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**AGENDA
PLAN COMMISSION
VILLAGE OF SUSSEX
VIRTUAL PUBLIC HEARING
5:30 P.M. APRIL 16, 2020**

THIS MEETING CAN BE ACCESSED IN ONE OF THE FOLLOWING WAYS:

- 1. BY CALLING 1 312-626-6799 AND ENTERING MEETING ID: 439 176 971. THE MEETING MATERIALS WILL BE AVAILABLE AT WWW.VILLAGESUSSEX.ORG AND DURING THE MEETING BY WATCHING CHANNEL 25 THE VILLAGE'S CABLE CHANNEL ON SPECTRUM CABLE.**
- 2. CLICKING THE FOLLOWING LINK: <https://zoom.us/j/439176971>**

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Sussex Plan Commission, a quorum of the Village Board may be in virtual attendance in order to gather information about a subject which they have decision making responsibility. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in virtual attendance of the meeting: Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments during any Public Hearing or if the rules are suspended to allow them to do so.) Please note that this public hearing was originally scheduled for March 17, 2020, which was cancelled after the Governor issued the emergency Safer at Home Order.

1. Roll call.
2. 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 Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive).
 - B. Consideration and possible action on a Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive) and recommendation to the Village Board on the Developer's Agreement for the same.
3. Adjournment.

Greg Goetz
Chairperson

Jeremy J. Smith
Village Administrator

Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Village Clerk at 246-5200.



MEMORANDUM

TO: Plan Commission
FROM: Kasey Fluet, Assistant Development Director
RE: Plan Commission meeting of April 16, 2020
DATE: April 8, 2020

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. 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 Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive).

This site is zoned B-4. The community based residential facility (CBRF) is a conditional use in the B-4 Central Mixed Use District in accordance with Section 17.0506 (B)(3). The Matthews Senior Living group is proposing to construct a 103,999 square foot senior living facility. The facility will have a total of 110 units 58 units for residential care apartments (10-studio, 42-one bedroom and 6-two bedroom) 27 assisted living units and 25 memory care units.

The ARB reviewed the plans at the March 11 meeting and made the following motion:

A motion by Goetz, seconded by Schauer to approve the site plan, architectural plan, lighting plan, landscape plan and sign plan for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive) subject to the following conditions:

- *Add street trees in the right of way along Silver Spring and Hickory Drive.*
- *Add a screening fence at the north east corner near the rain garden #3 storm water basin to screen the two backyard properties on Sunset Drive.*
- *Approval of the new updated logo for the monument sign face.*

Please see the impact report for more information. Of particular import is a staffing plan from the operator detailing the staffing levels and round the clock standards to provide sufficient care to the residents such that Paramedic needs are limited to critical medical emergency responses.

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 surveyor, 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 17.0419 Central Mixed Use District

B-4 CENTRAL MIXED USE DISTRICT

The B-4 Business District is intended to provide for the orderly and appropriate development of the Central Mixed Use District as designated by the Community Development Authority, in conformance with and to implement "The Downtown Design and Development Plan."

- A. It is the specific intent of the B-4 District to:
1. Encourage development of retail, residential, and office uses that are compatible with the historic Village setting in size, scale, and architectural character.
 2. Encourage the retention and restoration of existing buildings, along with the landscaping and design elements that are characteristic of the Village setting.
 3. Provide opportunities for a diversity of commercial uses and a mix of compatible residential uses.
 4. Encourage mixed-use development on larger tracts in order to fully utilize the area of these tracts for the economic benefit of both the Village and the property owner.

5. Encourage those types of commercial and office uses that do not generate a traffic volume that may lead to congestion.
6. Encourage consolidation of driveways, parking, and curb cuts to enhance safety and provide more efficient and economical access and parking.
7. Encourage the creation of connection driveways parallel to Main Street, to the rear of existing and new development, where appropriate, in order to reduce conflicts between downtown commercial traffic and through traffic.
8. Minimize visual and functional conflicts between residential and non-residential uses within and abutting the district.

B. Lot Area and Width

Lots shall contain sufficient area and width to implement the "Downtown Design and Development Plan," as determined by the Plan Commission and the Architectural Review Board.

C. Permitted Uses in the B-4 District

On any lot in the B-4 district, one or a combination of the following uses is permitted:

1. Accommodations and Food Service
 - (a) Hotels and motels
 - (b) Bed and breakfast establishments
 - (c) Restaurants, snack stands, and mobile food services. For a drive-through the Plan Commission must find that the vehicle stacking and noise from its operation will not impact surrounding properties or any public roadway.
 - (d) Bars
 - (e) Food service contractors and caterers
2. Arts, Entertainment, and Recreation Services
 - (a) Promoter, agent, and artists offices/studio
 - (b) Theater companies and dinner theaters, dance, musical groups, and performing arts companies.
 - (c) Sports teams, clubs and commercial recreational facilities.
 - (d) Museums, historical sites, zoos, botanical gardens, and marinas
3. Educational, Health Services, and Social Services
 - (a) Fine arts and language schools and studios
 - (b) Sports and recreation instruction
 - (c) Automobile driving school
 - (d) General medical services
 - (e) Vocational rehabilitation services
 - (f) Community food services
 - (g) Religious facilities
 - (h) Business, secretarial, computer, training exam, cosmetology, barber and prep schools.
 - (i) Youth, elderly and disability social services and emergency relief services (non-housing) in the B-4 district.
 - (j) Commercial day care centers provided that any outside play area is surrounded by a security fence; that no day care center is located within 300 feet of a gasoline service station, underground gasoline storage tanks, or any other storage of explosive material; that no day care center shall be located in an area where air pollution caused by smoke, dust, gases, or other particulate matter would endanger children; that no day care center shall be located in an area where noise would be so loud, shrill, or have an impulse to endanger children; that traffic be managed in a manner to minimize danger to children; and provided that adequate parking and circulation be provided on the day care facility site in accordance with the standards set forth in Section 17.0603(K)(6)(h)(3) of this Ordinance.

4. Finance, Insurance, Real Estate, and Leasing
 - (a) Financial service institutions, excluding drive-through
 - (b) Financial investment, insurance offices, and similar financial products
 - (d) Real estate, appraisers, developer offices, and offices of lessors for residential and non-residential properties, excluding lessors of mini-warehouses/self-storage
 - (e) Office equipment rental and leasing
5. General Services
 - (a) Repair and Maintenance of consumer electronics, home and garden equipment, appliance, furniture/reupholsters, footwear and leather goods.
 - (b) Barber, beauty, nail salons, spa treatment services
 - (c) Personal care and weight loss services
 - (d) Funeral home and funeral services
 - (e) Coin operated laundries and drycleaners
 - (f) Dry cleaning and laundry services (non-industrial)
 - (g) Photo finishing laboratories
 - (h) General business offices
 - (i) Travel and visitor services
 - (j) General Construction trade services (carpenters, electricians, flooring services, lawn and landscaping services, lighting services, masonry services, painting services, plastering services, plumbing and heating contractors, roofing services, sheet metal services, welding services, and building showrooms)
6. Information Services
 - (a) Radio/TV/Cable network, stations, news syndicates excluding towers and dishes
 - (b) Telecommunications services
 - (c) Motion picture and video production
 - (d) Motion picture theaters excluding drive-ins
 - (e) Libraries and archives
 - (f) Newspaper, printers, paper and software publishers, recording studio record production, telecommunications services and data processing.
7. Professional, Technical, Scientific, and Administrative Services
 - (a) Legal, notaries, and title services
 - (b) Accountants, tax preparation, payroll, and other accounting services
 - (c) Architects, landscape architects, engineering, surveying services
 - (d) Interior, industrial, graphic, and fashion design services
 - (e) Consulting/professional services, advertising, management, HR, marketing, IT
 - (f) Research and development facilities (non industrial)
 - (g) Translation and interpretation services
 - (h) Employment placement and provider services
 - (i) Private investigators, locksmiths, security, and armored car services
 - (j) Janitorial services
 - (g) Pest control services
 - (h) Veterinary services
 - (i) Offices of holding companies and regional managing offices
8. Public Administration and Government Services
 - (a) Public utility, offices of Federal, State, and Local Governments
 - (b) Governmental and cultural uses such as fire and police stations, community centers, public works garages, government administration buildings, parks and playgrounds.
9. Retail Trade

