

**VILLAGE OF SUSSEX
SUSSEX, WISCONSIN**

Minutes of the public hearing held by the Plan Commission on August 18, 2016.

The hearing 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 Fluett, Administrative Services Director Casen Griffiths, Village Engineer Judith Neu and Trustee Matt Carran.

Chairman Goetz read the Notice of Public Hearing which is to hear comments from citizens on the following items:

A conditional use permit for filling designated flood plain area and impacting designated wetland area owned by Waukesha County for roadway improvement on County HWY VV between Freiheit Court and Pewaukee Road.

Jim Blackwood, representing the property owner, Roger Duchow noted that the fill is required for the Sussex Town Center development. A traffic impact study has been completed for the proposed development. The study recommends and Waukesha County requires an addition of a bypass lane on Highway VV to Freiheit Court. This bypass lane requires that fill be placed in the floodplain. There will be compensable storage area provided for the fill. Mr. Johnson asked if there will be a retention area. Mr. Blackwood noted that the area would not be a retention area; it would be additional floodplain storage.

Chairman Goetz opened the hearing to comments from the public. There was no one present who wished to be heard.

A motion by Pellechia, seconded by Kremer, to close the public hearing at 6:34 p.m. Motion carried.

Respectfully submitted,

Casen J. Griffiths
Administrative Services Director

**VILLAGE OF SUSSEX
SUSSEX, WISCONSIN**

Minutes of the Plan Commission meeting held on August 18, 2016.

The meeting was called to order at 6:35 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 and Trustee Matt Carran.

Consideration and possible action on the minutes of the Plan Commission meeting of July 21, 2016.

A motion by Pellechia, seconded by Tetzlaff, to approve the minutes of the July 21, 2016 meeting as submitted. Motion carried.

Comments from citizens present

Tim Pfrang, N69W23495 Donna Drive, stated that his property is located directly east of the proposed Ancient Oaks Subdivision. Mr. Pfrang stated that he has lived at the residence since 1989 and during that time has had to deal with soil percolation and overland storm runoff. At the time he purchased his property he did not notice that his home is at the bottom of a hill. There was no surface runoff analysis completed when the Prides Crossing subdivision was built and he has three sump pumps and a generator to keep water out of the basement. Mr. Pfrang stated that he supports the development next to him, but he believes that accommodations are necessary to address surface water runoff so that water goes around his home.

A motion by Goetz, seconded by Johnson to move item number seven to this point in the meeting. Motion carried.

Update and possible action on property maintenance issues of homeowner Joseph Balcerek N66W24015 Champeny Road.

Mrs. Fluet noted that this item had been to the Plan Commission in June and July. A letter requesting compliance was sent to Mr. Balcerek and work has been done to remedy the situation.

Mr. Balcerek stated that the grass has been cut, weeds have been removed and bushes and trees have been trimmed, and further stated that it is his intention to keep the property up.

Mr. Goetz stated that he had been by the property and noted that the bushes were still covering a portion of the windows and asked if they could be trimmed down, as had been directed. Mr. Balcerek stated that he would like to keep the bushes at their current height as it acts as a light buffer and for privacy. Mr. Goetz noted that the reason to have it trimmed would be for public safety to allow fire or police to see in in the event of an emergency.

Mr. Johnson asked if work has been completed on the deck. Mr. Balcerek noted that the deck was not an issue, but a flower box which was broken has been removed.

Mr. Smith stated that the property's grass has been cut and that certain areas have been maintained, but noted that the current state of the property may not be up to the standards of the neighborhood as required under Village Code. Additionally, the neighbors may still feel that the property has not yet been brought up to code. Mr. Smith stated that Mr. Balcerek has shown that he is making a reasonable effort to bring the property up to code.

Mr. Pellechia asked why the neighbors would not be satisfied with the status of the property. Mr. Smith noted that the shrubs in the front of the home have not been trimmed down much.

Ms. Tetzlaff noted that under the Village's ordinance, a property owner is required to mow their lawn, maintain shrubs. The front shrubs are not maintained but the property's maintenance has been an improvement.

