

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

Minutes of the Plan Commission meeting held on September 15, 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, and Greg Goetz.

Members excused: Amanda Schauer

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 August 18, 2016.**

A motion by Pellechia, seconded by Tetzlaff, to approve the minutes of the August 18, 2016 meeting as submitted. Motion carried.

**Comments from citizens present**

Jennifer Barnish, W238N7651 Hidden Oaks Drive, stated her concerns about the proposed subdivision. These concerns included that the property is designated as an isolated natural resources area and that the 2020 Village master plan shows that the intended use of this property to be for natural resource preservation. The intensity of development of the proposed site is a concern as Waukesha County Land Use has stated that the property should have only 8 to 10 lots. The connection of roads to the adjoining subdivisions is an issue, as it will increase traffic flow and speeding through the adjoining subdivisions. With more homes, there is a concern with the overcrowding of schools. The process to help this development is a concern as one of the individuals who will benefit from this development sits on the Village's Park Board, which lowered the cap on the cost associated with the Village's tree preservation ordinance.

John Frugarino, N72W24444 Good Hope Road, requested information on an expansion of Good Hope Road. Mr. Smith noted that road projects are not the purview of the Plan Commission, but that the Village Engineer could address those issues.

Gerry Unruh, W238N7615 Hidden Oaks Drive, questioned what is occurring with the Kwik Trip development on Hwy 164. Mr. Smith stated the Kwik Trip is approved.

**Consideration and possible action on a Petition for Attachment and zoning determination Ordinance for the property located in the Town of Lisbon at W239N7542 Maple Avenue north of Good Hope Road.**

Ms. Fluet reviewed the Plan Staff Memo (copy attached), and stated that the owners are requesting attachment of this parcel to the Village of Sussex. The necessary paperwork has been filed to be considered by the Village Board on September 27<sup>th</sup>. The Village will need to bring the property under the appropriate zoning district with guidance from the Village's Land Use Map. The parcel is designated with as low density single family residential sewer, and the properties surrounding the parcel are zoned as Single Family Residential, making an RS-2 Single Family Residential District with isolated natural resource area an appropriate zoning. There is a deferred water assessment on the property of \$41,951.16.

Ms. Kraemer stated that she has an issue with the proposed zoning of RS-2, as she views this area as being a gateway to the larger properties of the Majestic Heights subdivision. The zoning as proposed would be too dense.

Mr. Johnson noted that the land use plan contemplated the graduation of sizes and asked what Majestic Heights' zoning was. Ms. Fluet stated that Majestic Heights is zoned CR-1 Conservancy Residential District. Mr. Smith noted that the Pine Ridge subdivision is zoned as RS-1 and that Majestic Heights was illegally started in the Town of Lisbon, so many of the lots are larger than normally would be expected.

Mr. Pellechia asked how many lots could be on the proposed attachment property under CR-1 zoning. Mr. Smith stated that there would be fewer homes but was unsure of the number.

Mr. Pellechia noted that in the past the Village brought properties in under Agriculture zoning. Mr. Smith noted that was in past practice, however the smart growth law does not allow that. Ms. Fluet stated that the proposed zoning would fit in the land use plan.

Mr. Goetz stated that the property mimics the Pine Ridge and Centennial Oaks subdivisions and as proposed is a good development.

Mr. Smith noted that the minimum lot sizes in the RS-2 district are 20,000 square feet, which is smaller than Majestic Heights, which under CR-1 requires a minimum lot size of 40,000 square feet.

A motion by Goetz, seconded by Johnson to recommend approval of the Petition for Attachment and zoning determination Ordinance for the property located in the Town of Lisbon at W239N7542 Maple Avenue, east of Maple Avenue north of Good Hope Road.

Upon further discussion Mr. Pellechia stated that he was concerned about the RS-2 zoning designation. Mr. Smith recommended that it might make sense to review the attachment request after the presentation on the conceptual design of the subdivision.

A motion by Pellechia, seconded by Kraemer to table the action on the attachment request until after agenda item 7A. Motion carried.