- (a) Furniture, flooring, and home furnishing stores
 - (b) Appliances, electronics, camera, office supply and copying stores
 - (c) Home improvement and hardware stores
 - (d) Grocery, supermarkets, convenience, and specialty food stores/markets
 - (e) Liquor/package beverage and tobacco stores
 - (f) Pharmacy, drug, beauty supplies, food supplement, and medical supply stores
 - (g) Clothing, shoes, jewelry, luggage/leather goods, formal wear/costume stores
 - (h) Entertainment stores such as books, music, sporting goods, hobby, and video tape/disc/game rental.
 - (i) Gift shops, florists, variety stores, antiques, used merchandise
 - (j) Pet and pet supply stores
 - (k) Art dealers/store
 - (l) Internet sales shopping/mail order business and vending machine sales
10. Manufacturing/Assembly
- (a) Processing and Assembling of Final Products provided that the limited industrial process does not exceed 2,000 square feet and the processing and assembling of final products shall be conducted entirely within an enclosed structure, and there shall be no outside storage of product or materials.
11. Transportation and Warehousing
- (a) Courier, delivery, postal service businesses and U.S. postal Service
12. Housing and Mixed Uses
- (a) Business or professional home offices such as residences of clergymen, architects, landscape architects, professional engineers, real estate agents, artists, teachers, authors, musicians, or persons in other recognized professions used to conduct their professions where the office does not exceed 25 percent of the area of only one (1) floor of the residence and only one (1) nonresident person is employed.
 - (b) Single-family residential detached home and two-family residential dwelling, but only if the use is constructed prior to January 1, 2010. In the event of a disaster these dwellings may be reconstructed.
 - (c) Conversions. A conversion of an existing single family residential detached building into a combination of non-residential and residential uses or all non-residential uses in a single existing building meeting the following requirements:
 - (1) The front facade and front porch of the existing building, if any, shall be preserved and any building addition shall be located to the rear, and shall be compatible with the existing building in size, scale, and building materials unless the Plan Commission with review and recommendation by the architectural review board determines that the particular façade or front porch is not architecturally significant or if the new proposed façade, front porch, or building addition more appropriately meets the design standards of the Village than the existing structures. Stairways, fire escapes, and other structural alterations shall be located to the rear or side of the building.
 - (2) A single-family detached dwelling may be converted to:
 - (a) A maximum of three non-residential uses with no residential uses, or

- (b) One apartment with up to two non-residential uses.
- (3) Residential units must meet the minimum size and facility requirements found in Section 17.0506(A)(15)(g).
- (4) To encourage a business environment that is compatible with the residential character of the Village, conversions to permitted uses in the B-4 Central Mixed Use District shall not be issued without review and approval of the Plan Commission and Architectural Review Board. Said review and approval shall be concerned with general layout, building plans, architectural and façade treatment, ingress and egress, design, parking, loading and unloading, and sign design and landscaping. The Plan Commission and Architectural Review Board shall determine that all proposed development and redevelopment in the B-4 district will serve to implement the “Downtown Design and Development Plan.”
- (d) A permitted or conditional non-residential use is allowed in accessory buildings located to the rear or side of principal buildings, provided that adequate parking is provided and the non-residential use is owned or operated by a person or entity legally occupying a portion of the principal building.
- (e) Mixed Use Development. Mixed-use development if it meets the following conditions:
 - (1) The project shall be developed under a single development plan with a unified architectural scheme and site plan, to include building facades, street furniture, signs, lighting standards, parking, driveways and pedestrian circulation, in conformance with the following requirements:
 - (a) Residential and non-residential uses may be combined on a single parcel in new buildings or a combination of new and existing non-residential building(s).
 - (b) Residential uses on the ground floor of buildings in a mixed use development are allowed if the Plan Commission finds that the overall mixed-use development has sufficient retail/office presence to meet the intent of the Downtown Development and Design Plan.
 - (c) When the mixed use involves a conversion of an existing non-residential building the development must establish and or maintain non-residential uses on the ground level of the building(s) such that the Plan Commission finds that the overall mixed-use development will maintain sufficient non-residential presence to meet the intent of the Downtown Development and Design Plan.
 - (d) On large buildings, variations in facades, canopies, and roof lines to provide contrasts of height, color, texture, and materials are encouraged.
 - (e) Any building facade which is visible from a street or other public place shall be constructed of traditional building materials such as local stone, brick, and wood. The use of these materials on other facades is also encouraged.

- (2) Pedestrian circulation shall be included in the design of the development, with walkways planned for linkage to an existing or future pedestrian network of sidewalks. New sidewalks shall connect to the Bugline Recreation Trail where appropriate and in accordance with the "Downtown Design and Development Plan."
 - (3) A traffic impact study may be required for any development that, in the opinion of the Architectural Review Board or Plan Commission, may generate a traffic volume that may require special mitigation measures.
 - (4) Residential units in mixed use developments shall at a minimum each have one bedroom, one kitchen, and one bathroom. A one bedroom unit shall be at least 600 square feet in size and a two bedroom or larger unit shall be at least 800 square feet in size.
 - (f) Single Family Residential Attached Units, if approved as part of a TIF project plan of the Village.
13. Parking Lots
- (a) Parking Lots without a principal use on the lot are permitted as long as the parking lot supports an adjacent parcels use and is sufficiently screened so as to minimize any impact to any adjacent residential uses.
 - (b) To facilitate traffic circulation:
 - (1) Parking areas for a proposed nonresidential use should be directly connected to nonresidential parking areas on adjacent lots where possible. If a connection cannot be made when the proposed use is constructed, a driveway may be constructed extending to the adjacent property line in a location where a future connection can be made. Cross-easements for access shall be provided where applicable.
 - (2) Driveway access from Main Street or Waukesha Avenue should be limited and shared driveways between abutting lots are encouraged. If only one lot is being developed, a cross-easement to an abutting lot or lots may be offered, and recorded on a plan for the first lot. When such shared driveways are established, no additional driveways shall be permitted to access either lot from Main Street or Waukesha Avenue. Additional driveways may be permitted off a side street or a service street.
 - (c) Shared parking facilities maximize the use of the limited area available for parking within the Central Mixed Use District and should be used wherever possible. When parking facilities are shared, the overall parking requirement may be reduced. The number of residential parking spaces, however, shall not be reduced. It shall be the burden of the applicant to provide documentation that uses sharing parking are complimentary and that the full required number of parking spaces would not be required

D. Permitted Accessory Uses

- 1. Off-street parking and loading. Multi-level parking garages shall be designed to minimize impact to adjacent properties and be designed to architecturally match the principal structure.
- 2. Detached garages for storage of vehicles used in conjunction with the operation of the principal business or for occupants of the premises.
- 3. Roof-mounted, solar collectors provided that a registered engineer shall certify that the structure is adequate to support the load.

