

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

**Minutes of the Plan Commission meeting held on June 16, 2020.**

President LeDonne called the meeting to order at 6:30 p.m.

Members present: Commissioners Deb Anderson, Jim Muckerheide, Roger Johnson, Trustee Scott Adkins and Village President Anthony LeDonne.

Members excused: Michael Knapp and Annette Kremer.

Others present: Assistant Development Director Kasey Fluet, Village Attorney John Macy, Village Engineer Judy Neu, Admin. Asst. Lori Niswonger, Deputy Clerk Linda Steinmetz and applicants.

A quorum of the Village Board was not present at the meeting.

**Consideration and possible action on the minutes on the Plan Commission meeting of May 19, 2020.**

A motion by Anderson, seconded by LeDonne to approve the minutes of the Plan Commission meeting of May 19, 2020 as presented. Motion carried 5-0

**Consideration and possible action on a on a Plan of Operation and site plan for Protouch Products (N56W24790 North Corporate Circle Unit B).**

Petitioner was not present.

Correction to unit #, site is N56W24790 North Corporate Circle Unit **B**.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned BP-1. The internet sales mail order business is a permitted use in the BP-1 Business Park District in accordance with Section 17.0420(A)(8)(a). Protouch Products will package and repack items into different unit sizes and ship them to customers. They will occupy 5,000 square feet in the 39,120 square foot multi-tenant building. Hours of operation will be Monday through Sunday 5:00 a.m. to 1:00 a.m. This site has 72 parking stalls 33 stalls are allocated to other users and this user requires four spaces.

Any signage for this building must be reviewed by the Building Inspector.

Plan Commission Comments: None

A motion by Johnson, seconded by Anderson to approve the Plan of Operation and site plan for Protouch Products (N56W24790 North Corporate Circle Unit B); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A. Motion carried 5-0

**Consideration and possible action on a Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for Dunkin'/Baskin Robbins (W249N6478 STH 164).**

Nikoletta Scarlatis spoke on behalf of Dunkin'/Baskin Robbins, W246N6478 STH 164.

Site: The Kardo Group is planning to build a one story, combination Dunkin'/Baskin Robbins store on Lot 2. Store size is 1,835 sq. ft. to be placed in middle of Lot 2, facing the frontage road. Business will share access with Taco Bell and extend the sidewalk from Taco Bell to their location. Stacking for drive-through is 7 with overflow in the parking lot.

Architecture: Design is the new modern Dunkin'/ Baskin Robbin combo building with charcoal veneer to include Lannon Stone on the exterior. Dumpster enclosure material will match the building. Roof top units will be screened from view.

Lighting: Plan has been designed to prevent spillage onto neighboring properties. They are attempting to get the same light poles as Taco Bell.

Landscape: Designers worked with staff to understand the landscape requirements and have designed the landscaping to meet code.

Sign: Most signs are on the building and follow typical signage per Dunkin' standards. The monument sign has been designed to meet Village code and will have Lannon Stone to match the building.

Plan Commission Comments: Commission Johnson stated the monument sign should have the businesses address on it to meet code. Ms. Scarlatis stated they will add the address to the monument sign. Commissioner Muckerheide was concerned with the closeness of the new building to the existing Taco Bell. Concerned about traffic flow. Village Engineer Neu reviewed the drawings and measurements between buildings with Plan Commission and explained that the businesses have different peak periods which will impact traffic and when the drive-throughs are in use. No other comments.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned B-2. The restaurant with drive through is permitted in the B-2 Regional Business District in accordance with Section 17.0417 (A)(1)(b) subject to the Plan Commission must find that the vehicle stacking will not impact surrounding properties or any public roadway. Dunkin'/Baskin Robbins is a franchise chain to offer drive through and in stores service for the Dunkin' brand items. The Baskin Robbins will be in store service and some menu items available at the drive through. Hours of operations will be Monday through Sunday 4:00 a.m. to 12:00 a.m.

#### Site

- Stacking for drive through accommodates 7 cars with no impact to surrounding properties or public roadway.
- Provides good pedestrian orientation.
- Need to provide more details about proposed monument sign location.
- There is sufficient parking with 27 stalls.

#### Architecture

- Building meets height and required setbacks.
- Dumpster enclosure material to match building.
- Roof top units are to be screened from view.
- Material to be used meets the Design Standards.

#### Lighting

- Lighting must not spill out onto neighboring properties.
- Pole height not to exceed 25 feet, bases are to be buried or if exposed they shall. Be painted to blend in with the surroundings or have a decorative base.