**Consideration and possible action on a Petition to amend Section 17.0416(A) B-1 Neighborhood Business District to allow Religious Facilities as a permitted use.**

Greg Welch, W140N7115 Lilly Road, Menomonee Falls, Pastor of New Hope Church and the petitioner, stated that the church has found a location in the Village that was ideally suited. The church is currently holding services in the Village's Community Center, and this location would offer them a permanent location in the community. Ms. Fluet reviewed the Plan Staff Memo (copy attached), noting that the property is zoned B-1 Neighborhood Business District and is a multi-tenant building at N64W24678 Main Street. The owner has a request from the church to rent 3,300 sq. ft. of space for general office operations and space for the congregation to assemble. Zoning in the B-1 district does not allow religious facilities.

A motion by Goetz, seconded by Pellechia to recommend approval of the petition to amend Section 17.0416(A) B-1 Neighborhood Business District to allow Religious Facilities as a permitted use. Motion carried.

**Consideration and possible action on an Ordinance to Amend Chapter 17 Section 17.0416 entitled B-1 Neighborhood Business District to create Sub Section 17.0416(A)(3)(d) Religious Facilities**

Ms. Fluet reviewed the plan staff memo (copy attached) stating that staff has prepared an amendment to Chapter 17.

A motion by Kraemer, seconded by Johnson to recommend approval of an ordinance to amend chapter 17 Section 17.0416 entitled B-1 Neighborhood Business District to create Subsection 17.0416(A)(3)(d) Religious Facilities. Motion carried.

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

Mr. Balcerek stated that the bushes had been trimmed below the window sill as requested by the Plan Commission. Mr. Goetz noted that Mr. Balcerek had done a good job in complying with the request to maintain his property. Mr. Pellechia stated that the owner should continue to work with the Village as necessary to maintain the property. Mr. Goetz stated this wouldn't need to be on future agendas.

**Conceptual review of the site plan for a new Subdivision for property located in the Town of Lisbon at W239N7542 Maple Avenue, east of Maple Avenue north of Good Hope Road.**

George Erwin, the proposed subdivision's developer, stated that the development was to be respectful of the existing natural features on the property. The property owners have no desire to bring the parcel into the Village if it can't be built on. The property began as pasture land, but by the 1980's it had been left fallow. There are high quality and low quality trees on the property and the proposed subdivision is respectful as possible to the woodlands. The 2020 Village Master Plan calls for this parcel to be designated as RS-2 and Isolated Natural Resource Area. The INR is related to the slopes on the property which are 12% which the proposal has attempted to maintain. The proposed lots will average 26,000 sq. ft. and with 1.26 lots per acre. The subdivisions to the west, south and southeast have a higher density. Approximately one third of the property is tree preservation. The street layout is intended to be attractive and minimize cut through traffic.

Josh Pudelko, from Trio Engineering stated that the drainage of the property draws water from the southwest. A common lot line with properties to the west will cut this off and the water will be put into a pond. The roads have been designed to discourage cut through traffic. The right of way is sixty feet wide which allows for homes to be closer and less trees to be removed from the lot. The lots will be deed restricted regarding tree removal.

Mr. Erwin noted that if the property were zoned RS-1 it would be less likely to be developed or it would not have the amount of conservation as the subdivision proposed as there is a certain level of yield that is needed to make it economically viable.

Mr. Johnson noted that a recently approved subdivision had natural resources areas and wondered if the proposed subdivision would have sidewalks. Mr. Erwin stated that he would not be opposed to putting in sidewalks. Mr. Smith noted that sidewalks are required by code.

Mr. Smith stated that he wanted to address a public comment that was made during the meeting regarding a member of the Park Board and the amendment to the tree preservation ordinance. The individual in question did not vote on the amendment to the tree preservation ordinance. The matter of limiting the dollar amount required for developers had been brought forth by the Village President. The Park Board did not vote on the amendment and did not have a say on it. Mr. Smith further stated that he takes accusations of impropriety seriously and at no time did this individual act improperly. Mr. Erwin noted that the property was under contract before knowing about the tree preservation ordinance.

