

**VILLAGE OF SUSSEX
SUSSEX, WISCONSIN**

Minutes of the Plan Commission meeting held on May 18, 2021

President LeDonne called the meeting to order at 6:31 p.m.

Members present: President Anthony LeDonne, Commissioners Jim Muckerheide, Roger Johnson, Mike Knapp, Mike Schulist, and Trustee Greg Zoellick

Members excused: Commissioner Deb Anderson

Others present: Village Administrator Jeremy Smith, Assistant Village Administrator Kelsey McElroy-Anderson, Village Attorney John Macy, Assistant Development Director Kasey Fluet, Administrative Assistant Anne Pulvermacher, Deputy Clerk Caren Brustmann 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 April 20, 2021.

A motion by Johnson, seconded by Muckerheide to approve the minutes of the Plan Commission meeting of April 20, 2021 as presented. Motion carried 6-0

Consideration and possible action on a Plan of Operation and site plan for Family Strong Sussex Taekwondo N64W24678 Main Street Suite 8.

The applicant was not present to provide a brief plan of operation.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned B-1. The martial arts studio is a permitted use in accordance with Section 17.0416 (A)(3)(a) in the B-1 Neighborhood Business District. This business use was approved in September 2018. The owners are requesting to add a summer and after school day camp. In accordance with Section 17.0416 (A)(3)(d) this would be a permitted use. The program will be available to members of the studio for children age 5 to 14 years old. In order to have this program the owners must receive approval from the State. Hours of operations will be Monday through Friday 7:30 a.m. to 8:00 p.m. and Saturday 7:50 a.m. to 1:00 p.m. This site has 87 marked parking stalls, with 71 allocated to other users, by code this user requires 14 stalls.

Plan Commission Comments: Commissioner Johnson inquired about staff being certified to work in a daycare setting. Administrator Smith clarified the facility would be used as a day camp, rather than a day care.

Public Comments: None

A motion by LeDonne, seconded by Johnson to approve the Plan of Operation and site plan for Family Strong Sussex Taekwondo N64W24678 Main Street Suite 8; a finding the use and structures meet the principals of 17.1002(A-H), subject to the standard conditions of Exhibit A.

Motion carried 6-0

Consideration and possible action on a Plan of Operation, building plan, and site plan for Vaportek, Inc. W226N6323 Village Drive.

Applicant Paul Giersch, W226N6339 Village Dr Sussex, provided a brief plan of operation.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating this site is zoned M-1. The assembling and processing of dry vapor products is a permitted use in accordance with Section 17.0422 (A)(3)(d)(2) in the M-1 Industrial District. Vaportek purchased the 10,000 Square foot building next to their main building operations at W226N6339 Village Drive. The two sites share the same access point off of Village Drive and have coordinated parking lots. The hours of operation are Monday through Friday, 6:00 a.m. to 2:00 p.m. Vaportek, Inc. will be adding a 1,400 square foot addition on the new building for a side facing shipping area. They receive product the western end of the building, process the items and will ship out from the east side of the building. This setup accommodates the existing driveway access and prevents trucks from maneuvering on the roadway. They will also be adding some landscaping to the site, which will add to the appeal of the site from current conditions. The building addition will match the material design of the building and will go to the ARB.

Plan Commission Comments: None

Public Comments: None

A motion by LeDonne, seconded by Knapp to approve the Plan of Operation, building plan subject to ARB, and site plan for Vaportek, Inc. W226N6323 Village Drive 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 6-0

Introduction of a Legal Non-Conforming Conditional Use and site plan for Sussex Convenience, gas station and car wash N62W23456 Silver Spring.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating This site is zoned B-4. The gas station with car wash is a legal non-conforming use in accordance with Section 17.0507. The business and operations are being purchased by a new owner. Mostly the operation will remain the same; however, the buyer is requesting to add the sale of beer and liquor and use the location for Uhaul rental and moving boxes. Hours of operation will be Monday – Friday, 5:00 a.m. to 9:00 p.m., Saturday 6:00 a.m. to 9:00 p.m. and Sunday 7:00 a.m. to 9 p.m.

The Petitioner will need to prove the standards/conditions in the attached 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) in the attached memo reflect items in the code that are unlikely to be meritorious to the application or are administrative in nature.

Mrs. Fluet stated that staff has found the application complete and recommends scheduling the Public Hearing.

Plan Commission Comments: None

Public Comments: None

A motion by LeDonne, seconded by Muckerheide to direct staff to schedule a public hearing for 6:30 pm on June 15, 2021. Motion carried 6-0

Consideration and possible action on a request to amend Chapter 17 Section 17.0417 of the B-2 Business Regional Business District to specify a permitted status for homes.

Julie Fullerton of Menomonee Falls was present on behalf of the petitioner.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached); stating there is currently only 1 remaining home within the B-2 district. The owner of that home is having some challenges with their bank about the legal status of their home because they are not a permitted use in the district. The concern revolves around the ability to rebuild if there was a fire or a natural disaster. The petitioner is requesting specific language about the right to rebuild, but

said language is not consistent with the code language that has been used in the other business districts. The Village Attorney has indicated that it would be unwise to provide alternative language to what has already been adopted in other code sections as it would give the presumption that rebuilding would not be allowed in those other districts, when that is what the language is specifically intended to accomplish.

A motion by LeDonne, seconded by Johnson, to deny the request to adjust the code. Motion carried 6-0

Consideration of Petition by the Administrator to amend the B-2 District to allow certain limited entertainment uses and address the existing home within the District and possible action on an Ordinance to Repeal and Recreate SubSection 17.0417A.2. regarding Permitted uses under the Arts, Entertainment, and Recreation section and Create Subsection 17.0417A.11. regarding Permitted Uses under the Housing Section of the Village of Sussex Municipal Code.

Administrator Smith reviewed the Plan Staff Memo (copy attached); stating on The Code as currently drafted does not allow for entertainment type venues except in very limited situations within the B-2 District. This oversight does not appear to be in keeping with the intent of the district. Potential users have approached the Village about spaces within existing strip centers where entertainment uses would seem to be a fit to support the adjacent retail and the community needs, but as currently constituted are not allowed by the code. It is important because there is limited B-2 areas that there be a scale to the entertainment uses such that they support/compliment retail and do not crowd out retail users. Staff has proposed language for consideration to help keep the community moving forward, which will enable some of these entertainment uses to come into the B-2 district. If approved there will be at least one applicant at the June meeting looking to open up a Golf simulator business with food and beverage service as well. Staff will be happy to discuss this issue in detail at the meeting. In addition, with the previous agenda item, staff has proposed adding a section to allow houses built prior to January 1, 2010 to the B-2 district in the same manner as the other business districts. This language would allow the home to be rebuilt if there was a fire or natural disaster.

Plan Commission Comments: None

A motion by LeDonne, seconded by Schulist to recommend approval of Ordinance #877 to the Village Board subject to standard conditions of Exhibit A. Motion carried 6-0

Other items for future discussion

President LeDonne would like the Plan Commission to review the zoning requirements along Main Street and consider forming a Committee if need be.

Adjournment:

A motion by LeDonne, seconded by Muckerheide to adjourn the meeting at 7:04 pm. Motion carried 6-0

Respectfully Submitted,

Caren Brustmann
Deputy Clerk

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

Amendment approved at the Plan Commission meeting on July 17, 2014

- 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.

