

**VILLAGE OF SUSSEX
SUSSEX, WISCONSIN**

Minutes of the Plan Commission meeting held on September 21, 2021

Deputy Clerk Caren Brustmann called the meeting to order at 6:30 p.m.

Members present: Commissioners Jim Muckerheide, Roger Johnson, Deb Anderson, Mike Knapp and Trustee Greg Zoellick

Members excused: President Anthony LeDonne and Commissioner Mike Schulist

Others present: Attorney John Macy, Assistant Administrator Kelsey McElroy-Anderson, Village Engineer Judy Neu, IT Coordinator Diane Bruns, Deputy Clerk Caren Brustmann and applicants.

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

The Deputy Clerk asked for a motion to appoint a chairperson for the meeting in the absence of the Village President. A motion by Zoellick, seconded by Muckerheide to appoint Trustee Zoellick as the chairperson for this meeting.

Consideration and possible action on the minutes on the Plan Commission meeting of August 17, 2021.

A motion by Anderson, seconded by Muckerheide to approve the minutes of the Plan Commission meeting of August 17, 2021 as presented. Motion carried 5-0

Consideration and possible action on a covered parking structure at The Courtyard South parking lot W235N6350 Hickory Drive.

Kelly Schlife, Project Manager of Ganther Construction, 4825 County Rd. A, Oshkosh, WI was present and provided an updated site plan for the covered parking structure (updated design included in meeting packet).

Mrs. McElroy-Anderson reviewed the Plan Staff Memo (copy attached); stating this site is zoned B-4. The Senior Housing and Assisted/Care Facility would like to add a covered parking structure for 10 spaces for their residents who may have a vehicle. This was reviewed by the Plan Commission in July and the Commission wanted to see a structure that more closely matched the building architecture, and had snow/ice breakers on the roof to prevent potential winter dangers.

The Architect has modified their proposal to present an option that is aligned with the building architecture and have the ice breakers and is seeking approval of the parking canopy. There was a question on the landscaping at the last meeting so the landscaping plan is included.

Plan Commission Comments: None

A motion by Johnson, seconded by Anderson to approve the covered parking structure at the Courtyard south parking lot (W235N6350 Hickory Drive) a finding the use and structures meet the principals of 17.1002(A-H), and subject to the standard conditions of Exhibit A. Motion carried 5-0

Conditional Use Public Hearing(s) and consideration and possible action on Conditional Use Permits and Plans on the following items: None

Consideration and possible action on CSM A and CSM B for Highlands Business Park (NW corner of HWY K and STH 164).

Mark Lake of Wangard Partners, 1200 Mayfair Rd. Suite 310, Wauwatosa was present and provided a brief description of the CSMs for Highlands Business Park.

Mrs. McElroy-Anderson reviewed the Plan Staff Memo (copy attached); stating this site is zoned BP-1 with a PDO. With CSM A, Highlands Court right of way is being established and thus creating a lot 1 (South of the Court) and a lot 2 (North of the Court) from what is currently one lot.

With CSM B, the parcel is being divided into the Business Park Lot, Lot 1, the residential Lot, Lot 2, and the Outlot, Outlot 1, where the stormwater pond is being established for the entire parcel. Lot 1 will be further divided at a later point based upon what roadway length is needed and how the industrial lots take shape. Lot 2 is anticipated to be divided by a subdivision plat at some point in the future.

The Village will need some easements on CSM B for access to the Outlot and for stormwater access across Lot 1. That language is being reviewed and approved by the Village Engineer for inclusion on the CSM prior to recording.

Plan Commission Comments: None

A motion by Anderson, seconded by Johnson to recommend approval to the Village Board of CSM A and CSM B of the Highlands Business Park (NW Corner of STH 164 and HWY K) subject to the standard conditions of CSM approval, the necessary easements for access to the stormwater ponds, sidewalk access, and utility use in a form agreeable to the Village Engineer, compliance with the Developer's Agreement, payment of all fees, and subject to the standard conditions of Exhibit A. Motion carried 5-0

Consideration and possible action on Final Plat for Vista Run Subdivision (South of CTH VV and east of Maryhill Road).

Eric Obarski, of Neumann Companies, N27W24025 Paul Court, Suite 100 Pewaukee, WI was present and provided a brief description of the final plat, final condo plat for the reserves, and the final condo plat for the town homes at Vista Run.