- E. Conditional Uses
1. Conditional uses as allowed in Section 17.0500 Conditional Uses.
 2. No Adult Oriented Establishment except as permitted in accordance with Conditional Uses Section 17.0508.
- F. Dimensional Standards.
- The following standards shall apply to all uses:
1. Build-to Line: For all construction a build-to line rather than a minimum street yard shall be used. New buildings shall be constructed to a line formed by the average building setback of the buildings on the adjacent lots on both sides. If no existing buildings are present on the adjacent lots, the average setback of the next nearest buildings on each side shall be used. The build-to line may be adjusted by the Plan Commission if it finds that a change in the build-to line would be consistent with the Downtown Design and Development Plan, and the Design Standards. The build-to line shall not be less than five (5) feet.
 2. Side yard: 10 feet on each side, except one or both sideyards may be reduced if the Plan Commission finds that:
 - (a) The Site is masterplanned and provides an efficient use of land,
 - (b) The health, welfare, and safety of the public is not jeopardized by the setback reduction,
 - (c) The setback change will encourage pedestrian interaction between buildings.
 - (d) The reduced setback serves to implement the Design Standards and the Downtown Design and Development Plan of the Village.
 3. Rear yard: 15 feet.
 4. Loading docks may be required to be set back a greater distance from the side or rear lot line, as determined by the Plan Commission.
 5. Setback from the Bugline Recreation Trail right-of-way: 15 feet.
 6. Accessory buildings shall be set back from all property lines at least five (5) feet, except that accessory buildings used for principal uses shall meet all the setback requirements for principal buildings.
 7. Maximum height: 45 feet.
 8. Minimum shoreyard: 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. Where shoreland regulations apply no building or structures shall be located closer than as allowed by Village shoreland regulations.
 9. Parking lot setbacks:
 - (a) From street right-of-way: The setback of the principal or 25 feet, whichever is less. No parking shall be permitted between the front of the principal building and the street line with the following exception: The Plan Commission may allow up to ten (10) percent of the parking to be in the street yard if it finds that the no street yard parking requirement is unfeasible for the site.
 - (b) From rear property lines: ten (10) feet; except that the Plan Commission may allow a reduction of this requirement to five (5) feet, upon the Architectural Review Board's recommendation of a landscape plan that meets the design standards and intent of the Downtown Design and Development Plan.
 - (c) From side property lines: five (5) feet, however no setback is required if shared parking is used and cross-easements are established.
 - (d) From buildings: five (5) feet.
 - (e) Any parking structure that was constructed prior to the date of the original adoption of the parking lot setback requirements for the B-4 Central Mixed Use District in 1990, that does not meet the

current requirements of subsection 17.0419 (F)(9)(a-d), is considered legal non-conforming and does not have to be removed upon performing parking lot restoration work. Extension, expansion, enlargement, reconstruction, substitution, or moving of the parking lot, however, may be subject to said requirements of subsection 17.0419(F)(9)(a-d), as described in Section 17.0900 of this Zoning Ordinance.

10. Property line buffer: A buffer area landscaped with trees and shrubs meeting the intent of the "Downtown Design and Development Plan" and the Village Design Standards, shall be required along all side and rear property lines. Driveways may not encroach into the buffer area unless the lot is too narrow to permit any other alternative, in the opinion of the Plan Commission, or for the purpose of shared parking or connected parking areas between lots.

G. Erosion Control

1. See Chapter 14 of the Village Municipal Code.

H. Development Design Standards

1. The Village has established clear land use and design principals, as documented in the Village Development Design Guidelines, to guide future development planning decisions towards implementation of the Village's Smart Growth 2040 Comprehensive Plan. These guidelines are intended to serve as basic criteria during reviews, and are not to be construed as the only applicable design elements. All development proposals shall be evaluated against the adopted Village vision of maintaining a small town atmosphere within the Village, featuring a generous amount of greenspace in residential, commercial, and industrial developments.

I. Plans and Specifications to be Submitted to Plan Commission

1. To encourage a business environment that is compatible with the residential character of the Village, building permits for permitted uses in the B-4 Central Mixed Use District shall not be issued without review and approval of the Plan Commission. Said review and approval shall be concerned with general layout, building plans, architectural and facade treatment, ingress and egress, parking, loading and unloading, and sign design and landscaping. The Plan Commission and Architectural Review Board shall determine that all proposed development and redevelopment in the B-4 district will serve to implement the "Downtown Design and Development Plan."

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:

B. RESIDENTIAL CONDITIONAL USES

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified in this section. Petitioners for conditional uses in the residential section must produce an "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:

3. Housing for the Elderly, including community-based residential facilities, rest homes and nursing homes in the Rm-1 and B-4 districts. Elderly housing shall not exceed a density of more than 17.4 dwelling units per acre in the Rm-1 district or more than 22 units per acre in the B-4 district. Upon recommendation of the Architectural Review Board the Plan Commission may reduce the number of required parking spaces for elderly housing in the B-4 district when parking shared with adjacent businesses is provided, however, parking dedicated to the elderly housing use shall not be less than 0.5 parking spaces per dwelling unit.

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 Conditional Use Permit Standards to be met:

A. This conditional use is granted for the Petitioner for the above for the above enumerated uses, incorporating the findings as set forth above and subject to the following conditions:

(1) Presentation Compliance. The community based residential facility development is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearing before the Plan Commission held on April 16, 2020.

(2) Subject Property. This conditional use permit issued to the Petitioner, shall be limited to the property described in **Exhibit "A"** attached hereto and incorporated herein and to the site plan presented at 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 Village Clerk for the Village of Sussex in order for this CU to be in effect. The Petitioner shall be entitled to amend or change any plan contemplated herein subject to the specific language of the Conditional use 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 as solely determined by the Plan Commission. If the Plan Commission for the Village of Sussex feels, in its sole discretion, that the amendment or change to any plan contemplated herein is substantial, the amendment or change will require a new permit and all Village procedures in place at the time must be followed.

A Site Plan. The Petitioner shall submit and receive approval from the Village Plan Commission, pursuant to Section 17.1000, a specific site plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit A-1**. The site plan must include a ten foot wide path extending from the northwest property boundary to connect to the Bugline Trail and extend the path to connect to the property to the north and as shown on site plan Exhibit A-1 along with a connection from the cul-de-sac to this pathway, and the Petitioner shall complete all work depicted on the site plan, at Petitioner's expense.

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 presentations at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit B**.