Mr. Balcersek noted that the shrubs at that height provide privacy, but he understands that there is a need for public safety.

The consensus of the Plan Commission was to require that at least six inches of the shrubs in the front of the house be trimmed down and directed staff to follow up with the property owner and report to the Plan Commission in September.

The normal meeting agenda resume at this point.

Consideration and possible action on a Plan of Operation and site plan for (NATO) National Association of Theatre Owners of Wisconsin and Upper Michigan (N64W24801 Main Street Suite 101).

Carol Brown, N64W24801 Main Street, representing NATO stated that they are a non-profit movie theater organization, which provides resources to theaters in Wisconsin and Upper Michigan. Ms. Fluet reviewed the plan staff memo (copy attached) noting that this use is permitted in the B-3 Highway Business District and that the site has adequate parking.

A motion by Johnson, seconded by Kremer to approve the Plan of Operation and Site Plan for (NATO) National Association of Theater Owners of Wisconsin and Upper Michigan with a finding that the use and structures meet the principals of 17.1002(A-H); and subject to the standard conditions of Exhibit A.

Motion carried.

Consideration and possible action on a Plan of Operation and site plan for Birthing Empowerment Doula Services, LLC (N63W23217 Main Street).

Sabrina Foulks, N63W23217 Main Street stated that she is a prenatal and lactation consultation, and is currently working towards certification as a mid-wife. The name of the business would change once certification for mid-wife is completed. The office will only be used for consultation, birthing for clients will occur in their home. Ms. Fluet reviewed the plan staff memo (copy attached) noting that the proposed use is permitted in the B-4 Central Mixed Use District. The site will have enough parking for the proposed use. Once Ms. Foulks completes her mid-wife certification the name change for the business on the Plan of Operation can be handled administratively.

A motion by Goetz, seconded by Tetzlaff to approve the Plan of Operation and site plan for Birthing Empowerment Doula Services, LLC (N63W23217 Main Street) with a finding that the use and structures meet the principals of 17.1002(A-H) and subject to the standard conditions of Exhibit A. Motion carried.

Consideration and possible action of a Conditional Use for the filling of the floodplain in a County right-of-way on County HWY VV (aka Main Street) between Freiheit Court and Pewaukee Road.

Mr. Goetz noted that the petitioner had already spoken during the public hearing. Ms. Fluet reviewed the Plan Staff Memo (copy attached), noting that conditional use requests usually come back to the Plan Commission for another meeting, however the developer has requested approval as soon as possible. The Village's process does allow the Plan Commission the discretion to grant a conditional use at this meeting. Mr. Smith stated that the conditional use allows for the floodplain fill but it must be completed by law and in compliance with standards and permits of the DNR and Army Corp of Engineers.

A motion by Pellechia, seconded by Kremer to approve the Conditional Use for the filling of the floodplain and impacting designated wetland area in a County right-of-way on County Hwy VV (aka Main Street) between Freiheit Court and Pewaukee Road; and a finding the use and structures meet the principals of 17.1002(A-R); subject to receiving the necessary permits from the DNR, County and Village and the approvals are subject to the standard conditions of Exhibit A. Motion carried.

Conceptual review of a site plan for Ancient Oaks Subdivision for property located in the center of Prides Crossing Subdivision connecting Donna Drive.

Bill Carity, 12720 North Avenue, Brookfield presented the plans for the proposed subdivision. The site is sloped with a valley in the middle with water flowing east to west. Three quarters of the site is wooded, and has hydric soils and biologic diversity. Mr. Carity stated that the parcel is zoned Rs-3 and there is no desire to change that zoning. A wetland delineation has been completed with DNR concurrence. Donna Drive is proposed to continue through the new subdivision to connect the Prides Crossing and Sussex Heights subdivisions. To minimize impact on the wetlands, Donna Drive is proposed to be a boulevard. There will be a dedication of green space and stormwater facilities to the Village. The subdivision is proposed to have 38 lots, between 15,000 and 17,000 square feet in size. 50% of the area of the subdivision is to be preserved as natural area.