Mr. Pellechia asked if the density of the development is an issue how much less dense could it be and still be financially viable? Mr. Erwin stated that if the development were to go in as an RS-1 zoning it would significantly impact the development, protection of the slopes and also trees would be hampered as well.

Mr. Goetz noted that the lots were 20,000 sq. ft. but there were several that were over 40,000 sq. ft.

Mr. Pellechia stated that preservation of the trees was something to consider but there are other factors as well, including crowding with the schools and also how the development will affect the Village overall.

Mr. Johnson stated that the Village cannot cap development due to the schools. Mr. Goetz noted that the school district knows about this development as well as future developments in Sussex, the Town of Lisbon and the Village of Menomonee Falls.

Ms. Kremer stated that out of forty two proposed lots, twenty are 20,000 sq. ft. This was not the type of development that she envisioned.

Mr. Pellechia noted that it is good to have diversity in the type of housing available in the Village. Mr. Smith stated that the proposed lot sizes are something that is not currently available in the community.

Attorney Macy asked the commissioners if they had been under the impression that the land would be developed. The consensus of the Plan Commission was that they understood that this property was slated for development. Attorney Macy noted that the next decision is the type of development that is appropriate for the site. If a more conventional subdivision was presented it may not meet all the expectations that the Commissioners may have.

Mr. Pellechia stated that just because this particular developer cannot make a subdivision work without larger lots does not mean that someone else would not be able to come along and make it work. Mr. Goetz noted that it would be difficult to put a subdivision in with larger lots or a grid pattern without changing the slope and removing trees.

Mr. Johnson stated that if the development were not to be approved, then a future Plan Commission may decide that the Village needs development and will allow something that does not fit as well into the property as the proposed subdivision does.

Mr. Pellechia stated that the development as proposed could be worse and that there is a good plan overall. It would be nice to have a few extra feet on each lot and if there is a way to make the development better and still be feasible. Mr. Pudelko noted that if the lot frontage was to increase the size of the streets would also need to increase.

Ms. Tetzlaff stated that she likes the development and that it will be attractive. She understands the anxiousness of the neighbors as she experienced a similar situation with her property. The RS-2 zoning designation is okay.

Mr. Goetz noted that there are always concerns with new development and its impacts. He believes that this is a nice development and that there is a good mix of different sized lots. Roads have been addressed to calm traffic and there are not any issues with school overcrowding.

Mr. Johnson stated that the proposed development is laid out with forethought and is attractive and works well.

Ms. Anderson stated that the discussion has eased her mind about the development. It is a positive that the developer considered tree conservation and that people would pay more to have a lot with trees. She would like to see a pathway to Woodside Elementary School.

Ms. Kremer stated that she was not in favor of the proposal as presented.

Staff noted that the review of the subdivision was a conceptual review only and required no action, but the attachment public hearing did.

A motion by Goetz, seconded by Johnson to recommend approval of the Petition for Attachment and zoning determination Ordinance for the property located in the Town of Lisbon at W239N7542 Maple Avenue, east of Maple Avenue north of Good Hope Road.

Motion Carried (4-2, Pellechia and Kremer opposed)

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

A motion by Kremer, seconded by Anderson, to adjourn the meeting at 7:45 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 September 15, 2016  
DATE: September 1, 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 public hearing minutes and minutes of the Plan Commission meeting on August 18, 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:**
06. **Consideration and possible action on Zoning and Planning Items:**
  - A. **Consideration and possible action on a Petition for Attachment and zoning determination Ordinance for the property located in the Town of Lisbon at W239N7542 Maple Avenue, east of Maple Avenue north of Good Hope Road.**

The owners of this property are requesting to be annexed into the Village of Sussex. The necessary paperwork has been filed to be considered by the Village Board at the September 27, 2016 meeting. It is standard practice of the Village to bring attached property in under the appropriate zoning districts with the guidance of the Land Use Map.

