

## ORDINANCE NO. 888

AN ORDINANCE TO CONDITIONALLY REZONE  
CERTAIN LANDS IN THE VILLAGE OF SUSSEX TO  
TS-1 TRADITIONAL SUBURBAN SINGLE-FAMILY RESIDENTIAL  
WITH A PLANNED DEVELOPMENT OVERLAY DISTRICT

**WHEREAS:** A petition has been filed by Hartford Land Development LLC on behalf of the property owners Richard A Merske Revocable Trust (“Petitioner”) of certain lands in the Village of Sussex to rezone said properties as described in Exhibit A attached hereto and incorporated herein (“Subject Properties”); and

**WHEREAS:** Said rezoning petition was submitted to rezone the subject properties to TS-1 Traditional Suburban Single-Family Zoning District with a Planned Development Overlay District described on Exhibit A-1; and

**WHEREAS:** The Petitioner has supplied all required data pursuant to the Village of Sussex Zoning Code; and

**WHEREAS:** Upon due notice as required by Section 17.1300 of the Village Code, the Village Board held a public hearing on \_\_\_\_\_, 2023, as required by Section 17.0435(C)(4) of the Village Code; and

**WHEREAS:** The Plan Commission has reviewed the basis for approval described in Section 17.0435(D) of the Village Code and has made the following findings, subject to all terms and conditions of this zoning ordinance being satisfied:

1. That the petitioners for the proposed Planned Development Overlay District have indicated that they intend to begin the physical development of the PDO within nine (9) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.
2. That the proposed Planned Development Overlay District is consistent in all respects to the purpose of this Section and to the spirit and intent of this Ordinance; is in conformity with the adopted master plan or any adopted component thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the community.
3. The proposed site shall be provided with adequate drainage facilities for surface and storm waters.
4. The proposed site shall be accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.

5. No undue constraint or burden will be imposed on public services and facilities, such as fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
6. The streets and driveways on the site of the proposed development shall be adequate to serve the residents of the proposed development and shall meet the minimum standards of all applicable ordinances or administrative regulations of the Village.
7. Public water and sewer facilities shall be provided.
8. The entire tract or parcel of land to be included in a Planned Development Overlay District is held under single ownership.
9. Such development will create an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreation space, and coordination with overall plans for the community.
10. The total net residential density within the Planned Development Overlay District will be compatible with the Village master plan or component thereof.
11. Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
12. Adequate, continuing fire and police protection is available.
13. The population composition of the development will not have an adverse effect upon the community's capacity to provide needed school or other municipal service facilities.
14. Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.

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

**WHEREAS:** The Village of Sussex has reviewed the basis for approval of the petition described in Section 17.0435(D) of the Village Code, and concurs with the Village Plan Commission, and makes the same findings, subject to all terms and conditions of this zoning ordinance being duly satisfied as required herein; and

**WHEREAS:** The Village Board of the Village of Sussex having carefully reviewed the recommendation of the Plan Commission of the Village of Sussex, having determined that all procedural requirements and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety and welfare of the community, immediate neighborhood in which said use will be

located, and having given due consideration to the municipal problems involved as well as the impact on the surrounding properties as to noise, dust, smoke and odor, and others hereby determine that the rezoning will not violate the spirit or intent of the Zoning Code for the Village of Sussex, will not be contrary to the public health, safety or general welfare of the Village of Sussex, will not be hazardous, harmful, noxious, offensive and will not for any other reason cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions and in strict compliance with the same and is consistent with the recommendation found in the Village of Sussex master plan.

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

SECTION 1: The subject property as described on **Exhibit A** is hereby zoned to TS-1 Traditional Suburban Single-Family Residential (20 acres) with a Planned Development Overlay District, and the Zoning Map of the Village of Sussex is hereby amended, subject to the terms and conditions described herein.