#### Landscape

- The landscape plan meets the Design Standards; 18 trees and 148 shrubs/flowers.

#### Signage

- Meets the code requirements.
- Monument sign meets the Design Standards.

The plans will be reviewed at the July Architectural Review Board. The site plan does encroach in the southeast corner on the adjacent undeveloped lot. A CSM or quit claim between the properties needs to occur to square off the lot as proposed.

A motion by Johnson, seconded by Anderson to approve of the Plan of Operation and site plan, architectural plan, lighting plan, landscape plan and sign plan for Dunkin'/Baskin Robbins (W249N6478

STH 164); a finding that the use and structures meet the principals of 17.1002(A-H), and subject to any conditions by the ARB, a CSM or Quit Claim between properties needs to occur to square off the lot as proposed, review by the Village Engineer and the standard conditions of Exhibit A. Motion carried 5-0

**Convene the public hearing of a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).**

Pete Meissner spoke on behalf of Harvest View Farms Inc, N67W25913 Silver Spring Dr. Site has been a working farm for 80 years. Owner plans to sell 176 acres of the land to Neumann Development and keep 2.4 acres for farming operations. Mr. Meissner wishes to square off the site he owns by moving his lot line to the south and west which will enable him to include the farm office on his lot. The lot lines were drawn many years ago when the property was part of Lisbon and those lot lines run through some of the silos and outbuildings. By squaring off the lot, it will go from 1.54 to 2.4 acres and eliminate the lot line issues.

This farm primarily harvests wheat, corn and soybeans and there are no plans to change those operations in the near future. Farm currently has 100 head of cattle and sell approximately 10 per month. Farm has one full time employee.

Mr. Meissner's goal is to work with Neumann Development as the site is developed to meet all the requirements of the conditional use, including adding a berm of trees between the farm and new subdivision (plan attached).

We have reviewed the impact report with no issue and paid all fees.

Bryan Lindgren spoke on behalf of Neumann Development: Developer will be adding the landscaped buffer between the farm and new development. The area south of Sussex Creek will continue to be retained by the owners and become a wetland area except for the pond which will not be part of the wetlands.

Comments from the public: None

Comments from Plan Commission: Commissioner Johnson stated he had no concerns with buffer, but had concerns with number of farm buildings on site. He is requesting that an inventory be taken of buildings, to be included in conditional use. This will set a standard when these buildings are grandfathered in, and staff know what is there. Also, CU to have language stating no additional buildings can be added without permission of the Plan Commission.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned CR-1. The zoning of the farm as CR-1 residential was placed on the property to meet the requirement of the Wisconsin Statutes, the zoning must match the Land Use designation. The owners of the property want to sell 176 acres of the land to a developer and keep 2.4 acres for farming operations. Farming includes processing various agricultural crops and buildings associated with the management of the operations. Some of the buildings and silos on the property do not meet the setback requirements making the use legal non-conforming. In accordance with Section 17.0507 a legal non-conforming use may be granted a conditional use.

The Petitioner will need to prove the standards/conditions highlighted in the memo during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Plan Commission stated the Petitioner had met the standards and directed staff to prepare a Conditional Use Order to include the following conditions, for review at the July 21, 2020 meeting at 6:30 p.m.

Conditions to be added to the Conditional Use include: Landscaped buffer between farm and development, inventory of farm buildings on site and language stating no additional buildings without review by Plan Commission.

A motion by LeDonne, seconded by Anderson to adjourn the public hearing until July 21, 2020 at 6:30 pm. Motion carried 5-0

**Consideration and possible action on request for an accessory building exceeding 250 square feet for David and Jennifer Barnish (W238N7651 Hidden Oaks Dr.).**

David Barnish, W238N7651 Hidden Oaks Dr addressed the Commission. Owner is installing an in-ground pool and wishes to build a structure to tie in with the pool area. Building will have a 16x10 ft. storage area with bathroom and an overhang area to provide shaded entertainment space. The plans have been approved by their HOA. Structure is nearly identical to other pool houses in this subdivision. Materials will match those on existing home and area will be landscaped.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned CR-1. The accessory building is a permitted use in this district in accordance with Section 17.0704 (A)(2), the accessory building the homeowner would like to build is larger than 250 square feet. The owner is requesting to build a 416 square foot building, 160 square feet will be an enclosed structure with a bathroom and storage area and 256 square feet will be an open space area with an outdoor living area to include a gas fire table. The Plan Commission may allow this based on 17.0704: On larger lots, the Plan Commission may, at its discretion, permit more than one accessory structure or may permit a structure exceeding 250 square feet in area when it determines that more than one such structure or a larger structure is necessary to the efficient development of the property and that sufficient, usable open space areas remain on the lot.