Mrs. McElroy-Anderson reviewed the Plan Staff Memo (copy attached); stating this site is zoned RS-2 and SFRD-3 with a PDO. The Final Plat is in substantial conformity to the preliminary plat. This plat would establish 30 single family lots and 15 outlots (11 outlots will later be subdivided for development) and 4 are being dedicated to the Village for stormwater and public recreation/environmental purposes. The Duplex Condos on Outlots 8/9/10/12/13 are on this agenda under the Condo Plat for the Reserve at Vista Run. The Townhome Condos on Outlots 3 and 5 and Clubhouse on Outlot 4 are on this agenda on the Condo Plat for the Townhomes at Vista Run. There are technical corrections from the Village Engineer to fix on the Plat that the Developer has acknowledged and is in the process of updating prior to execution of the Plat itself.

Plan Commission Comments: None

A motion by Anderson, seconded by Muckerheide to recommend approval to the Village Board of the Final Plat for Vista Run Subdivision (South of CTH VV and East of Maryhill Road) subject to the standard conditions of Plat approval, meeting all comments and conditions of the Village Engineer, compliance with the Developer's Agreement, payment of all fees and subject to the standard conditions of Exhibit A. Motion carried 5-0

Consideration and possible action on Final Condo Plat for the Reserves at Vista Run (South of CTH

VV and east of Maryhill Road).

Mrs. McElroy-Anderson reviewed the Plan Staff Memo (copy attached); stating this site is zoned SFRD-3 with a PDO. The Final Condo Plat is in substantial conformity to the preliminary plat. This plat would establish 29 duplex condo buildings. The building exterior architecture still needs to be approved by the ARB per the Developer's Agreement and Village planning process, but the building layout matches the approved plan. There are technical corrections from the Village Engineer to fix on the Plat that the Developer has acknowledged and is in the process of updating prior to execution of the Condo Plat itself.

Plan Commission Comments: None

A motion by Johnson, seconded by Anderson to recommend approval to the Village Board of the Final Condo Plat for the Reserves at Vista Run (South of CTH VV and East of Maryhill Road) subject to the standard conditions of Plat approval, meeting all comments and conditions of the Village Engineer, compliance with the Developer's Agreement, approval of the building architecture by the ARB, payment of all fees and subject to the standard conditions of Exhibit A. Motion carried 5-0

Consideration and possible action on Final Condo Plat for the Town Homes at Vista Run (South of CTH VV and east of Maryhill Road).

Mrs. McElroy-Anderson reviewed the Plan Staff Memo (copy attached); stating this site is zoned SFRD-3 with a PDO. The Final Condo Plat is in substantial conformity to the preliminary plat. This plat would establish 9 (2 unit Townhomes) and 3 (4 unit Townhomes) and a Clubhouse with pool. The building exterior architecture still needs to be approved by the ARB per the Developer's Agreement and Village planning process, but the building layout matches the approved plan. Plan Staff Memo for Plan Commission September 21, 2021 4 There are technical corrections from the Village Engineer to fix on the Plat that the Developer has acknowledged and is in the process of updating prior to execution of the Condo Plat itself.

Plan Commission Comments: None

A motion by Anderson, seconded by Knapp to recommend approval to the Village Board of the Final Condo Plat for the Town Homes at Vista Run (South of CTH VV and East of Maryhill Road) subject to the standard conditions of Plat approval, meeting all comments and conditions of the Village Engineer, compliance with the Developer's Agreement, approval of the building architecture by the ARB, payment of all fees and subject to the standard conditions of Exhibit A. Motion carried 5-0

Other items for future discussion

Commissioner Johnson would like to be provided with an update on the restaurants proposed to open on E. Main St. Mrs. McElroy-Anderson noted that the owner is coming to the October 5th Finance Committee meeting to provide an update. Commissioner Knapp inquired about the sidewalks being raised on the west side of Silver Spring Drive in front of BP gas station. Engineer Neu noted the sidewalks are higher to ensure storm water stays in the roadway rather than the parking lot.

Adjournment

A motion by Anderson, seconded by Muckerheide to adjourn the meeting at 7:18pm. Motion carried 5-0
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



MEMORANDUM

TO: Plan Commission

FROM: Jeremy Smith, Village Administrator

RE: Plan Commission meeting of August 17, 2021

DATE: August 9, 2021

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 June 15, 2021.**

03. **Consideration and possible action on Permitted Uses and Site Plans:**
A. Consideration and possible action on a Plan of Operation for Allora International, LLC N60W22951 Silver Spring Dr. Unit 15.