1. Of particular concern is the balance of the operator of this facility providing adequate staffing 24/365 with appropriate protocols such that the use does not overburden the Emergency medical resources of the Village. A key aspect of this approval is for the petitioner to provide and follow a staffing and operations plan that must be approved by the Fire Chief such that Village emergency medical resources are only utilized for actual emergency medical purposes at the facility. If the Fire Chief finds that the petitioner fails to implement said plan or said plan still results in impacts to the Village's emergency medical services beyond the agreed upon service call volume from the adopted plan, then the petitioner shall within 90 days of notice from the Village attempt to set a revised plan for the operations of the same. If no agreement is reached on a revised plan within 90 days of notice this CU shall be brought forward to the Plan Commission for review based upon the impact of the operations to the general welfare and safety of the public.

C Traffic, Access, Loading, and Parking Plans. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific traffic, access,

loading, parking and egress plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit C**.

- D. Lighting Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific lighting plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit D**.
- E. Signage Plan. The Petitioner shall submit to and receive approval from the Architectural Review Board a specific signage plan for the Subject Property. When approved said signage plan shall be attached hereto and incorporated herein as **Exhibit E**.
- F. Public Improvements. In conjunction with the development of the site there are requirements to install certain public improvements (public street, water, sewer, stormwater, and sidewalk) and those improvements shall be installed and reviewed by the Village Engineer with accepted by the Village Board. When approved said public improvement plans shall be attached hereto and incorporated herein as **Exhibit F**.
- G. Sewer, Water, Stormwater and Erosion Control Plans. The Petitioner shall submit to and receive approval from the Village Engineer a specific sewer, water, stormwater, and erosion control plan(s) for the Subject Property. When approved said plans shall be attached hereto and incorporated herein as **Exhibit G**.
- H. Fence, Landscaping, Berm, and Open Space Utilization Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific fence, landscaping, berm and open space utilization plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit H**.
- I. Architectural and Building Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific architectural and building plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentations at the meetings. The plans shall be attached hereto and incorporated herein as **Exhibit I**.
- J. Outdoor Storage and Uses Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission an Outdoor Storage and Uses Plan, the same to show that no outdoor storage or use shall be permitted on the Subject Property with the following specific exceptions and any such plan must meet the following minimum requirements or conditions:

1. 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. 2. Equipment shed shall be kept in good maintenance condition at all times.
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 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, Section 9.07 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 except for as allowed by Outdoor Establishment Permit under Chapter 4.09 or Auxiliary Use under section 17.0710.
11. Fees and Expenses. The Petitioner, upon issuance of this 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 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 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 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 conditional use permit based upon the finding that the use 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 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 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 conditional use permit as the Plan Commission for the Village of Sussex deems appropriate.
 17. Assessed Value. This project is located within a TIF District and it is essential component of approval of this use on the subject property to produce sufficient increment for the financial viability of the TIF District and the general welfare of the community. The Petitioner agrees to maintain a taxable residential class assessment and an assessed value on the subject property of at least \$14,000,000 starting with the assessment on January 1, 2018 through the life of the TIF District #6, which is anticipated to close in 2040. In the event the assessed value in any year is less than \$14,000,000, the Petitioner shall pay to the Village by January 31 of the year following such assessment the difference between the tax amount paid based upon the actual assessed value and the amount that would have been paid if the assessed value had been \$14,000,000. No additional payment is necessary for any year if the assessed value for that year is above \$14,000,000 and the subject property is classified as residential and not tax-exempt. If the subject property, or any portion of the subject property becomes tax-exempt for any reason, the obligation to pay an amount equal to the taxes that would be paid for property with an assessed value of \$14,000,000 that is classified as residential continues in effect. The clerk will provide notice to the Petitioner with each annual tax bill to the amount owed. This payment is essential and failure to pay the amount by January 31 of each year shall automatically result in the Conditional Use being brought before the Plan Commission for revocation, and is grounds for revocation. Nothing herein shall be interpreted as modifying any agreement the Village may have with the Owner, ECT International, Inc., Mammoth Springs, LLC or any other person or entity, nor shall this be interpreted as relieving any obligation such persons and entities may have to the Village. In the event the obligations herein match obligations agreed upon by others, the obligations to the Village are joint and several.
 18. Financial Guarantee and Agreement. Subject to the Developer submitting to the Village Clerk and receiving approval as to form from the Village Attorney and as to amount from the Village Engineer, a letter of credit or cash and subject to the Developer submitting to and receiving from the Village Attorney and the Village Engineer, approval of a Developer's Agreement for the improvements (including all public, private and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the final Land Division, whichever is earlier.
- 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 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 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 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 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 conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Village Plan Commission if the Village Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village 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 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 conditional use and the remainder shall continue in full force and effect.
- I. This conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the conditional use is approved. During the final year of the 5 year term of the CU 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 CU. 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 conditional use agreement, then, in that event, the 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 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 final year of the term of the CU. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the conditional use and may serve as a basis for termination of the 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 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 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 conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the 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 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 conditional use permit, all prior conditional use permits granted to the Subject Property are hereby revoked and terminated.
- K. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the 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 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.

The Plan Commission and Public will now be able to ask questions or give evidence with the Petitioner responding in turn to the same about the plans, code, and CU document. After completion of the comments from the Public, the Plan Commission shall:

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 CU Permit; or
2. Close the public hearing for action.

B. Consideration and possible action on a Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive) and recommendation to the Village Board on the Developer's Agreement for the same.

Staff has prepared a conditional use document for consideration at this meeting. The Plan Commission has heard testimony on the application for the Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and sign plan for

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 set forth 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. 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:

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

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

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

A.4.-18. CU condition compliance Yes or No

B-L. Administrative CU Condition compliance Yes or No

Action Items:

1. Act on the CU and various plans.

Staff Recommendation: Staff recommends approval of the Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan, landscape plan and signage plan based upon the evidence presented at the Public Hearings for The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive) a recommendation to the Village Board to approve the Developers Agreement; subject to any conditions of the Village

Engineer, a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

03. Adjournment.



N64W23760 Main Street
Sussex, Wisconsin 53089
Phone (262) 246-5200
FAX (262) 246-5222

Email: info@villagesussex.org
Website: www.villagesussex.org

MEMORANDUM

TO: Plan Commission

FROM: Jeremy Smith, Village Administrator

RE: Impact Report on Conditional Use Permit for The Courtyard at Sussex

DATE: March 11, 2020

This impact report for the Conditional Use request for The Courtyard at Sussex a community based residential facility and the impacts of said use to neighboring properties and to the Village Services.

SITE LOCATION: W235N6350 Hickory Drive ZONING: B-4

TRAFFIC AND PARKING IMPACTS:

The anticipated impact to the area, Hickory Drive entrance and exit, will be limited to the employees for the 24/7 shifts approximately 16 employees. The site will have 74 parking stalls for visitors and staff most residents will not have vehicles. The Senior Living Facility should designate parking for staff, visitors and residents.

NOISE, ODOR, DUST AND LIGHT IMPACTS:

Noise generated from the operation is likely to be minimal; owners have a landscape plan with fencing and plantings to help minimize the impact to adjacent property owners.

The Senior Living Facility is not likely to cause and odor or dust problem to impact adjacent property owners.

The lighting is only that which was approved for the building/site and there are no lighting concerns present, if complaints arise, the owners will need to address and make adjustments.

SAFETY, CRIME, FIRE PREVENTION IMPACTS:

The Director of Police Services does not anticipate additional calls to this site; internal security of the safety for the residents and staff should be addressed by the owners.