The size of the owner's lot is just over an acre, 44,420 square feet. The Majestic Heights Homeowners Association has approved the improvements. Staff feels the proposed building and addition of a pool fits the neighborhood and the lot.

Plan Commission Comments: Commission Adkins asked how this building compares in size to others in the community. Mr. Barnish replied that is was the same size as other pool houses in the neighborhood and smaller than the one on Lot 40.

A motion by LeDonne, seconded by Muckerheide to approve the 416 square foot accessory building for the property located at W238N7651 Hidden Oaks Drive subject to the conditions of Exhibit A. Motion carried 5-0

**Consideration and possible action on a Final Plat for Woodland Trails Subdivision east of Coldwater Creek Subdivision and south of Plainview Road.**

Eric Obarski spoke on behalf of Neumann Development and presented the Woodland Trails final plat of phase one with 27 lots. Development is west of the approved Woodland Preserve development. This is first 27 lots of a multi-phased development.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached) stating this site is zoned RS-3 with a Planned Development Overlay. The approval of this Plat is for the 27 single-family lots. Building permits may be issued once staff is satisfied all the conditions of the Developers Agreement have been met, the Plat meets the conditions of the rezone ordinance granted March 12, 2019, the requirements of Chapter 18 are met and once the Plat is recorded with the Registry of Deeds.

Plan Commission Comments: None

A motion by LeDonne, seconded by Anderson to recommend to the Village Board approval of the Final Plat for Woodland Trails subject the approval of the Restrictive Covenant, the standard conditions of Plat approval, obligations of the Developers Agreement have been met and any conditions by the Village Engineer. Motion carried 5-0

**Topics for Future Agendas:** None.

**Adjournment**

A motion by LeDonne, seconded by Anderson to adjourn the meeting at 7:10 pm.

Motion carried 5-0

Respectfully Submitted,

Linda Steinmetz  
Deputy Clerk



MEMORANDUM

TO: Plan Commission  
FROM: Kasey Fluet, Assistant Development Director  
RE: Plan Commission meeting of June 16, 2020  
DATE: June 10, 2020

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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 of May 19, 2020.**
03. **Consideration and possible action on Permitted Uses and Site Plans:**

**A. Consideration and possible action on a Plan of Operation and site plan for Protouch Products (N56W24790 North Corporate Circle Unit D).**

This site is zoned BP-1. The internet sales mail order business is a permitted use in the BP-1 Business Park District in accordance with Section 17.0420(A)(8)(a). Protouch Products will package and repack items into different unit sizes and ship them to customers. They will occupy 5,000 square feet in the 39,120 square foot multi-tenant building. Hours of operation will be Monday through Sunday 5:00 a.m. to 1:00 a.m. This site has 72 parking stalls 33 stalls are allocated to other users and this user requires four spaces.

Any signage for this building must be reviewed by the Building Inspector.

**Policy Question:**

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

**Action Items:**

1. Act on the plan of operation and plans.

**Staff Recommendation:** Staff recommends the Plan Commission approve the Plan of Operation and site plan for Protouch Products (N56W24790 North Corporate Circle Unit D); a finding that the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

**B. Consideration and possible action on a Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for Dunkin'/Baskin Robbins (W249N6478 STH 164).**

This site is zoned B-2. The restaurant with drive through is permitted in the B-2 Regional Business District in accordance with Section 17.0417 (A)(1)(b) subject to the Plan Commission must find that the vehicle stacking will not impact surrounding properties or any public roadway. Dunkin'/Baskin Robbins is a franchise chain to offer drive through and in stores service for the Dunkin' brand items. The Baskin Robbins will be in store service and some menu items available at the drive through. Hours of operations will be Monday through Sunday 4:00 a.m. to 12:00 a.m. The store size will be 1,835 square feet, the following are comments for the plans:

#### Site

- Stacking for drive through accommodates 7 cars with no impact to surrounding properties or public roadway.
- Provides good pedestrian orientation.
- Need to provide more details about proposed monument sign location.
- There is sufficient parking with 27 stalls.

#### Architecture

- Building meets height and required setbacks.
- Dumpster enclosure material to match building.
- Roof top units are to be screened from view.
- Material to be used meets the Design Standards.

#### Lighting

- Lighting must not spill out onto neighboring properties.
- Pole height not to exceed 25 feet, bases are to be buried or if exposed they shall be painted to blend in with the surroundings or have a decorative base.

#### Landscape

- The landscape plan meets the Design Standards; 18 trees and 148 shrubs/flowers.