In accordance with the Land Use Map this parcel is designated with a Low Density Single Family Residential Sewered. The properties surrounding this property are zoned Single Family Residential therefore the appropriate zoning would be RS-2 Single Family Residential District with isolated natural resource area.

This property has a deferred assessment for water in the amount of \$41,951.16.

Once the property is attached a petition to consider permanently zoning this property to RS-2 with a Planned Development Overlay and isolated natural resource area to allow for an orderly development of the site will be reviewed at a later meeting.

**Policy Questions:**

1. Are there any concerns with bringing the property into the Village?
2. Are there any concerns with zoning this property RS-2?

**Action Item:**

1. Act on the request and attachment Ordinance.

**Staff Recommendation:** Staff recommends the Plan Commission recommend to the Village Board approval of the attachment and the Ordinance establishing initial zoning for the property located at W239N7542 Maple Avenue, east of Maple Avenue north of Good Hope Road conditioned upon the standard conditions of exhibit A.

**B. Consideration and possible action on a Petition to amend Section 17.0416 (A) B-1 Neighborhood Business District to allow Religious Facilities as a permitted use.**

A petition has been submitted to amend Ordinance Section 17.0416 (A) by the agent of the property owner of the multi-tenant building at N64W24678 Main Street located in the B-1 Neighborhood Business district. The owner has a request from a church to rent 3,300 square feet of tenant space for New Hope Church for general office operations and in addition they would like to use the space for the congregation to assemble to practice religion. The permitted uses in the B-1 do not allow Religious Facilities. In accordance with Section 17.1502 Specific Words and Phrases, Religious Facilities is defined as the following:

Religious Facility

A facility where religion is practiced or its supporting uses are (ex. Church, synagogue, temple).

Under Court rulings, the Village should be consistent with its application of assembly type uses and it would be appropriate to amend the code to allow religious facilities in the B-1 district.

Currently the districts that allow Religious Facilities as a permitted use are B-4 Central Mixed Use, B-3 Highway Business, I-1 Institutional and as a conditional use in all the Residential districts.

**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 amend Section 17.0416 (A) B-1 Highway Business District to allow Religious Facilities as a permitted use.

**C. Consideration and possible action on an Ordinance to amend Chapter 17 Section 17.0416 entitled B-1 Neighborhood Business District to create Sub Section 17.0416 (A)(3)(d) Religious Facilities.**

Staff has prepared an amendment to Chapter 17 to create a Sub Section in Section 17.0416 (A)(3)(d) entitled B-1 Neighborhood Business District to allow Religious Facilities as a permitted use.

**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.

**D. 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.

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

**A. Conceptual review of a site plan for a new Subdivision for property located in the Town of Lisbon at W239N7542 Maple Avenue north of Good Hope Road.**

This property is located in the Town of Lisbon and must attach the Village of Sussex prior to development. A group of developers has this property under contract. The developers are proposing to develop the 33 plus acre parcel into a single family subdivision. The site plan proposes 42 (1 existing) lots with access points into the subdivision off Maple Avenue and connecting with Hidden Oaks Drive in the Majestic Heights Subdivision.

Because of the slopes in the area the Plan Commission will need to review Chapter 18 Section 18.0204 I and make a determination.

(l) 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.

This site is subject to the Tree Preservation Ordinance and the developers will have to submit a tree inventory for consideration by the Park Board.

Many reviews will need to take place over the next few months prior to final approvals.

Staff has reviewed the conceptual plans and finds them consistent with the Village's plans and design intents. The development provides proper traffic access and alignment as planned by the continuation of existing development roadway patterns. The protection of a significant amount of forested area provides highly wooded and valuable lots and the 25' and larger buffer area to the Majestic Heights Subdivision provides significant buffering between the developments. One of the developer's for this site developed Majestic Heights and is familiar with the history of this area.

The lots are larger than Pine Ridge and Centennial Oaks, but smaller than Majestic Heights as Majestic Heights was started improperly in the Town of Lisbon.

**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.

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

**09. 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.