

STATE OF WISCONSIN

VILLAGE OF SUSSEX

WAUKESHA COUNTY

ORDINANCE NO. 838

AN ORDINANCE TO CONDITIONALLY REZONE
CERTAIN LANDS IN THE VILLAGE OF SUSSEX FROM
B-3 HIGHWAY BUSINESS DISTRICT, BP-1 BUSINESS PARK DISTRICT,
B-2 REGIONAL BUSINESS DISTRICT, A-1 AGRICULTURAL WITH ISOLATED
NATURAL RESOURCE AREA

TO

BP-1 BUSINESS PARK DISTRICT, B-2 REGIONAL BUSINESS DISTRICT, WITH
WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT AND PORTIONS WITH AN
ISOLATED NATURAL RESOURCE AREA OVERLAY

WHEREAS: A petition has been filed by the Representatives of the Stu Wangard (“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 BP-1 Business Park District and B-2 Regional Business District with a Planned Development Overlay District, and portions with an Isolated Natural Resource Area overlay as described on Exhibit A; and

WHEREAS: The Petitioner has supplied all required data pursuant to the Village of Sussex Zoning Code, and a joint public hearing was conducted by the Village Board and Plan Commission of the Village of Sussex on June 12, 2018; and

WHEREAS: The Village Plan Commission of the Village of Sussex has recommended to the Village Board of the Village of Sussex that said zoning change be made upon certain conditions; and

WHEREAS: The Village Board of the Village of Sussex having carefully reviewed the recommendation of the Plan Commission of the Village of Sussex, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others hereby determine that the rezoning will not violate the spirit or intent of the Zoning Code for the Village of Sussex, will not be contrary to the public health, safety or general welfare of the Village of Sussex, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendation found in the Village of Sussex master plan.

NOW, THEREFORE, the Village Board of the Village of Sussex, Waukesha County, Wisconsin, do ordain as follows:

SECTION 1: The subject properties are hereby rezoned to BP-1 Business Park District, B-2 Regional Business District, with a Planned Development Overlay District and portions with an Isolated Natural Resource Area Overlay as described on Exhibit A and the Zoning Map of the Village of Sussex is hereby amended.

SECTION 2: The above rezoning and zoning map amendment is conditioned upon the following conditions, which must be complied with or this ordinance is null and void:

1. Presentation Compliance. The subject property must be developed in substantial conformity with the plans presented to the Plan Commission on _____ and in substantial conformity with the presentation at the joint public hearing with the Plan Commission and Village Board on _____ 2018.
2. Permitted Uses
 - A. Compliance with Zoning. The uses classified as permitted uses and conditional uses for the B-2 Regional Highway Business District (Section 17.0417, Ordinances) shall be allowed in the BP-1 district of the subject property as if and in the same manner as if the district was zoned B-2. For those uses classified as permitted uses and conditional uses for the BP-1 Business Park District (Section 17.0420, Ordinances), they may be allowed as conditional uses within the subject lands zoned B-2 with the additional condition that the building architecture and design standards for the site for any BP-1 use in the B-2 district shall follow the higher design standards as determined by the Village that are required for commercial type uses in the B-2 district.
 - B. Nuisances. No noxious or offensive trade or activity, whether or not permitted by applicable zoning, shall be carried on within the Park, nor shall anything be done which is or may become an annoyance or nuisance to adjacent owners or other Park users, or which is inconsistent with the Declaration of Development Standards and Protective Covenants applicable to the Site or other governmental or private restrictions applicable to the Site. All Buildings and Building Sites in the Park shall comply with Chapter 9, Ordinances (Orderly Conduct, Public Nuisance, Health and Sanitation) with respect to control of noise, vibration, dirt, dust, smoke, odor, glare, and waste within the Park.
 - C. Hazardous Waste. No storage of hazardous or toxic waste, or discharge of such waste into the sanitary system or surface drainage system, shall be permitted within the Park.
3. Site Specifications, Requirements and Site Plan
 - A. Site Plan. No new improvements, or modifications of any kind or degree to existing improvements, shall be made or constructed upon a Building Site or other parcel until a detailed Site Plan of the entire Building Site or parcel is approved, if required by Section 17.0420.J.1, Ordinances, by the Village.
 - B. Limit on Development. No more than seventy-five percent (75%) of any Building Site may be covered with buildings or other improvements impervious to surface water absorption, (i.e., drives, parking lots concrete loading areas) and not less that twenty-five percent (25%) of any Building Site shall be landscaped open space.
 - C. Utilities. All utilities serving a Building Site shall be installed underground. Associated above-ground apparatus shall be screened with landscaping or an approved enclosure.

4. Architectural Building Plan Review

A. Building Plan. No building or other structure shall be constructed or placed on any Building Site or other parcel nor shall any building or structure be remodeled or altered, until detailed plans and specifications for such building, structure, or remodeling, alteration or addition thereto, have been reviewed and approved, if required by the Village.