#### Signage

- Meets the code requirements.
- Monument sign meets the Design Standards.

The plans will be reviewed at the July Architectural Review Board. The site plan does encroach in the southeast corner on the adjacent undeveloped lot. A CSM or quit claim between the properties needs to occur to square off the lot as proposed.

#### **Policy Question:**

1. Are there any concerns with the Plan of Operation and various plans?
2. Are there any comments directed to the ARB?

#### **Action Items:**

1. Act on the plan of operation and various plans.
2. Recommend the plans to be reviewed by the ARB.

**Staff Recommendation:** Staff recommends the Plan Commission recommend approval of the Plan of Operation and site plan, architectural plan, lighting plan, landscape plan and sign plan for Dunkin’/Baskin Robbins (W249N6478 STH 164); a finding that the use and structures meet the principals of 17.1002(A-H), and subject to any conditions by the ARB, review by the Village Engineer and the standard conditions of Exhibit A.

**04. Conditional Use Public Hearing(s) and consideration and possible action on Conditional Use Permits and Plans on the following items:**

**A. Convene the public hearing of a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Harvest View Farms Inc. (N67W25913 Silver Spring Drive).**

This site is zoned CR-1. The zoning of the farm as CR-1 residential was placed on the property to meet the requirement of the Wisconsin Statutes, the zoning must match the Land Use designation. The owners of the property want to sell 176 acres of the land to a developer and keep 2.4 acres for farming operations. Farming includes processing various agricultural crops and buildings associated with the management of the operations. Some of the buildings and silos on the property do not meet the setback requirements making the use legal non-conforming. In accordance with Section 17.0507 a legal non-conforming use may be granted a conditional use.

The Petitioner will need to prove the following standards/condition during the Public Hearing process. The Plan Commission may add additional conditions for the Petitioner to meet in the Conditional Use. The shaded areas (if any) reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

**The Conditional Use Standards:**

17.0502 APPLICATION. Applications for conditional use permits shall be made to the Village on forms furnished by the Village and shall include Sections A, E, F and G. and may include any or all of Sections B, C, and D. as determined by the Administrator:

A. Names and addresses of the applicant, owner of the site, or other appropriate entities or persons implementing the project as required by the Administrator.

B. Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land survey or, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.

C. A topographic map, drawn to a scale of not less than 200' to 1" showing the land in question, its legal description and location; location and use of existing buildings; sanitary systems and private water supplies on such land; the high water elevation of any navigable water within 100' of the land in question; and the proposed location and use of any buildings, sanitary systems and wells on such land and within 100' of such land in question.

D. Additional information as may be required by the Plan Commission or Administrator. **{This may come out during the Public Hearing.}**



E. A fee, as may be established and periodically modified by resolution of the Village Board, shall accompany each application. Such fee shall be paid by cash, check or money order to the Village. Costs incurred by the Village in obtaining legal, planning, engineering and other technical and professional advice in connection with the review of the conditional use and preparation of conditions to be imposed shall be charged to the applicant.

F. Where necessary to comply with certain Wisconsin Statutes, an application will be submitted at the appropriate time to the Department of Natural Resources. The site plan and plan of operation information sheet and plan of operation approval form furnished by the Village shall be submitted prior to scheduling before the Plan Commission.

17.0503 REVIEW AND APPROVAL. The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

A. Upon receipt of the application, foregoing data and fees, the Plan Commission shall establish a date for a public hearing and shall public notice of the hearing once each week for two consecutive weeks in the official newspaper. Notice of the public hearing shall be given to the owners of all lands within 200' of any part of the land included in such conditional use by mail at least 10 days before such public hearing. A copy of the notice of public hearing along with pertinent information relative to the specific nature of the matter (copy of application and map) shall be transmitted without delay to the Plan Commission. Compliance with this subparagraph shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of any failure to mail the notices provided for in this subparagraph.

B. The procedure for public hearing before the Plan Commission shall be as follows: 1. Any person may appear in person, by agent, or attorney. 2. The Plan Commission shall afford the applicant and each interested person opportunity to present evidence to rebut or offer countervailing evidence. 3. The Plan Commission shall take minutes of the proceedings and shall mark and preserve all exhibits. The Plan Commission shall, when requested by an applicant or a petitioner objecting to the action, cause the proceedings to be taken by a stenographer or by a recording device provided that the applicant or the petitioner objecting making the request pays any and all costs for the stenographer or recording device and any copies of the proceedings. If requested by both the applicant and the petitioner the costs shall be split evenly unless otherwise agreed to by the parties.