This site is zoned M-1. General manufacturing is a permitted use in accordance with Section 17.04224.(f)(2) in the M-1 Highway Business District. Allora assembles small electrical components and sells them. Hours of operation will be Monday through Friday 8:00 a.m. to 5:00 p.m. This site is not allowed any outside storage. This site has 2 spaces with the building and 12 general spaces. This use requires 4 spaces leaving 10 general spaces available.

Any signage for this site will need to be approved by the building inspector.

Policy Question:

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

Action Items:

1. Act on the plan of operation.

Staff Recommendation: Staff recommends the Plan Commission approve the Plan of Operation for Allora International, LLC N60W22951 Silver Spring Dr. Unit 15, a finding the use and structures meet the principals of 17.1002(A-H), and subject to 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. Reconvene the public hearing for a Legal Non-Conforming Conditional Use Plan of Operation and site plan for Sussex Convenience, gas station and car wash N62W23456 Silver Spring.

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. Gas pumps are available 24 hours 7 days a week.

The Conditional Use Permit Standards to be met:

A. This legal non-conforming conditional use is granted for Sussex Convenience Inc. for the above enumerated uses, subject to the following conditions:

1. Presentation Compliance. The vehicle washing and 24-hour gas station is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearings before the Plan Commission held on June 15, 2021 and July 20, 2021.

2. Subject Property. This legal non-conforming conditional use permit issued to the Petitioner, shall be limited to the property described in Exhibit “A” attached hereto and incorporated herein as presented at the public hearing.

3. Plans. The Petitioner is required and must have all plans current, approved by the Plan Commission for the Village of Sussex, and on file with the Plan Commission for the Village of Sussex in order for this LNCU to be in effect. The Petitioner shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Plan Commission for the Village of Sussex approval and without a public hearing, if such amendments and/or change is not a substantial amendment or change in any plan contemplated herein that the Plan Commission for the Village of Sussex feels, in its sole discretion, to be substantial will require a new permit and all Village procedures in place at the time must be followed.

A. Site Plan. The Petitioner shall maintain the existing site plan, which shall be attached hereto and incorporated herein as Exhibit B.

B. Plan of Operation. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific plan of operation for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meeting. Once approved the plan of operation shall be attached hereto and incorporated herein as Exhibit C.

1. The hours of operation for the gas pumps will be 24 hours. While it is anticipated there will be no issues with the 24-hour operation this provision is specifically highlighted for reconsideration by the Plan Commission should concerns or problems arise related to the extended hours of operation.

2. The Gas station may apply for a license to sell beer, wine, and or liquor and may sell said products, if approval by the Village is granted only within strict compliance of said license and the conditions of approval of the same, and with compliance to any amendments to said license(s) made over time.

C. Traffic, Access and Loading Plans. The petitioner shall comply with the specific traffic, access, loading, and egress plan on file with the Village Clerk.

D. Lighting Plan. The petitioner shall adhere to the lighting plan on file for the subject property. No light rays shall be directed onto neighboring properties.

E. Signage Plan. All signage on the subject property shall conform to the requirements set forth in Section 17.0800 of the Village Zoning Ordinance and the Design Standards of the Village of Sussex, except the two existing pole signs which may exist with what rights they may have as legal nonconforming signs. No change in signage shall be permitted until approved by the Architectural Review Board and Building Inspector for the Village of Sussex.

1. The site has two existing pole signs that may have legal nonconforming rights. The sign face may be changed on these pole signs without a public hearing. If either or both of these pole sign structures need to be replaced or modified the signage plan for the entire site must come into compliance with the then current sign code as a condition of granting this legal non-conforming conditional use. Compliance with this standard if modification or replacement is sought may and is likely to require the removal of the pole signs in their entirety.

F. Sewer, Water, Stormwater and Erosion Control Plans. The Petitioner shall comply with the sewer, water, stormwater and erosion control plans on file with the Village Clerk.

G. Outdoor Storage Plan. No outdoor storage shall be permitted on the subject property with the following specific exceptions:

1. Trash dumpsters limited to the minimum number needed to meet the recycling law requirements. The trash dumpsters shall be screened from view and shall be maintained in a safe and sanitary condition at all times.
2. The storage and sale of propane tank in the style, manner and location of the outdoor storage plan on file with the Village Clerk.
3. No other outside storage or sales of merchandise from the above listed materials (excluding gasoline for vehicle usage) are permitted outside of the building.
4. A limit of ten parking stalls for the storage/rental of Uhaul trucks and trailers.