B. Building Standards. Buildings and Structures shall comply with the Village of Sussex Design Standards (rev. March 25, 2014) or as amended from time to time as required by Section 17.0420.I, Ordinances. Buildings and Structures within the B-2 District and B-2 uses allowed in the BP-1 per 2.A. above shall follow the higher commercial building standards of the Sussex design standards, while all other buildings and structures shall adhere to the following minimum standards:

- i. They shall be designed by an Architect or Engineer. All sides, elevations, or facades of all Buildings and Structures visible from the right-of-way of all public highways, streets or roads shall be visually pleasing and architecturally and aesthetically compatible with the surrounding environment.
- ii. The exterior and externally visible surfaces shall be constructed of the following types of materials (provided, however, that such list shall not be deemed to exclude the use of other accent or exterior trim materials, glass and glazing, and earth berms):
 - a. Brick;
 - b. Architectural precast concrete panels;
 - c. Decorative concrete block for no more than 90% of the exterior building wall area, except for office buildings where it shall not exceed 50% of the exterior wall area);
 - d. Cut stone;
 - e. Exterior insulation and finish systems such as Dryvit or Sunalar (not to exceed 30% of the exterior wall area for office buildings);
 - f. Wood (as an accent/trim material but in not to exceed 30% of the building's exterior);
 - g. Other building materials being developed, and to be developed, by the construction industry which shall be reviewed on a case-by-case basis.

Building materials will be selected for their ability to present a visual statement of a building or structure's strength, attractiveness and permanence. The building materials used shall be harmonious with the natural environment and with the general character of other buildings and structures in the Park.

(iii) Metal trim materials may be used when in keeping with the architectural and aesthetic character of the building or structure.

(iv) All mechanical, electrical, pollution control or waste handling equipment, utility enclosures, whether roof, pedestal or ground mounted, and any outside solid waste, raw material, inventory, finished product, equipment, fuel storage facility or other storage of any kind, shall either be architecturally screened from view using materials identical to, or structurally and visibly compatible with, the main buildings or structures on the Building Site, or shall be landscape screened. All storage areas shall be screened as provided above and shall be hard surfaced with either concrete or asphalt materials within ninety (90) days from the date of occupancy, or as soon thereafter as weather will permit if such period occurs during winter months.

(v) All buildings to be constructed on a Building Site which are to be heated or cooled shall be designed and constructed in an energy efficient manner consistent with sound and prudent design and construction techniques.

C. Accessory or Ancillary Structures. Accessory or ancillary structures shall be permitted only if such structures are necessary to the principal use of the Building Site, are in architectural and aesthetic conformance with other building(s) or structure(s) on the Site, are properly screened, and meet all other applicable requirements. No building or structure of a temporary nature may be constructed on any Building Site except construction sheds in use during construction. Such sheds shall be promptly removed upon completion of construction.

5. Landscaping

A. Landscaping Plan. The landscaping for a Building Site or parcel shall be carried out in accordance with a detailed landscaping plan which has been reviewed and approved, if required by the Village.

B. Plant Material. Selected plant material should provide for a variety of shade trees, evergreen trees and shrubs, ornamental trees and shrubs and ground covers. Plant material selection shall take into consideration the following:

- (a) Disease and insect resistance.
- (b) Hardiness to the area.
- (c) The ability to provide seasonal interest.
- (d) Future maintenance considerations.
- (e) Ice melt and salt tolerance when plant material is near parking and storage areas.

C. Time for Completion. All landscaping shall be completed within ninety (90) days following occupancy, or as soon thereafter as weather will allow if such period occurs within winter months.

6. Off-Street Parking, Loading and Storage

A. Parking and Loading Areas. Off-street parking and loading areas shall comply with the Section 17.0600, Ordinances, and the following minimum standards. Loading areas shall be separate from parking areas on any site where possible, and truck and truck-trailer loading, receiving and parking areas shall be located away from the street side(s) of any building wherever possible, and shall be designed and located so as to confine all truck maneuvering to the Building Site. In addition, front or street yard parking shall only be allowed provided the same is adequately screened as provided for in the Village of Sussex zoning ordinance.

B. No On-Street Parking. No motor vehicle or trailer may park on any street.

C. Storage of Trailers and Vehicles. There shall be no long-term storage of trailers or vehicles on any Building Site unless a conditional use for such storage is approved by the Village. The parking of licensed on the road vehicles/trailers that frequently come and go and are on a paved surface does not require a conditional use. The determination for what types of storage require a conditional use is made by the Village per Village Ordinance.

D. Hard-Surfacing. All parking, loading and driveway areas shall be hard-surfaced with either concrete or asphalt materials at the date of occupancy, or as soon thereafter as weather will allow if such period occurs during winter months.

E. No Outdoor Storage. There shall be no outdoor storage outside of an adopted conditional use for the same on the Subject Lands.