C. Within 95 days of the completion of the hearing conducted by the Plan Commission, the Plan Commission shall render its written determination stating the reasons therefore. If additional time is necessary beyond the 95 days referred to above, such time may be extended with the consent of the petitioner. Failure of the Plan Commission to render a decision as set forth shall constitute approval of the permit. The factual basis of any decision shall be solely the evidence presented at the hearing. The Village Clerk shall mail a copy of the determination to the applicant.

D. Conditions such as landscaping, architectural design, type of construction, flood proofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this ordinance.

E. Compliance with all other provisions of this ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses unless otherwise authorized to be modified by a conditional use. Variances shall only be granted as provided in Section 17.1200 of this ordinance.

F. Changes in use subsequent to the initial issuance of a conditional use permit shall result in a need to change the initial conditions and shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. If any holder of a conditional use permit wishes to extend or alter the terms of such permit, the permit holder must apply for an amendment to the conditional use permit through the procedure of application for conditional use permits detailed herein. The process for

amending a permit shall generally follow the procedures for granting a permit as set forth in Sections 17.0501, 17.0502 and 17.0503, and shall require the filing of an application and a hearing as provided above.

## **The Zoning District Standards Section 17.0404 CR-1 Conservancy Residential District**

### **17.0404**

#### **CR-1 CONSERVANCY-RESIDENTIAL DISTRICT**

The CR-1 Conservancy-Residential District is intended to preserve, protect, enhance, and restore significant woodlands, areas of rough topography, and related scenic areas while providing for low-density residential development that will not disturb important ecosystems. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the wooded areas of the Village.

##### **A. Permitted Uses**

1. Agricultural uses when conducted in accordance with County Conservation Standards.
2. General farm buildings: barns, silos, sheds, and storage bins.
3. Preservation of scenic, historic, and scientific areas.
4. Forest management.
5. Park and recreation areas.
6. Single-family dwellings.

##### **B. Permitted Accessory Uses**

1. Home occupations and professional home offices.
2. Gardening, tool, and storage sheds incidental to the residential use.
3. Satellite dish antennas located on the roof of the principal structure or in the rear yard. Where the satellite dish is roof-mounted, a registered engineer shall certify that the structure is adequate to support the load.
4. Roof-mounted solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

##### **C. Conditional Uses**

1. Conditional uses as allowed in Section 17.0500 Conditional Uses.

##### **D. Lot Area and Width**

1. Lots shall have a minimum area of 40,000 square feet and shall be not less than 150 feet in width, except the minimum lot width for any lot having frontage on a cul-de-sac bulb may be reduced down to 100 feet should the Plan Commission make a finding that such a lesser width will provide for an adequate building envelope.
2. Each CR-1 district lot shall maintain 80 percent of the lot area in permanent open space; exclusive of dwellings, garages, storage sheds, driveways, and parking areas. A patio, deck, swimming pool, or tennis court may be considered as open space.

##### **E. Building Height and Area**

1. No building or parts of a building shall exceed 50 feet in height.
2. The total minimum finished living area of a one-story dwelling shall be 2,200 square feet; and the total minimum finished living area of a two-story or bi-level dwelling shall be 2,600 square feet.
3. The minimum finished first floor area of a bi-level or two-story dwelling shall be 1,600 square feet.
4. A tri-level dwelling shall have a minimum finished living area of 2,600 square feet.
5. The upper two levels of a tri-level dwelling shall be fully finished.

6. The lower level of a tri-level dwelling may contain unfinished living area provided that the minimum finished floor area requirement is provided on the upper two levels.
  7. All living areas--finished and unfinished--shall comply with the energy conservation requirements of the Uniform Dwelling Code (Chapters SPS 320-325 of the Wisconsin Administrative Code).
  8. No dwelling level providing less than 200 square feet of finished living area shall be used in the calculation of living area.
- F. **Setback and Yards**
1. There shall be a minimum building setback of 50 feet from the street right-of-way.
  2. There shall be a side yard on each side of the principal structure of not less than 30 feet in width.
  3. There shall be a rear yard of not less than 50 feet.
  4. No building or structure shall be located closer than 15 feet to an F-1 Floodway District, F-2 Floodplain Conservancy District, or LCO Lowland Conservancy Overlay District boundary. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.
- G. **Erosion Control**
1. See Chapter 14 of the Municipal Code of the Village.
- H. **Modified Subdivision Improvements**
1. In an effort to maintain the rural/conservancy appearance within the CR-1 district, subdivision standards may be modified in such a manner that streets with 26 feet of paved surface and mountable curbs may be constructed; no sidewalks shall be required; no fences shall be permitted within the minimum required street setback area; drainage shall be accommodated in roadside ditches, and where necessary, retention/detention basins shall be employed to manage stormwater runoff. Heavy vegetation shall be encouraged in front yard areas so as to minimize the view of homes by passing traffic.