4. Adult-Oriented Materials. No adult-oriented materials or pornographic videotapes, magazines, or gift items will be sold or rented from the subject facility.

5. Licenses. The Petitioner shall be required to obtain any and all required licenses and permits from the Village, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part

of this legal non-conforming conditional use permit.

6. Laws. The Petitioner shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property.

7. Building and Fire Inspection. The Petitioner is required to keep the Subject Property in compliance with all federal, State, and local laws, statutes, codes, ordinances, policies, and guidelines as determined by the Building and Fire Inspectors of the Village of Sussex.

8. Aesthetics. The Petitioner is required to properly maintain the Subject Property at all times and in full compliance with the Village Property Maintenance Code, Chapter 9 of the Village of Sussex Code all to the satisfaction of the Plan Commission for the Village of Sussex.

9. Junk. No junk shall be accumulated or stored on the Subject Property. No burying or burning of junk is permitted on the Subject Property.

10. Temporary Use or Activity. No temporary use or special activity or event shall be permitted without prior approval of the Plan Commission of the Village of Sussex and the same must be in compliance with all ordinance, rules, and regulations of the Village of Sussex and all necessary permits must be obtained.

11. Fees and Expenses. The Petitioner, upon issuance of this legal non-conforming conditional use permit, shall reimburse the Village of Sussex for all expenses incurred by the Village, including, but not limited to, expenses for the Village Administrator, Village Engineer, Village Attorney, and all other professionals and technical assistance realized by the Village in approving and granting this legal non-conforming conditional use permit. The Village Clerk shall provide the Petitioner with copies of all itemized invoices.

12. Enforcement. Any attorney fees incurred by the Village of Sussex to enforce any of the conditions or requirements of this legal non-conforming conditional use permit must be paid by the Petitioner.

13. Complaints. In the event the Petitioner receives any complaints with regard to the operation authorized by this legal non-conforming conditional use, the Petitioner shall respond to such complaints in writing within a reasonable time not to exceed two weeks from the date of the complaint and shall provide a copy of the written response to the Sussex Village Administrator within the same period of time. If the complaint was made in writing, the copy provided to the Village Administrator shall include a copy of the complaint.

14. No Nuisance. The Village reserves the right to rescind its approval of this legal non-conforming conditional use permit based upon the finding that the sue is incompatible and a nuisance to surrounding uses, that the use is not in the public interest, or that the use adversely affects the use of adjacent lands, provided the Petitioner is given an opportunity to be heard on the matter and, if so rescinded the Petitioner and Subject Property shall thereupon be immediately subject to the Village of Sussex Zoning Ordinances , as applicable, regarding the use of the Subject Property as though no legal non-conforming conditional use permit was granted.

15. Subject to Acceptance. Subject to the Owner approving in writing the issuance of the same and Petitioner acknowledging in writing that they have received a copy of this legal non-conforming 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.

16. Review. The Plan Commission for the Village of Sussex reserves its right to review the operation and amend the legal non-conforming conditional use permit as the Plan Commission for the Village of Sussex deems appropriate

B. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for the Village of Sussex for determination.

C. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the Village of Sussex, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.

D. This legal non-conforming conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission for the Village of Sussex as being in compliance with all pertinent ordinances.

E. Should the permitted legal non-conforming conditional use be abandoned in any manner, or discontinued in use for twelve (12) months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the municipality, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the legal non-conforming conditional use may be terminated by action of the Plan Commission for the Village of Sussex.

F. Any change, addition, modification, alteration and/or amendment of any aspect of this legal non-conforming conditional use, including but not limited to a change in the use, premises, lands or owners, other than as specifically authorized herein, shall require a new permit and all Village procedures in place at the time must be followed.

G. Unless this legal non-conforming conditional use permit expressly states otherwise, plans that are specifically required by this legal non-conforming conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the legal non-conforming conditional use permit. Any change in any plan that the Plan Commission, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.

H. Should any paragraph or phrase of this legal non-conforming conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the legal non-conforming conditional use and the remainder shall continue in full force and effect.