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

1. Presentation Compliance. The subject property must be developed in substantial conformity with the plans presented to the Plan Commission on March 21, 2023 and in substantial conformity with the presentation at the public hearing at the Village Board on \_\_\_\_\_, 2023 as presented shall be attached hereto and incorporated herein as **Exhibit B**.
2. Preliminary and Final Plat Conditions. The Petitioner shall submit and receive all necessary approvals for a preliminary plat and a final plat, and shall satisfy all conditions of the same.
3. Lot Sizes and Setbacks.
  - A. The proposed development will contain 26 single family detached homes. Lot sizes will not be less than 20,000 square feet. The average lot size is 28,096 square feet with the smallest lot containing 20,300 square feet and the largest containing 47,453 square feet. The lot width will be a minimum of 100 feet at the street yard setback line. The setbacks for these lots shall be 40 feet front yard, 15 feet side yard, and 25 feet rear yard.
  - B. The minimum living area of a one-story single-family home would be 2,000 square feet. The minimum living area of a two-story single-family home would be 2,400 square feet. The Minimum finished first floor of a two-story single-family home would be 1,200 square feet.
4. Phasing Plan. The proposed subdivision is to be platted and developed as a single

phase.

5. Road Width and Length. The Public Road widths shall be 33' measured back of curb to back of curb. The Plan Commission and Village Board find that this width is appropriate to provide safe and convenient access in accordance with this neighborhood plan, 18.0701 18.0703 of the Village Code.
6. Special Assessment. The payment of outstanding special assessments owed on this property must be paid in full prior to starting any site work.
7. Construction Sequencing Plan. Subject to the Developer submitting to and receiving approval from the Village Engineer a construction sequencing plan to ensure safe and adequate construction development of the site for public safety access, utility development, and customer access at all times.
8. Housing Monotony Clause. As required in the Village Design Standards and Chapter 17 Section 17.1002 (B)(2), no single family detached building shall be permitted that design or exterior appearance of which is so identical to a building on lots within 500 feet of each other that it creates monotony or drabness.
9. Required Plans and Engineer Satisfaction. Subject to the Petitioner submitting to and receiving written approval from the Village Plan Commission of all of the following plans for the entire subject property, prior to the rezoning ordinance taking effect. Said plans shall satisfy all comments, conditions, and concerns of the Village Engineer.
  - A. Utility Plans for the entire site including any necessary utility extensions or oversizing necessary to properly connect the development site's utilities with the Village system. Including, but not limited to:
    1. Sewer System Plans
    2. Water System Plans
    3. Storm water Management Plans with the appropriate maintenance requirements and outlots. The outlots for the stormwater ponds shall be owned by the Village.
  - B. Master Street Lighting Plan for the entire site.
  - C. Sidewalk and Path Plan for the entire site shown on the plat including location, width, and materials of the sidewalks. Sidewalk shall be established along the entirety of Overland Road, Carol Ann Circle, and Lauren Drive. Sidewalks shall be on one side of all non cul-de sac roads internal to the subdivision.
  - D. Street Tree Plan for the entire site, which shall be planted by the Developer no later than 12 months from the date of approval of the Final Plat Plat within the optimal

spring or fall planting season.

- E. Landscape plan for common areas including necessary easements for ongoing maintenance by homeowners association as may be appropriate. In particular a specific plan for buffering the new lots with the existing subdivision to the East and West where appropriate.
  - F. Tree Mitigation and Preservation Plan and payment of any fees associated with said plan, and the proper deed restriction in a form approved by the Village Attorney being placed against said lots where the trees and soil are to be left preserved according to said plan.
  - G. Street plans and any necessary approvals from Waukesha County and the State of Wisconsin.
10. Developer's Agreement. Prior to development of the Subject Property or any portion thereof, the Developer of the Subject Lands or portion thereof is required to enter into a Developer's Agreement as approved by the Village prior to the approval of permits for grading and start of construction.
11. Professional Fees. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this rezoning petition, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional rezoning ordinance due to a violation of these conditions.
12. Payment of Charges. Any unpaid bills owed to the Village by the owner of subject lands or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village: shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of billing by the Village, pursuant to Section 66.0627. Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional rezoning ordinance that is subject to all remedies available to the Village, including possible cause for termination of the conditional rezoning ordinance.
13. Acceptance. Subject to the petitioner approving in writing the issuance of the conditional rezoning ordinance, and that the petitioner understands and accepts the same, and that upon failure to satisfy these conditions, this conditional rezoning ordinance is void, and the same is deemed not to have been approved, and the Petitioner will therefore need to recommence the application process for rezoning of the property.
14. One Year to Satisfy Conditions. Subject to the petitioner satisfying all of the aforementioned conditions within one year of the Village Board adopting this conditional rezoning

ordinance. The Village Board may grant additional time solely at the discretion of the Village Board upon request for an extension by the Developer.