The Fire Chief does anticipate emergency medical calls to the site, based on the proposed mixed care units it is likely there will be between 50 to 220 incidents per year. This would mean an approximate 13% net increase in call volume. Many of these residents will have already been Sussex residents so the calls are shifting from private homes to this facility. It is also highly likely that many of these residents will be in categories where the Village does not receive full reimbursement for ambulance and medical services. These are costs of an aging population on government services. Of greatest concern is that the facility provides the appropriate levels of nurse staffing and at all hours of the day to handle basic needs of the residents so the Paramedics are called only when truly needed for medical emergencies.

There are no specific concerns about fire impacts inside the operation. The emergency access area at Pembroke should be accessible and no cars should be parked outside of designated parking stalls. The Sussex Fire Department needs information about the Knox Box to the building.

There is not likely to be any additional nuisance from said operations and no specific concerns with respect to crime or fire were indicated.

HEALTH AND SANITATION IMPACTS:

All trash, debris and recycle materials are disposed of by the owner. The use as proposed by the owner is not likely to produce significant waste streams, but even a nominal waste increase from the drivers must be mitigated. The Courtyard at Sussex has a sizeable enclosed dumpster area and should contract with the necessary entities for disposal of trash and any medical waste disposal.

There is not likely to be any health concerns from the operation as proposed.

PROPERTY MAINTENANCE IMPACTS:

The property is subject to and must adhere to Village Ordinances. There are no concerns at this time.

MISCELLANEOUS IMPACTS:

The Operation as proposed is unlikely to lead to any measurable impact to most Village services beyond normal business operations. The one exception is Paramedic services, which will see a sizeable increase. The Fire Department is in a transition switching to full time coverage from a paid on call system. This transition was occurring prior to and not related to this facility and such a transition will enable the Village to address the higher volume caused by the facility although there will be some stress on the system in the short run. The Plan Commission should insist on a plan for the operator to demonstrate appropriate staffing around the clock to minimize paramedic impact to emergency situations only.

The Village currently has limited senior housing of this type and for residents at that stage in life looking to maintain connections to the community, this facility can offer that quality of life opportunity for the Village's long term residents and for their family members who may also live here.

The facilities operation will not result in the need for the Village to fund/hire additional Public Works, Parks, Library, Administration, or Garbage resources.



PLAN OF OPERATION

To be used for a business with new construction.

Is this request to be considered for a Conditional Use? YES If yes, is this a new CU? YES
 OR an amendment to an existing CU? _____

(Conditional Use Permits require a Public Hearing)

Address location of new construction W235 N6350 HICKORY DRIVE

Tax Key # SUXV0246961002

Zoning: B-4 CENTRAL MIXED USE

1. Name of Business:
SUSSEX ASSISTED LIVING LLC

Business
 101 N WACKER DRIVE, SUITE 608 CHICAGO, IL 60606 312-462-4462
 Address City, State, Zip Phone #
 312-284-8896 tostrom@matthewsseniorliving.com
 Fax # Email address

2. Business owner contact information:
Tom Ostrom

Contact
 101 N WACKER DRIVE, SUITE 608 CHICAGO, IL 60606 312-462-4462
 Address City, State, Zip Phone #
 312-284-8896 tostrom@matthewsseniorliving.com
 Fax # Email address

3. Building/Land owner contact information:
SUSSEX ASSISTED LIVING LLC

Contact
 101 N WACKER DRIVE, SUITE 608 CHICAGO, IL 60606 312-462-4462
 Address City, State, Zip Phone #
 312-284-8896 tostrom@matthewsseniorliving.com
 Fax # Email address

4. Number of Employees/Shifts: 16 3
 Employees Shifts

5. Days of Operation:

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
Put an X in box that applies:	X	X	X	X	X	X	X
Hours Open for business	24	24	24	24	24	24	24

6. Is this an extension of an existing operation? NO

7. On a separate sheet of paper explain your business use and/or the change to your business. Attach a list of all items to be sold, produced or stored on the premises.

ASSISTED LIVING PROVIDER INCLUDING CBRF AND RCAC.

8. Is a liquor license or any other special license to be obtained from the Village Board or State Licensing Agencies? NO Do you need an Outdoor Establishment Permit? NO
Arcade permit? NO

If yes, explain: _____
If yes, please obtain and complete form.

9. If your proposed operation will utilize a liquor license, what types of entertainment are you proposing? N/A

10. Do you feel there will be any problems such as odor, smoke or noise resulting from this operation? NO

If yes, explain: _____

11. Dimensions and levels of all buildings:

	Dimensions	Levels	Square footage
Building 1	<u>582 X 198</u>	<u>2</u>	<u>103,999</u>
Building 2	<u>14X20 (SHED)</u>	<u>1</u>	<u>280</u>
Building 3	_____	_____	_____

Is the building(s) to be used for multi-tenant purpose? NO

12. Lot size	Depth	Width	Area
_____	<u>+ 800'</u>	<u>+400'</u>	<u>7.32 ACRES</u>

Above to be included on survey

13 Parking: Dimensions of parking lot +800'x42'
Parking lot construction Asphalt w/curb and gutter(on outside)
Type of screening: Fence Fence-middle or Plantings Perimeter
Number of spaces needed per code 94* # of spaces for employees 16

Above to be included on site plan

16 staff stalls, 58 CBRF residents/3=20 stalls, 58 RCAC apartments/1 =58 stalls. 94 stalls required. requesting reduction of RCAC apartment requirement due to limited driving needs. Providing 74 total stalls.

Please provide the following information:
Total square footage of building, new and existing 75,209 sf (footprint)

Total square footage of parking lot, new and existing 61,780 sf

14. Signs: Type: Free standing X Attached to building _____
Lighted X Single or double faced _____

Size 12' X 8' Location NORTHEAST CORNER
Above to be included on sign plan

15. What security lighting are you proposing? (Please include on lighting plan)
STANDARD LIGHTING AT EXTERIOR DOORS AND PARKING LIGHTING.

16. Is there a need for outside storage? NO If yes, explain:

17. Is a Highway access permit needed from the state or County Highway Departments? NO

If yes, please attach a copy of the secured permit.

What conditions has the State or County imposed upon your permit?

18. Is there a need for any special type of security fencing? NO

If yes, what type? _____

19. What provisions are you making for fire protection? NFPA 72 FIRE ALARM SYSTEM

What provisions are your making for a sprinkler system? FULLY SPRINKLED PER NFPA13

Storage system? n/a

Hydrant stand pipes? NONE

Is there a fire lane shown on your site plan? YES

Explain: COMPLETE FIRE LANE LOOP AROUND BUILDING

20. Surface water drainage facilities and impervious areas, describe and/or include on site plan.

~~Concrete curb & gutter shall direct drainage to stormwater management components (rain gardens, vegetated swales and infiltration trenches).~~

21. Did Wisconsin State Department of Industry Labor and Human Relations approve building plans?

NO If yes, explain: WI DHS is required to approve CBRF plans.

22. Please give a timetable for items to be completed:

Building construction June 2021 (Estimated)

Paving June 2021 (Estimated)

Landscaping June 2021 (Estimated)

Occupancy July 2021 (Estimated)

I have reviewed a copy of the Zoning Ordinance in the Village of Sussex and hereby agree to abide by the same, as well as any and all terms and conditions of any permit issued pursuant to this application.