## **Section 17.0506 Conditional Uses**

### **17.0506 CONDITIONAL USES**

- A. The following agricultural, mining, commercial, industrial, and institutional uses shall be conditional uses and may be permitted as specified, but all Conditional Use applicants must produce a "Impact Report" detailing the impacts of said use to neighboring properties and to Village services from traffic, parking, and overflow parking, noise, odor, safety, crime, hours of operation, health and sanitation, and property maintenance issues. The Village Administrator shall analyze said report along with any supplemental reports from the Village, and its agents, to create an impact report for the application utilizing the Professional and Technical Trade standards for traffic, noise, dust, light, crime and fire prevention, etc. as a guide for the same. The Petitioner shall then prove by substantial evidence how their use will mitigate and address the findings of the impact report. In addition additional standards shall apply for specific types of uses as follows:

### **17.0507 LEGAL NONCONFORMING USES**

- A. Legal nonconforming uses may be granted conditional use status upon petition of the owner where such use is determined to not be any of the following:
1. Adverse to any of the following:

- a) public health,
  - b) safety, or
  - c) welfare;
- 2. In conflict of the spirit or intent of this chapter; or
  - 3. Otherwise detrimental to the community and particularly the surrounding neighborhood.

### **Site Plan Review Standards 17.1000**

17.1002 PRINCIPLES To implement and define criteria for the purposes set forth in Section 17.1001, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

A. No structure, or use shall be established that is counter to the intent of the Design Standards nor shall the same be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Village. Structures and uses in the B-4 Central Mixed Use District shall also adhere to the intent of the Downtown Development and Design Plan.

B. No structure shall be permitted:

- 1. The design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- 2. The design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates excessive monotony or 17.1000 drabness, in order to realize architectural uniqueness between lots.
- 3. Where any exposed facade is not constructed or faced with a finished material or color which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.

C. The facade of a manufacturing building which faces upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 50 percent of a facade facing a street shall be finished with brick or decorative masonry material. Such masonry facing shall extend for a distance of at least 10 feet along the sides of the structure. Manufacturing buildings on corner lots shall have the required masonry facade facing each street. Metal buildings may be constructed in any business, manufacturing, institutional, or park district, but only by a 3/4 affirmative vote of the Plan Commission.

D. Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.

E. Structures and uses shall make appropriate use of open spaces and the Plan Commission may require appropriate landscaping and planting screens. All landscaped areas shall provide a mix of climax trees, tall and medium deciduous trees, tall and medium coniferous trees, deciduous and coniferous shrubs, and grasses. The appropriate mix shall be determined by the Plan Commission.

F. No articles, goods, material, finished or unfinished product, incinerators, storage tanks, refuse containers, or like equipment shall be kept outdoors, exposed to public view, or exposed to view from adjacent buildings and property. Garbage and refuse containers shall be screened from the street and from neighboring facilities. The Plan Commission may permit the outdoor display of product or merchandise when it makes a finding that such display is essential to a business or industrial use.

G. Structures and uses shall be provided with adequate services as approved by the appropriate utility and serve to implement the recommendations of Utility and Stormwater Management Plans of the Village.

H. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead door shall face upon a street right-of-way unless a determination is made by the Plan Commission to allow the same, as described herein.

1. The Plan Commission shall not allow the same unless the Plan Commission first finds either a or b: (a) That the loading dock or overhead door is set back at least 75 feet from the street right-of-way and adequate vehicle turnaround areas have been provided on the lot, such that no maneuvering of vehicles will take place within the street right-of-way in order to access the loading dock or overhead door. (b) That the building is on a lot within the M-1 Industrial District and the building has a previously approved loading dock facing the street.

2. If the Plan Commission finds (1) (a) or (1) (b), above, then the Plan Commission may allow the loading dock or overhead door to face the street right-of-way upon consideration of the following additional factors, without limitation by reason of enumeration: 17.1000 (a) Whether the loading dock or overhead door is set back sufficiently from the street right-of-way to adequately limit the adverse visual impact of the loading dock or overhead door; (b) Whether the number of loading docks or overhead doors that are proposed to face the street right-of-way, due to their number, would create an adverse visual impact; (c) Whether the natural terrain and other existing features of the lot may affect the visual impact of the loading dock or overhead door; and (d) Whether the loading dock or overhead door will be appropriately screened with landscape berms or other landscaping.