I. This legal non-conforming conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the legal non-conforming conditional use is approved. During the fifth year of the LNCU the Village Administrator or designee shall examine the record to determine if concerns about the operation have been raised in writing by the public, a governmental body or official, or anyone else, and shall also review the site and the adjoining area for compliance with the conditions of the LNCU. If based upon that review the use of the property is compatible with the surrounding areas and the petitioner is in substantial compliance with all terms of this legal non-conforming conditional use agreement, then, in that event, the legal non-conforming conditional use can be automatically renewed for another 5-year term. If based upon that review the Village Administrator finds concerns about compliance with the conditions of the legal non-conforming conditional use, the petitioner shall be brought back before the Plan Commission for consideration of the renewal. The Petitioner shall have the responsibility to apply for the renewal by January 30th of the fifth (5) year of the term. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the legal non-conforming conditional use and may serve as a basis for termination of the legal non-conforming conditional use permit. The Plan Commission for the Village of Sussex may add additional conditions at any time.

1. Where the changing character of the surrounding area causes the original legal non-conforming conditional use or subsequent approved amendments thereto to no longer be compatible with the surrounding area, or for similar cause, based upon consideration for the public welfare, the legal non-conforming conditional use order and any subsequent approved amendments or changes may be terminated by action of the Plan Commission of the Village of Sussex. Such use shall thereafter be classified as a legal nonconforming use as it was permitted to exist on the day it was terminated.

2. Where this permitted legal non-conforming conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the legal non-conforming conditional use grant and any subsequent approved amendments thereto may be amended or terminated by action of the Plan Commission for the Village of Sussex. The Plan Commission for the Village of Sussex may require complete termination of such use.

3. This legal non-conforming conditional use may be reviewed annually. Additionally, this conditional use may be reviewed by the Plan Commission for the Village of Sussex at any time upon complaint or upon Plan Commission initiative.

J. Upon acceptance by petitioner of this legal non-conforming conditional use permit, all prior legal non-conforming conditional use permits granted to the subject property are hereby revoked and terminated.

K. If any aspect of this legal non-conforming conditional use permit or any aspect of any plan contemplated and approved under this legal non-conforming conditional use is in conflict with any other aspect of the legal non-conforming conditional use or any aspect of any plan of the legal non-conforming conditional use, the more restrictive provision shall

be controlling as determined by the Plan Commission for the Village of Sussex.

L. If any paragraph or phrase of this legal non-conforming conditional use order is declared by a Court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific paragraph or phrase thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of this order. The remainder of the order shall remain in full force and effect.

Comments from the public if any.

Additional Plan Commission conditions:

The Petitioner, Public and Plan Commission will have a chance to present evidence and discuss the Conditional Use Order.

Policy Questions:

1. Is there any further unanswered questions by the Plan Commission or any other items requiring a continuation of the Public Hearing?

Action:

1. Close the public hearing or continue the public hearing with specific information sought by the Petitioner/Public.

B. Consideration and possible action on a Legal Non-Conforming Conditional Use, Plan of Operation and site plan for Sussex Convenience, gas station and car wash N62W23456 Silver Spring Drive.

Staff has prepared a conditional use document for consideration at this meeting. The Plan Commission has heard testimony on the application for the Legal Non-Conforming Conditional Use and site plan for Sussex Convenience, gas station and car wash.

Policy Questions: Has the Petitioner provided substantial evidence proving they meet the standards/regulations of the Ordinance, the conditions and standards of the Conditional Use Permit, and the other conditions as setforth by the Plan Commission? If No, the deficiency will need to be detailed.

Has the Petitioner provided substantial evidence with regards to the following Standards/Regulations?

The Application is complete and consistent with 17.0502

Yes or No

The use(s) and plans are compliant with 17.0503 (Review of CU's)

Yes or No

The use(s) and plans are compliant with 17.0200 (General Conditions)

Yes or No

The uses(s) and plans are compliant with 17.0419 B-4 Central Mixed Use

Yes or No

The uses(s) and plans are compliant with 17. 1000 (Site Plan Review) Yes or No

Has the Petitioner provided substantial evidence and adequately addressed the findings of the impact report per 17.0506.A. Yes or No

Has the Petitioner provided substantial evidence with regards to the Conditional Use Permit as follows:

B.3.A. Site Plan Standards compliance
Yes or No

A.3.B. Plan of Operation compliance
Yes or No

A.3.C.-G. Various Plan(s) compliance
Yes or No

A.4.-16. CU condition compliance
Yes or No

B-L. Administrative CU Condition compliance
Yes or No

Action Items:

1. Act on the CU and site plan.

Staff Recommendation: Staff recommends approval of the Legal Non-Conforming Conditional Use based upon the evidence presented at the Public Hearings, Plan of Operation and site plan for Sussex Convenience, gas station and car wash N62W23456 Silver Spring; a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

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

06. Other Items for future discussion.

07. Adjournment.