I do swear to or affirm that all statements contained herein are true and correct to the best of our knowledge.


Name _____

1/21/2020
Date _____

Sole Member
Title or Position _____



41 Management is a senior housing management company headquartered in Chicago Illinois. We currently have 17 Wisconsin based campuses and five Minnesota campuses under management. These include CBRF and RCAC licensed facilities as well as unlicensed independent living buildings. We operate under the Matthews Senior Living, Heritage House, Tallgrass, Hartland Place, Kenosha Place, Clifden Court, Courtyard, Encore and Cudahy Place trade names. We are active developers and typically develop, construct and open at least two buildings each year.

Tom Ostrom and Roth Weaver, the two principles of 41 Management, have combined forty years of experience in the senior housing industry. Our experience includes the development, opening, and fill up of new communities, the turnaround of financially, operationally or reputationally challenged communities and the management of stabilized properties. We have operated buildings in more than twenty states.

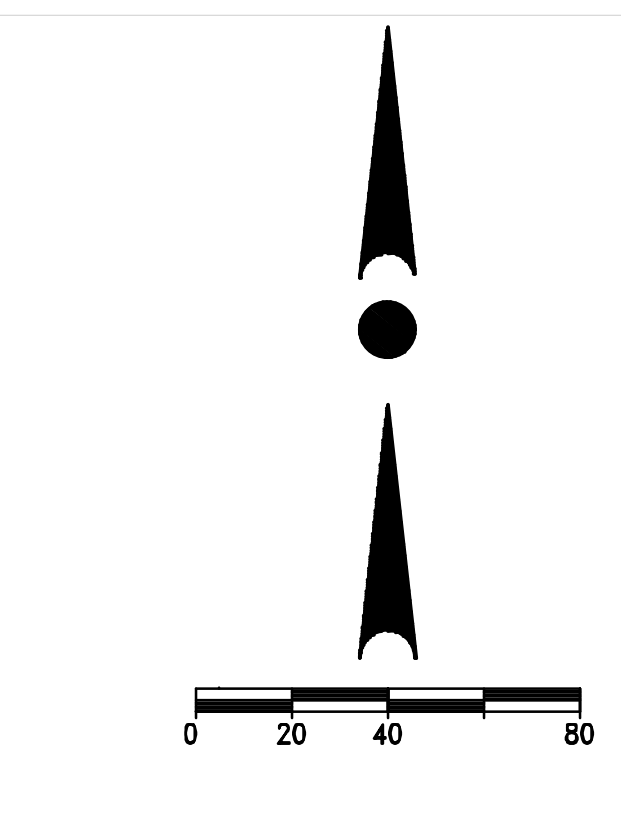
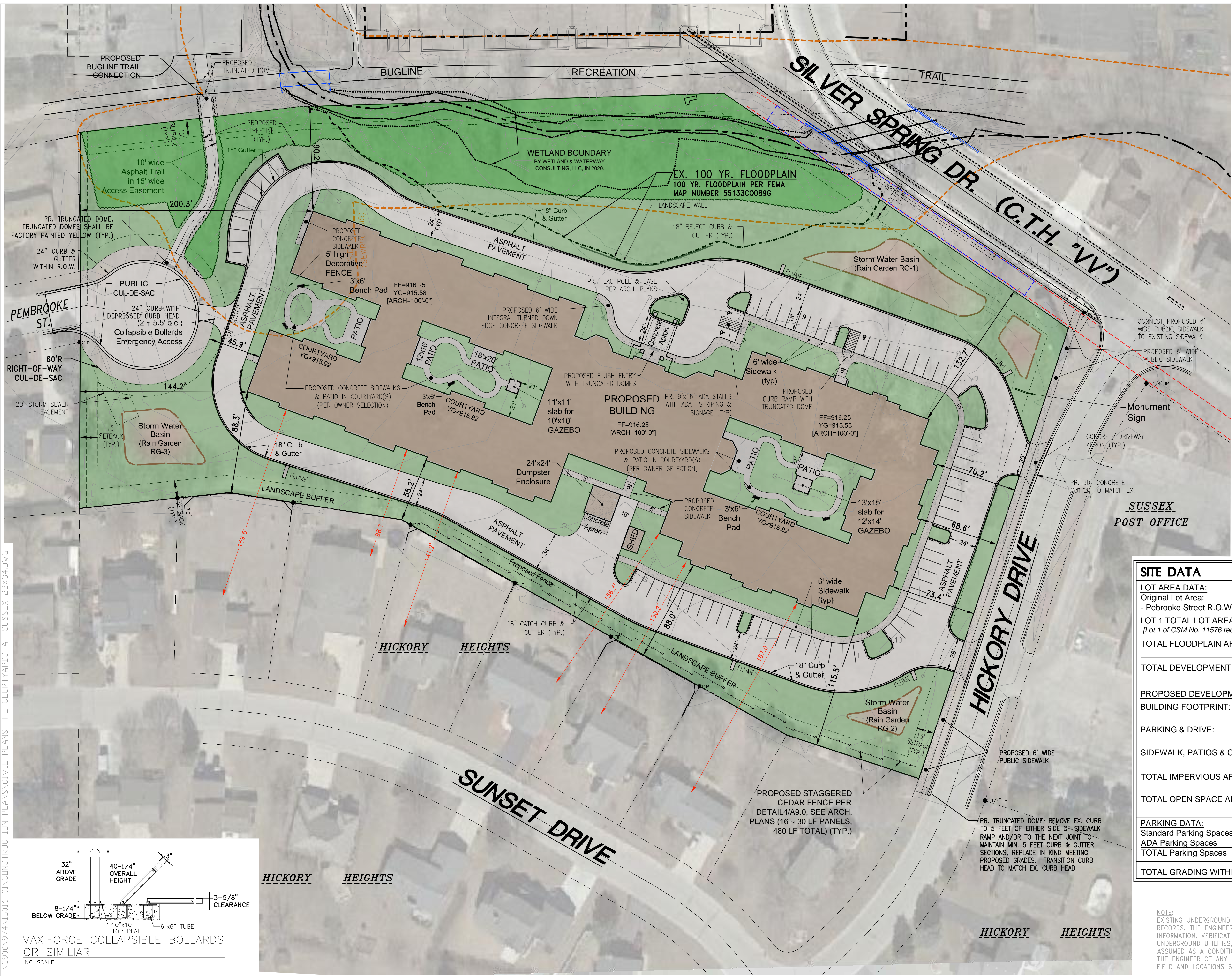
Our approach combines financial discipline, analytical rigor, compassion and a strong clinical capability. Our team includes regional operations managers, a clinical director and an accounting group. We have strong relationships with private equity firms that can bring needed capital for acquisitions. We also have relationships with the largest REITs in the senior housing industry.

The proposed project for Sussex Assisted Living LLC includes a 52 unit/58 resident Community Based Residential Facility, attached to a 58 apartment Residential Care Apartment Complex. Approximately one-half of the CBRF units will be dedicated to Memory Care. All residents in the CBRF will receive personalized care and assistance with activities of daily living. Memory care residents will live in a secure environment with access to a central courtyard. CBRF residents typically do not drive and will be provided with transportation services.