Chris Hitch, of Trio Engineering, 12660 North Avenue, Brookfield stated that the proposed drainage plan would drain into curb sections and then into pockets of wetlands. Mr. Smith noted that the proposed boulevard will be 24 feet wide in either direction, but it to be marked as one way. This is unique and would allow for a bit of additional privacy for the homes on Donna Drive.

Mr. Goetz asked that a pedestrian bridge be considered between the two sections of the boulevard. Mr. Carity stated that may be a challenge but would look into constructing one.

Ms. Kraemer questioned the concern regarding stormwater runoff of the neighbor who spoke earlier in the meeting. Mr. Smith stated that drainage issues for Mr. Pfrang would not be able to be solved tonight, but Mr. Carity's development would not be causing any additional stormwater impacts. Mr. Goetz noted that a neighbor had brought up an issue regarding drainage. Mr. Smith noted that is correct, but that the Village may not be able to require the developer to fix an issue that is not caused by the development. However it is something that can be examined.

A motion by Goetz, seconded by Tetzlaff to suspend the rules of the meeting to allow for a member of the audience to speak. Motion carried.

Mr. Pfrang stated that having Donna Drive as a boulevard makes sense as it should help calm traffic that would be driving through.

Mr. Johnson noted that he likes the proposed concept and wondered what the price of the lots would be as well as whether there would be a homeowners association. Mr. Carity stated that it will not be a closed subdivision, as he is not a builder, but there will be architectural controls, with deed restrictions and the requirement to adhere to certain styles.

Mr. Smith stated that staff would continue to work with Mr. Carity on the subdivision plat.

Other items for future discussion. There were none.

A motion by Pellechia, seconded by Kremer, to adjourn the meeting at 7:45 p.m. Motion carried.

Respectfully Submitted,

Casen J. Griffiths
Administrative Services Director



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MEMORANDUM

TO: Plan Commission

FROM: Kasey Fluet, Assistant Development Director

RE: Plan Commission meeting of August 18, 2016

DATE: August 5, 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. **Consideration and possible action on the minutes of the Plan Commission meeting on July 21, 2016.**
03. **Comments from citizens present.**
04. **Consideration and possible action on Permitted Uses and Site Plans:**
 - A. **Consideration and possible action on a Plan of Operation and site plan for (NATO) National Association of Theatre Owners of Wisconsin & Upper Michigan (N64W24801 Main Street Suite 104).**

This site is zoned B-3. The general office services is a permitted use in the B-3 Highway Business District in accordance with section 17.0418 (A)(5)(h). This user will use the office to store and provide resource services to the motion picture theater owner in Wisconsin and Upper Michigan. The agent will occupy 800 square feet of tenant in the multi-tenant building. This office will have one employee and the hours of operation varies Monday through Saturday. This site has 102 parking stalls and 51 are allocated to other users, this user requires 1 stall.

Policy Question:

1. Are there any concerns with the Plan of Operation?

Action Items:

1. Act on the plan of operation and site plan.

Staff Recommendation: Staff recommends the Plan Commission approve the Plan of Operation and site plan for (NATO) National Association of Theatre Owners of Wisconsin & Upper Michigan (N64W24801 Main Street Suite 104).; a finding that the use and structures meet the principals of 17.1002(A-H); and subject to the standard conditions of Exhibit A.

B. Consideration and possible action on a Plan of Operation and site plan for Birthing Empowerment Doula Services, LLC (N63W23217 Main Street).

This site is zoned B-4. The general medical services is a permitted use in the B-4 Central Mixed Use District in accordance with Section 17.0419 (C)(3)(d). Sabrina will complete her licensing exam this month to be a certified Midwife, she will provide expecting mothers with full prenatal care, postpartum care, and newborn care. The lease is for 357 square feet of space on the second floor of the 13,000 square foot retail building facing Waukesha Avenue at Mammoth Springs.

The site has sufficient parking for both the residential and retail buildings with 190 surface parking stalls and 20 on street parking spots are also available. 135 of the surface spots are calculated for the residential use, leaving 75 spots for the retail/office. This use requires 2 spots.