**Any other standards from Chapter 17 that may be relevant.**

The Petitioner should address how they intend to screen the lot from the abutting residential use. Per the impact report a landscape plan should be established along the southern property line to complete this screening activity.

Comments from the public if any.

The Plan Commission continues the public hearing and:

1. Requests the Petitioner to provide additional information next month based upon the testimony at the Public Hearing in order to make a determination on the standards of the Code; or
2. Directs staff to prepare for consideration next month:
  - i. A Conditional Use Order; or
  - ii. An Order finding the Petitioner does not meet the standards.

If the Plan Commission directs a Conditional Use Order be drafted any Plan Commission member may ask for a specific condition to be drafted for consideration in the CU Order. The continued Public Hearing will allow the Plan Commission to hear testimony on the CU Order from the Petitioner and the Public and in the case of a specific condition requested by a Plan Commission member for the Village to provide evidence for the same.

If the Plan Commission directs an Order finding the Petitioner does not meet the standards the continued public hearing will allow the Plan Commission to hear testimony on the Denial Order.

Adjourn hearing to July 21, 2020 at 6:30 p.m.

**05. Consideration and possible action on CSM's, Plats, Zoning, and Planning Items:**

**A. Consideration and possible action on request for an accessory building exceeding 250 square feet for David and Jennifer Barnish (W238N7651 Hidden Oaks Dr.).**

This site is zoned CR-1. The accessory building is a permitted use in this district in accordance with Section 17.0704 (A)(2), the accessory building the homeowner would like to build is larger than 250 square feet. The owner is requesting to build a 416 square foot building, 160 square feet will be an enclosed structure with a bathroom and storage area and 256 square feet will be an open space area with an outdoor living area to include a gas fire table.

The Plan Commission may allow this based on:

**17.0704 ACCESSORY USE REGULATIONS**

Accessory uses are permitted in any district as may be specified in the appropriate district regulations or herein. An accessory use building permit shall be required where specifically noted in this Section. Accessory uses are permitted only after their principal structure is present or under construction. The use and/or location requirements stipulated elsewhere in this Ordinance may be modified for accessory uses as follows:

- A. Accessory Uses and Detached Accessory Structures shall be permitted in the rear yard only, unless otherwise specified. Accessory structures shall not occupy more than 20 percent of the rear yard in all districts except the business and manufacturing districts where such uses and structures shall not occupy more than 50 percent of the rear yard area. When permitted in the side or front yard, accessory structures shall not occupy more than 10 percent of the yard area.
- (2) Accessory buildings, such as garden or utility sheds, playhouses, or gazebos, upon the issuance of a building permit. Accessory buildings shall be located at least 10 feet from the principal structure; shall be placed on a pad of concrete, asphalt, wood, or metal; shall not exceed 250 square feet in area; shall be located not closer than five (5) feet to a lot line; and shall not exceed 15 feet in height. Any accessory building housing a motor vehicle shall be placed on a concrete floor or pad. No more than one accessory building shall be erected on a lot in an Rs-1, Rs-2, Rs-3, Rd-1, or Rd-2 Residential District. **On larger lots, the Plan Commission may, at its discretion, permit more than one accessory structure or may permit a structure exceeding 250 square feet in area when it determines that more than one such structure or a larger structure is necessary to the efficient development of the property and that sufficient, usable open space areas remain on the lot.**

The size of the owner's lot is just over an acre, 44,420 square feet. The Majestic Heights Homeowners Association has approved the improvements. Staff feels the proposed building and addition of a pool fits the neighborhood and the lot.

**Policy Questions:**

- 1. Are there any concerns with the accessory building?

**Action Item:**

- 1. Act on the request for the accessory building.

**Staff Recommendation:** Staff recommends approval of the 416 square foot accessory building for the property located at W238N7651 Hidden Oaks Drive subject to the conditions of Exhibit A.

**B. Consideration and possible action on a Final Plat for Woodland Trails Subdivision east of Coldwater Creek Subdivision and south of Plainview Road.**

This site is zoned RS-3 with a Planned Development Overlay. The approval of this Plat is for the 27 single-family lots. Building permits may be issued once staff is satisfied all the conditions of the Developers Agreement have been met, the Plat meets the conditions of the rezone ordinance granted March 12, 2019, the requirements of Chapter 18 are met and once the Plat is recorded with the Registry of Deeds.