RCAC residents typically require a reduced level of assistance and services compared to CBRF residents. They reside in an apartment type setting with common areas for meals and activities, while still receiving assistance as needed. Although some of the RCAC residents may still drive, the majority would use

transportation services and parking needs would be less than a typical multi-family setting.

We believe The Courtyard at Sussex assisted living community will be a positive addition to the Village and look forward to becoming a part of the community.



LEGEND:

- - - - - EXISTING CONTOUR
- - - - - EXISTING SANITARY SEWER
- - - - - EXISTING SANITARY MANHOLE
- - - - - EXISTING WATER MAIN
- - - - - EXISTING HYDRANT
- - - - - EXISTING STORM SEWER
- - - - - EXISTING STORM MANHOLE
- - - - - EXISTING STORM INLET
- - - - - EXISTING TRANSFORMER
- - - - - EXISTING ELECTRIC PEDESTAL
- - - - - EXISTING CATV PEDESTAL
- - - - - EXISTING TELEPHONE PEDESTAL
- - - - - EXISTING POWER POLE
- - - - - PROPOSED SANITARY SEWER
- - - - - PROPOSED SANITARY MANHOLE
- - - - - PROPOSED WATER MAIN
- - - - - PROPOSED HYDRANT
- - - - - PROPOSED WATER VALVE
- - - - - PROPOSED STORM SEWER
- - - - - PROPOSED STORM MANHOLE
- - - - - PROPOSED STORM INLET
- - - - - PROPOSED STORM END SECTION

SITE DATA

LOT AREA DATA:	
Original Lot Area:	330,039 sf (7.577 acres)
- Pebrooke Street R.O.W.:	-11,219 sf
LOT 1 TOTAL LOT AREA:	318,820 sf (7.3191)
[Lot 1 of CSM No. 11576 recorded as Document No. 4263972]	
TOTAL FLOODPLAIN AREA:	- 44,196 S.F. (1.015 acres)
	13.9% of Lot 1
TOTAL DEVELOPMENT AREA:	274,624 S.F. (6.304 acres)
	86.1% of Lot 1
PROPOSED DEVELOPMENT DATA:	
BUILDING FOOTPRINT:	75,209± sf (1.727 acres)
	23.6% of Lot 1
PARKING & DRIVE:	61,780± sf (1.418 acres)
	19.4% of Lot 1
SIDEWALK, PATIOS & CONCRETE:	12,580 S.F. (0.289 acres)
	3.9% of Lot 1
TOTAL IMPERVIOUS AREA:	149,569 S.F. (3.434 acres)
	46.9% of Lot 1
TOTAL OPEN SPACE AREA:	169,251 S.F. (3.885 Acres)
	53.1% of Lot 1
PARKING DATA:	
Standard Parking Spaces	71 Spaces
ADA Parking Spaces	3 Spaces
TOTAL Parking Spaces	74 Spaces
TOTAL GRADING WITHIN 75' OF CREEK: 8,844 sf (0.203 Acres)	



4100 N CALHOUN ROAD
BROOKFIELD, WI 53005
PHONE: (262) 790-1480
FAX: (262) 790-1481
EMAIL: info@trioeng.com

PROJECT:
THE COURTYARD AT SUSSEX
SENIOR LIVING FACILITY
VILLAGE OF SUSSEX, WI
PREPARED FOR:
SUSSEX ASSISTED LIVING LLC
101 N WACKER DRIVE, SUITE 608
CHICAGO, IL 60606

REVISION HISTORY

DATE	DESCRIPTION
01/24/20	INITIAL SUBMITTAL
02/28/20	PER VILLAGE COMMENTS
04/08/20	PER VILLAGE COMMENTS

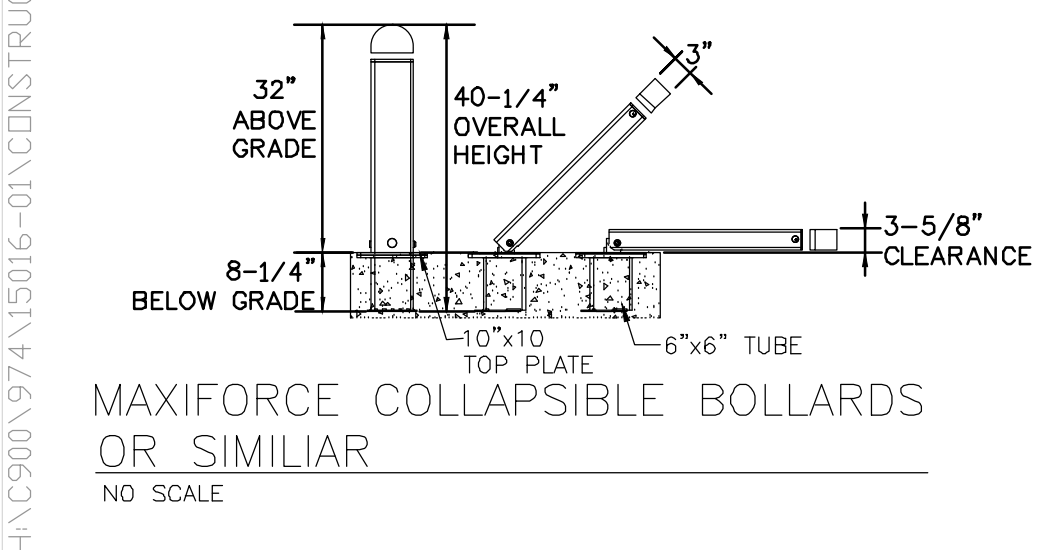
DATE:
APRIL 06, 2020

JOB NUMBER:
15016

DESCRIPTION:
PROPOSED SITE PLAN

SHEET

C1.1



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PROPOSED PROJECT:

THE COURTYARD AT SUSSEX

W235 N6350 HICKORY DRIVE
SUSSEX, WI

REVISIONS

#	DATE

Project Number 20-1050
 Date 1/21/20
 Drawn By VP
 Checked By KK

T1.1

SITE PLAN SUBMITTAL 1-24-2020



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THE COURTYARD AT SUSSEX

W235 N6350 HICKORY DRIVE

SUSSEX, WI

REVISIONS

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Project Number 20-1050

Date 1/21/20

Drawn By VP

Checked By KK

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SITE PLAN SUBMITTAL 1-24-2020

FLOOR PLAN GENERAL NOTES

1. ALL WALLS TO BE TYPE "A" U.N.O.
2. ALL INTERIOR DIMENSIONS ARE FRAMING TO FRAMING.
3. SEE LIFE SAFETY PLAN TO CONFIRM FIRE RATINGS.

BUILDING INFORMATION

OVERALL BUILDING
 FIRST FLOOR S.F. = 43,335 s.f.
 CBRF = 31,341 s.f.
 TOTAL = 74,602 s.f.
SECOND FLOOR S.F.
 RCAC / TOTAL = 24,317 s.f.
 TOTAL S.F. = 103,994 s.f.

RCAC APARTMENTS = 58 APARTMENTS
 STUDIO APARTMENTS: 10
 1-BED APARTMENTS: 42
 2-BED APARTMENTS: 6

CBRF UNITS = 52 UNITS / 58 RESIDENTS
 MG: 25 UNITS / 23 RESIDENTS
 AL: 27 UNITS / 30 RESIDENTS

TOTAL APARTMENTS / UNITS = 110

CBRF CONGREGATE AREA REQUIRED = (58 residents x 90 s.f.) = 5,220 s.f.
 CBRF CONGREGATE AREA PROVIDED = 5,466 s.f.