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

SECTION 4. SEVERABILITY. The sections of this Ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of the court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and not affect the validity of all other provisions, sections or portions thereof the ordinance which shall remain in full force and effect. Any other ordinances are hereby repealed as to those terms that conflict.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

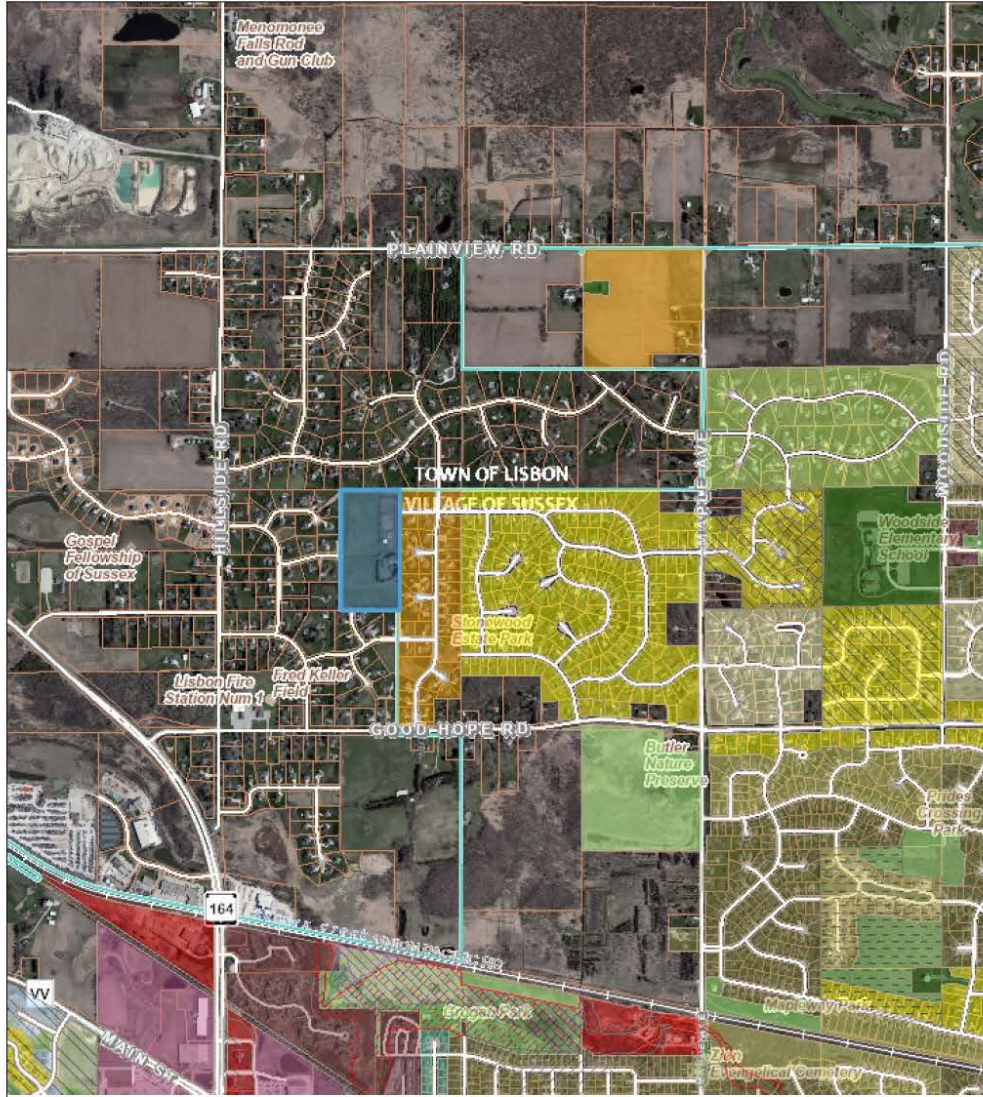
VILLAGE OF SUSSEX

\_\_\_\_\_  
Anthony LeDonne  
Village President

ATTEST: \_\_\_\_\_  
Jennifer Moore  