**Policy Question:**

1. Are there any concerns with the Plat?

**Action Items:**

1. Act on the Plat.

**Staff Recommendation:** Staff recommends the Plan Commission recommend to the Village Board approval of the Final Plat for Woodland Trails subject the approval of the Restrictive Covenant, the standard conditions of Plat approval, obligations of the Developers Agreement have been met and any conditions by the Village Engineer.

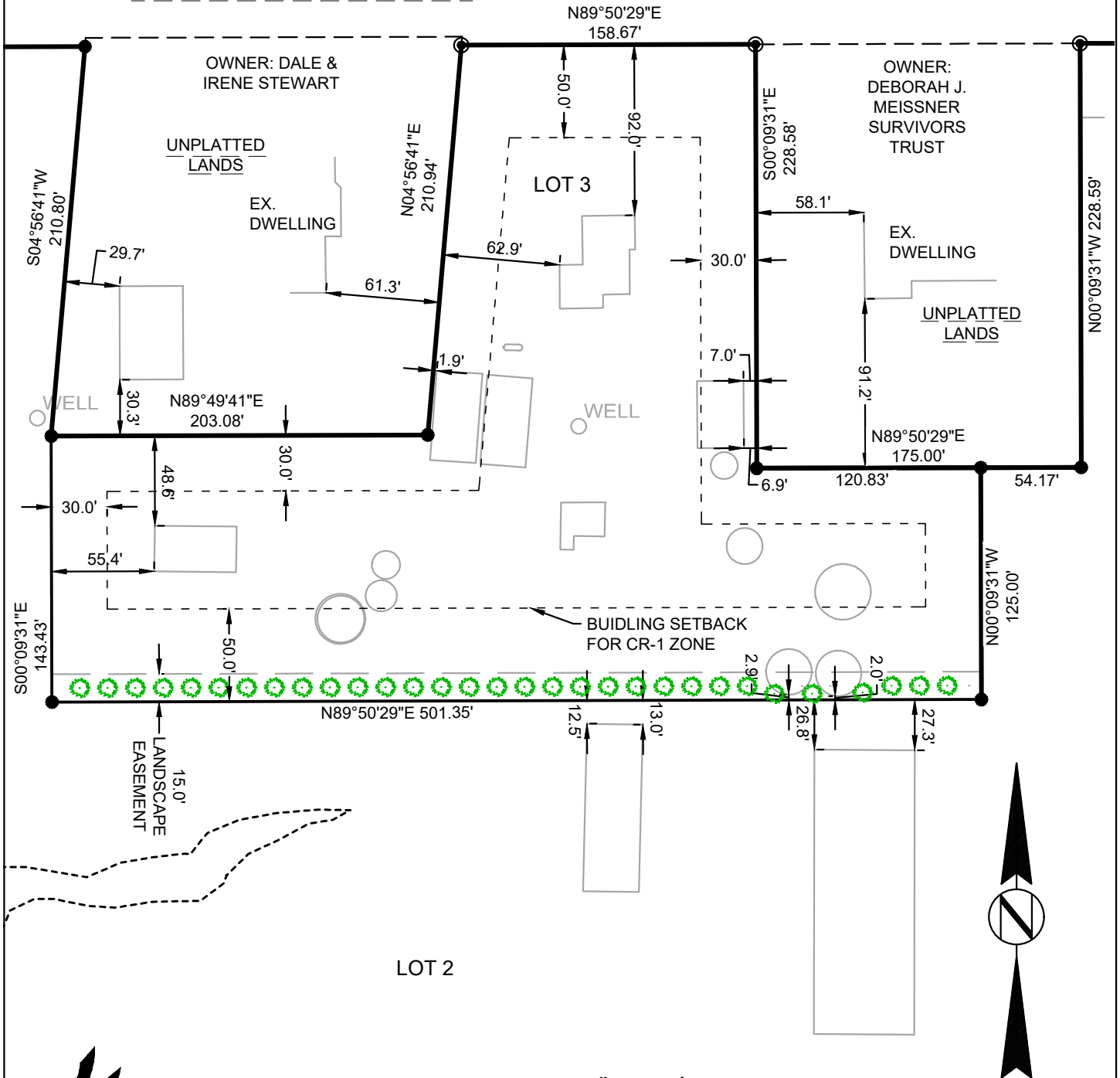
06. **Other Items for future discussion.**

07. **Adjournment.**

# EXHIBIT

N. LINE OF SW 1/4 OF SECTION 21-8-19

SILVER SPRING DRIVE CTH "VV"



LOT 2

SCALE: 1" = 80'



PHONE: 414.949.8962  
501 MAPLE AVENUE  
DELAFIELD, WI 53018-9351  
www.sehinc.com



## **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.