Policy Question:

1. Are there any concerns with the Plan of Operation?

Action Items:

1. Act on the plan of operation and site plan.

Staff Recommendation: Staff recommends the Plan Commission approve the Plan of Operation and site plan for Birthing Empowerment Doula Services, LLC (N63W23217 Main Street); a finding that the use and structures meet the principals of 17.1002(A-H); and subject to the standard conditions of Exhibit A.

05. Consideration and possible action on Conditional Uses and Plans:

A. Consideration and possible action on a Conditional Use for the filling of the floodplain in a County right-of-way on County HWY VV (aka Main Street) between Freiheit Court and Pewaukee Road.

The petitioner for this Conditional Use is Roger Duchow. This work is related to off-site roadway improvements required for the proposed Sussex Town Center development. The roadway on County HWY VV must be widened and will require filling in a designated flood plain area owned by the County. Coordination with the DNR and US Army Corp of Engineers regarding wetland fills and erosion control is required. They will offset the floodplain fill in the same general area.

Due to the timing of the start of this work the petitioner is requesting to receive approval of the Conditional Use at the August meeting.

Prior to this meeting was the Public Hearing for this item and it would be appropriate for the Plan Commission to address any relevant concerns of the Plan Commission from said public hearing during this point in the agenda.

Normally CU's come back to the Plan Commission for another meeting; this Developer has requested approval as soon as possible. The Village process does allow the CU to be granted at this meeting by Plan Commission discretion. Staff has prepared a CU document for consideration at this meeting.

The CU contains language requiring the petitioner to obtain the necessary permits from the DNR, County and Village before beginning the work.

Policy Question:

1. Are there any concerns with the CU?
2. Are there any additional conditions you want addressed in the CU?

Action Items:

1. Act on the CU OR
2. Provide additional comments for inclusion in the CU and direct staff to bring back for the September Plan Commission meeting.

Staff Recommendation: Staff recommends approval of the Conditional Use for the filling of the floodplain and impacting designated wetland area in a County right-of-way on County Hwy VV (aka Main Street) between Freiheit Court and Pewaukee Road; and a finding the use and structures meet the principals of 17.1002(A-R); subject to receiving the necessary permits from the DNR, County and Village and the approvals are subject to the standard conditions of Exhibit A.

06. Consideration and possible action on CSM's and Plats:

A. Conceptual review of a site plan for Ancient Oaks Subdivision for property located in the center of Prides Crossing Subdivision connecting Donna Drive.

This site is currently zoned RS-3. The subdivision will have 38 single family lots. The size of the lots will meet the zoning requirements and setbacks of the RS-3 district which requires the lots are not to be less than 15,000 square feet and setback for the front yard of 30 feet, side yard 15 feet and rear yard 25 feet. This subdivision will be unique in the way that Donna Drive will transition from two way traffic to one way boulevard traffic to preserve the wetland area in the center of the site.

The Developer would like to start in the Spring of 2017, prior to starting, a public hearing would be required for any filling or disturbance of the wetland area. This wetland area is man made and the fill would be less than 10,000 square feet. The design actually highlights the wetland and allows it to be a focal feature of the site and stormwater will enhance the wetlands.

Policy Question:

1. Are there any concerns or questions for the Developer?

Action Items:

1. None.

Staff Recommendation: Staff will continue to work with the Developer.

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

A. Update and possible action on property maintenance issues of homeowner Joseph Balcerek N66W24015 Champeny Road.

This site is zoned RS-4. Staff will have an update on where things stand on the maintenance of the property.

Mr. Balcerek was sent a letter dated 8/10/2016 addressing the current conditions of his property.

Policy Question:

1. Is the property being properly maintained?
2. If the property is not being properly maintained should additional steps be taken to see compliance with the standards?
3. What additional steps would be appropriate at this time?

Action Items:

1. Give direction to staff.

Staff Recommendation: Staff recommends the Plan Commission give direction to staff regarding the items they want the property owner to address, establish a timeframe for bringing the property into compliance and the next step to be taken if the property owner does not comply.

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.