Village Clerk-Treasurer

Published and/or posted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

# EXHIBIT A



## Village of Sussex



## Village of Sussex

N64 W23760 Main Street  
Sussex, WI 53089  
262-246-5200

**DISCLAIMER:**

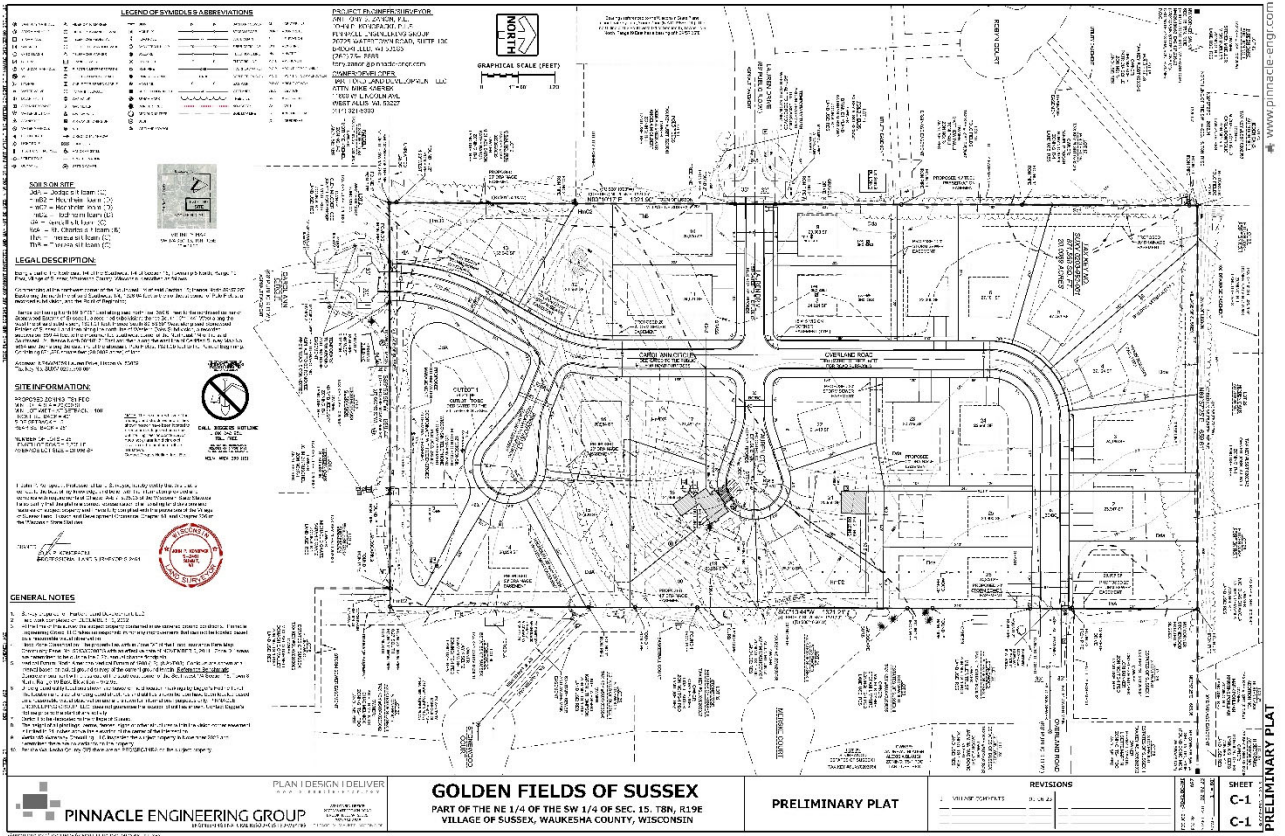
This map is not a survey of the actual boundary of any property this map depicts.

The Village of Sussex does not guarantee the accuracy of the material contained here in and is not responsible for any misuse or misrepresentation of this information or its derivatives.



SCALE: 1 = 1429' Print Date: 2/7/2023

# EXHIBIT B



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