordinance.

The remainder of the 12% and greater slope areas will remain wooded and undisturbed.

**Policy Questions:**

1. Does the grading plan, which grades some 12% and greater slopes meet the intent to balance growth with environmental protection and not create safety risks to development on the site or adjacent land?

**Action Item:**

1. Act on the grading plan

**Staff Recommendation:** Staff recommends the Plan Commission approve the grading plan and find that the land may be graded to have slopes below 12% through said plan based upon the plan balancing the needs for growth with environmental protection, that the grading plan does not create safety risks to the development or adjacent lands and that each lot meets the space requirement for construction on slopes less than 12% and further based upon maintaining the 12% and greater slopes in those areas shown on the plan to remain to further enhance the environmental protection of those areas.

**B. Consideration and possible action on a Petition for rezoning for Hidden Hills Subdivision the property is to be annexed to the Village of Sussex, located W239N7542 Maple Avenue east of Maple Avenue north of Good Hope Road with a current zoning of RD-5 and UC to proposed zoning RS-2 Single Family Residential District with a Planned Development Overlay and Isolated Natural Resource Area.**

This property is currently in the Town of Lisbon, the owner has filed the necessary paperwork to attach to the Village of Sussex. The current zoning on this property according to the Town is RD-5 & UC, the temporary zoning for the attachment is RS-2 Single Family Residential with Isolated Natural Resource Area, which is in accordance with the Village of Sussex Land Use Map. The Developer of this site is requesting to rezone the property to RS-2 Single Family Residential with a Planned Development Overlay (PDO) and Isolated Natural Resource Area (INRA) to develop this area as a single family subdivision with 41 lots with one outlot.

The petitioner should address all the conditions as set forth in 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.

**17.0435**

- A. The use of Single Family residential is a permitted use in the RS-2 District.
- B. The site is more than 10 acres.
- C.1. A pre-petition conference was held between staff and the developer,
  - 2. A petition has been filed showing the standards of C.2.(a) (1) - (5) and (b) (1) - (12).
  - 3. The petition being complete has been referred to the Plan Commission.

**Policy Questions:**

- 1. Are there concerns with the petition?

**Action Item:**

- 1. Act on the petition request.

**Staff Recommendation:** Staff recommends preparing the Ordinance and scheduling a joint Plan Commission and Village Board public hearing for the same in December.

**C. Consideration and possible action on a Petition to create Sub Section 17.0506 (A)(8)(d) Fitness centers in the M-1 district in Section 17.0500 entitled Conditional Uses.**

A petition has been submitted to amend Ordinance Section 17.0506 (A)(8) entitled General Services in Section 17.0500 entitled Conditional Uses to allow a fitness center in the M-1 district. The petitioner would like to rent space at the multi-tenant building in the Industrial

Park, W227N6193 Sussex Road to operate a Cross Fit gym. The building has two 5,000 square feet multi-tenant spaces.

The change to the code would only allow the use in the M-1 district as a conditional use which will allow the Plan Commission to place conditions within the Conditional Use permit.

**Policy Questions:**

1. Are there concerns with the petition?

**Action Item:**

1. Act on the petition request.

**Staff Recommendation:** Staff recommends the Plan Commission give direction on an Ordinance to create Sub Section 17.0506(A)(8)(d) Fitness center in the M-1 district in Section 17.0500 entitled Conditional Uses.

**D. Consideration and possible action on an Ordinance to create Sub Section 17.0506 (A)(8)(d) Fitness centers in the M-1 district in Section 17.0500 entitled Conditional Uses.**

Staff has prepared an amendment to Chapter 17 to create a Sub Section 17.0506 (A)(8)(d) Fitness center in the M-1 district in Section 17.0500 entitled Conditional Uses.

**Policy Questions:**

1. Are there concerns with the proposed Ordinance?

**Action Item:**

1. Act on the Ordinance.

**Staff Recommendation:** Staff recommends the Plan Commission recommend to the Village Board approval of the Ordinance.

**07. Consideration and possible action on CSM's and Plats:**

**08. Other Items for future discussion.**

## **Exhibit “A”**

### **Village of Sussex Plan Commission**

#### **Standard Conditions of Approval Plan of Operation and Site Plan**

The Plan Commission for the Village of Sussex authorizes the Building Inspector to issue a building permit to the Petitioner and approves the general layout, architectural plans, ingress and egress, parking, loading and unloading, landscaping, open space utilization, site plan and plan of operation subject to the following conditions:

1. Presentation compliance. Subject to Petitioner operating the premises at all times in substantial conformity with the presentation made to the Village Plan Commission, as modified or further restricted by the comments or concerns of the Village Plan Commission.

2. Inspection compliance. Subject to the Petitioner submitting to and receiving the approval from the Village Administrator, written proof that the Village Building Inspector and Fire Chief have inspected the subject property and have found that the subject property is in substantial compliance with applicable federal, State, and local laws, statutes, codes, ordinances, policies, guidelines and best management practices, prior to this approval being effective.

3. Regulatory compliance. Subject to the Petitioner and Owner fully complying with all Village, County of Waukesha, State of Wisconsin and federal government codes, ordinances, statutes, rules, regulations and orders regarding the premises, including but not limited to compliance with Section 17.1000 of the Village of Sussex Zoning Code entitled “Site Plan Review and Architectural Control,” as determined by Village Staff.

4. Satisfaction of Engineer. Subject to the Developer satisfying all comments, conditions, and concerns of the Village Engineer regarding the Petitioner’s application prior to this approval being effective.

5. Required plans. Subject to the Developer submitting to and receiving written approval from the Village Administrator of all of the following plans as deemed necessary by the Village Administrator:

- A. Landscaping plan
- B. Parking plan
- C. Lighting plan
- D. Signage plan
- E. Traffic plan
- F. Grading plan

- G. Tree preservation plan
- H. Open space plan
- I. Water plan
- J. Surface and stormwater management plan
- K. Sewer plan
- L. Erosion control plan
- M. \_\_\_\_\_
- N. \_\_\_\_\_
- O. \_\_\_\_\_
- P. \_\_\_\_\_

6. Screening of All Dumpsters. Subject to the Petitioner and Owner screening all dumpsters as required by the ordinance to the satisfaction of the Village Administrator.

7. Payment and reimbursement of fees and expenses. Subject to the Petitioner and Owner paying all costs, assessments and charges due and owing to the Village of Sussex either by the Petitioner or imposed on the subject property, including, but not limited to, real estate taxes, personal property taxes, utility bills, special assessments, permit fees, license fees and professional fees which shall include all costs and expenses of any type that the Village incurs in connection with Petitioner’s application, including the cost of professional services incurred by the Village (including engineering, legal and other consulting fees) for the review of and preparation of the conditions of approval, attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce any of the conditions of this approval due to a violation of these conditions by the Petitioner or the Owner, as authorized by law.

8. Condition if the Property is in the B-4 Central Business District. If the property is in the B-4 Central Business District, the Petitioner shall comply with the standards and conditions found within the Village of Sussex Downtown Design and Development Plan and other plans as may be approved from time to time by the Community Development Authority in its role as a Redevelopment Authority to guide development within the Village’s Downtown.

9. Subject to acceptance. The Owner by requesting a permit either directly or through an agent, and accepting the same is acknowledging that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.

10. Any official named in this document can appoint a designee to perform his or her duties.