7. Signage and Lighting

A. Sign Standards. All signs must be architecturally compatible to other improvements. Signs may only advertise the name(s) of the building occupants, the owners of the Building Site, and the product manufactured or sold on the Building Site. Each Building Site shall contain only one major "monument" type of sign at the entry of each site. Additional major signage may be

mounted on the building subject to approval by the Village. Additional smaller signs may be mounted adjacent to individual tenant entrances and identifying individual tenants, or smaller signs may be erected directing traffic, subject to approval by the Village. Any such signs shall be permanently affixed to the face of the building (but shall not extend above the higher of the ceiling line of the top floor or the top of a parapet wall) or to the ground, and shall not flash, pulsate, rotate or be affixed with moving appurtenances.

B. Lighting Standards. Lighting on individual Building Sites shall adhere to applicable governmental lighting codes and ordinances, as well as the following requirements:

- i. All exterior lighting shall be energy efficient and shall be located, oriented, and of an intensity to illuminate only the Building Site or parcel where located without detrimentally affecting activity on adjacent Sites or parcels or traffic on streets and highways.
- ii. Lighting shall not be located on the roofs of buildings. Any lights affixed to a building shall be oriented downward at no more than a 45-degree angle from the vertical so as to light only areas of the Site.
- iii. Lights may neither flash, pulsate, nor be so bright as to impair or hinder vision on public streets or adjacent Building Sites, or otherwise constitute a nuisance.
- iv. Only light emitting diode (LED) or a modern equivalent lighting types shall be allowed and sodium vapor, incandescent, mercury vapor, and metal halide lighting types shall be prohibited.

8. CSM Conditions. The Petitioner shall submit and receive all necessary approvals for a CSM, and shall satisfy all conditions of the same. The CSM, or a subsequent CSM filed shall include the attachment to the Subject property of approximately 0.23 acres of the remnant parcel, currently owned by WisDOT at the corner of STH 164 and CTH K.

9. Lot Sizes. Shall follow the underlying district standards (B-2) or (BP-1) as appropriate. If a commercial use as allowed or conditionally allowed under the B-2 zoning district standards is approved within the BP-1 area of the subject development than the B-2 lot standards may be allowed as determined by the Village Plan Commission for that specific lot in the BP-1 district.

10. Setbacks.

A. Setbacks in the B-2 district shall follow the B-2 setbacks. If a commercial use as allowed or conditionally allowed under the B-2 zoning district standards is approved within the BP-1 area of the subject development than the B-2 setback standards may be allowed as determined by the Village Plan Commission for that specific lot in the BP-1 district.

B. Setbacks in the BP-1 district shall be as follows:

- (i) Front or street yard – not less than 40 feet from the right-of-way of all highways, streets or roads.
- (ii) Shoreland setbacks – the setbacks set forth in the Village’s shoreland regulations shall apply.
- (iii) Side yard – not less than 25 feet from any other lot line. This is regardless of building height.
- (iv) Rear yard – not less than 25 feet from any other lot line.

11. Special Assessment. The payment of any outstanding special assessments owed on this property must be paid in full prior to starting any site work.
12. 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.
13. Design Standards. As required in the Village Design Standards
14. Required Plans and Engineer Satisfaction. Subject to the Petitioner submitting to and receiving written approval from the Village Plan Commission of all of the following plans for the entire subject property. Said plans shall satisfy all comments, conditions, and concerns of the Village Engineer.
 - A. Roadway Plans including signage for the entire site and roadway/signal improvements required by Waukesha County and Wisconsin Department of Transportation. The roadway widths for Village roads for this Development shall be determined by the Village Engineer.
 - B. 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:
 - i. Sewer System Plans
 - ii. Water System Plans
 - iii. Storm water Management Plans with the appropriate maintenance requirements and outlots.
 - iv. Existing Above Ground Utility (Private) burial plans.
 - C. Master Street Lighting Plan for the entire site including.
 - D. A Sidewalk plan for the entire site shown on the plans including location, and width, with the necessary easement(s) if any on the CSM.
 - E. Street Tree Plan and landscape plan for common areas and along/and or in rights of way areas with the necessary easements if any on the CSM.
15. 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.
16. 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.
17. 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.

18. 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.
19. 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.

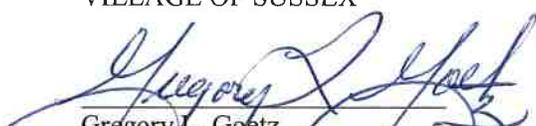
SECTION 3: The Village Engineer is hereby authorized and directed to note this rezoning on the Official Zoning Map of the Village of Sussex upon successful development of the property and satisfaction of all conditions in Section 2 of this Ordinance.

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 12 day of June, 2018.

VILLAGE OF SUSSEX



Gregory L. Goetz
Village President

ATTEST: 

Casen J. Griffiths
Village Clerk-Treasurer

Published and/or posted this 17 day of June, 2018

Sussex Business Park

Sussex, WI

BP-1/PDO

Isolated Natural
Resource Area

12.0 Ac.

Preserve
Oak Trees

BP-1/PDO

27.6 Ac.

Proposed

BP-1/PDO

18.9 Ac.

(Future Road)

Drive

Business

S Corporate Cir

2.6 Ac.

B-2/PDO

5.7 Ac.

0.23 Ac.

Proposed



Google Earth

© 2018 Google

164

1000 ft