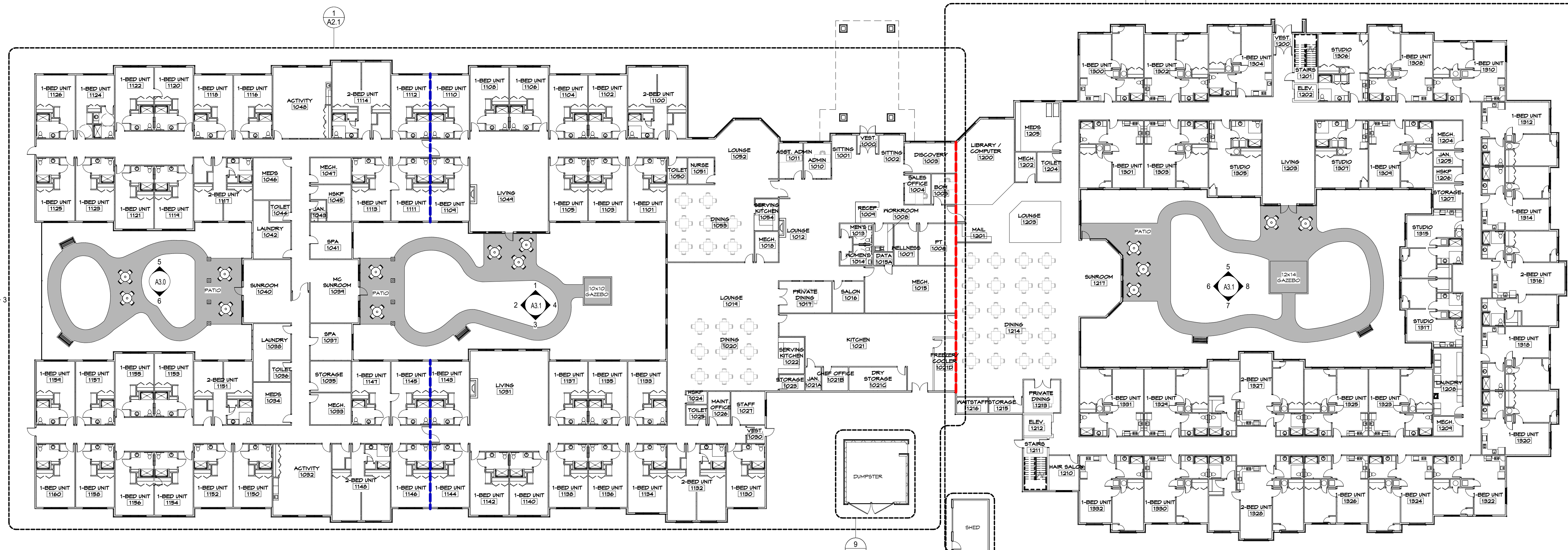


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PROPOSED PROJECT:
THE COURTYARD AT SUSSEX
 W235 N6350 HICKORY DRIVE
 SUSSEX, WI



A3.0 3

A3.0 2

1 OVERALL FLOOR PLAN
 A2.0 SCALE: 3/64" = 1'-0"

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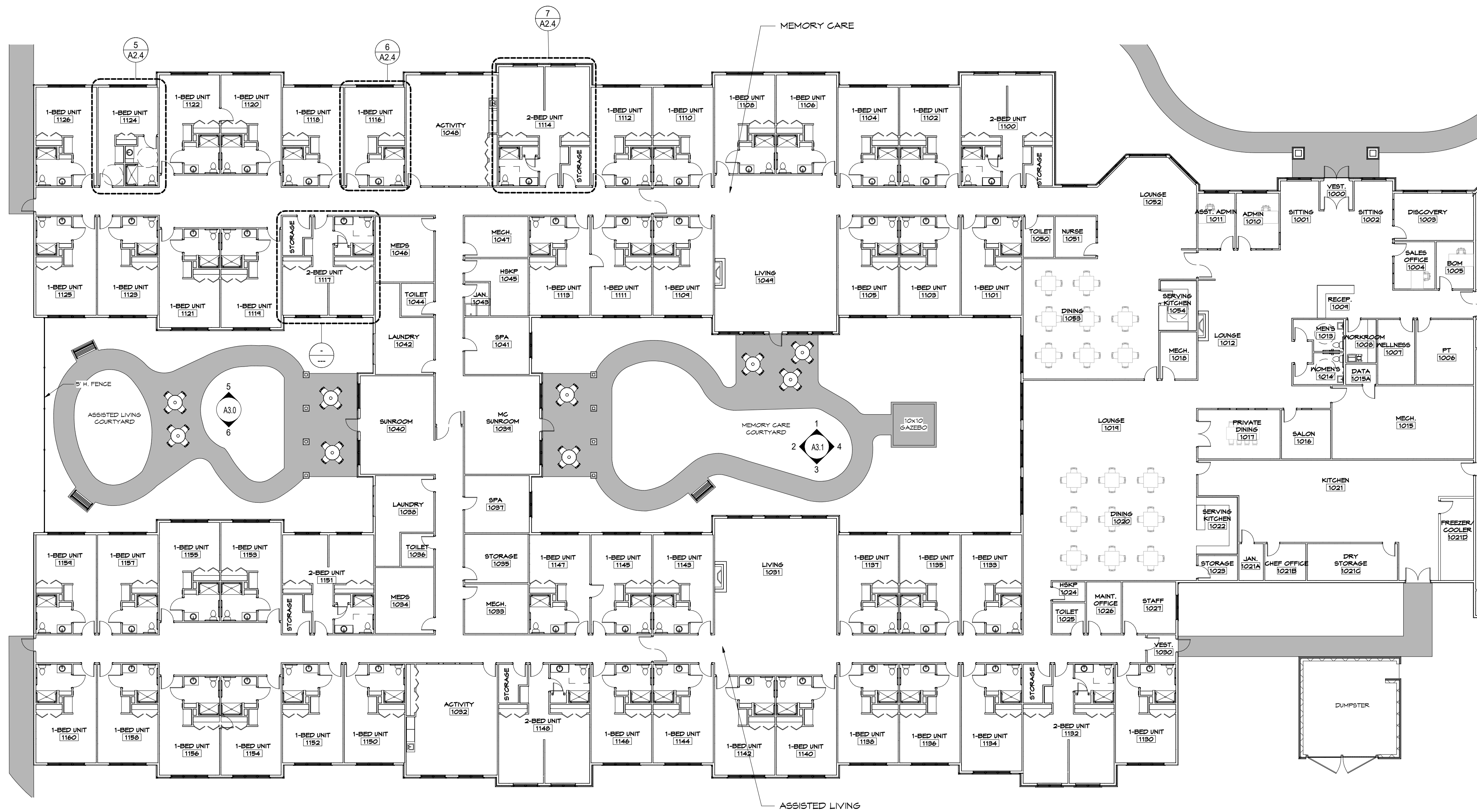
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1 CBRF
A2.1 SCALE: 1/16" = 1'-0"

PROPOSED PROJECT:

THE COURTYARD AT SUSSEX
W235 N6350 HICKORY DRIVE
SUSSEX, WI

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A2.1

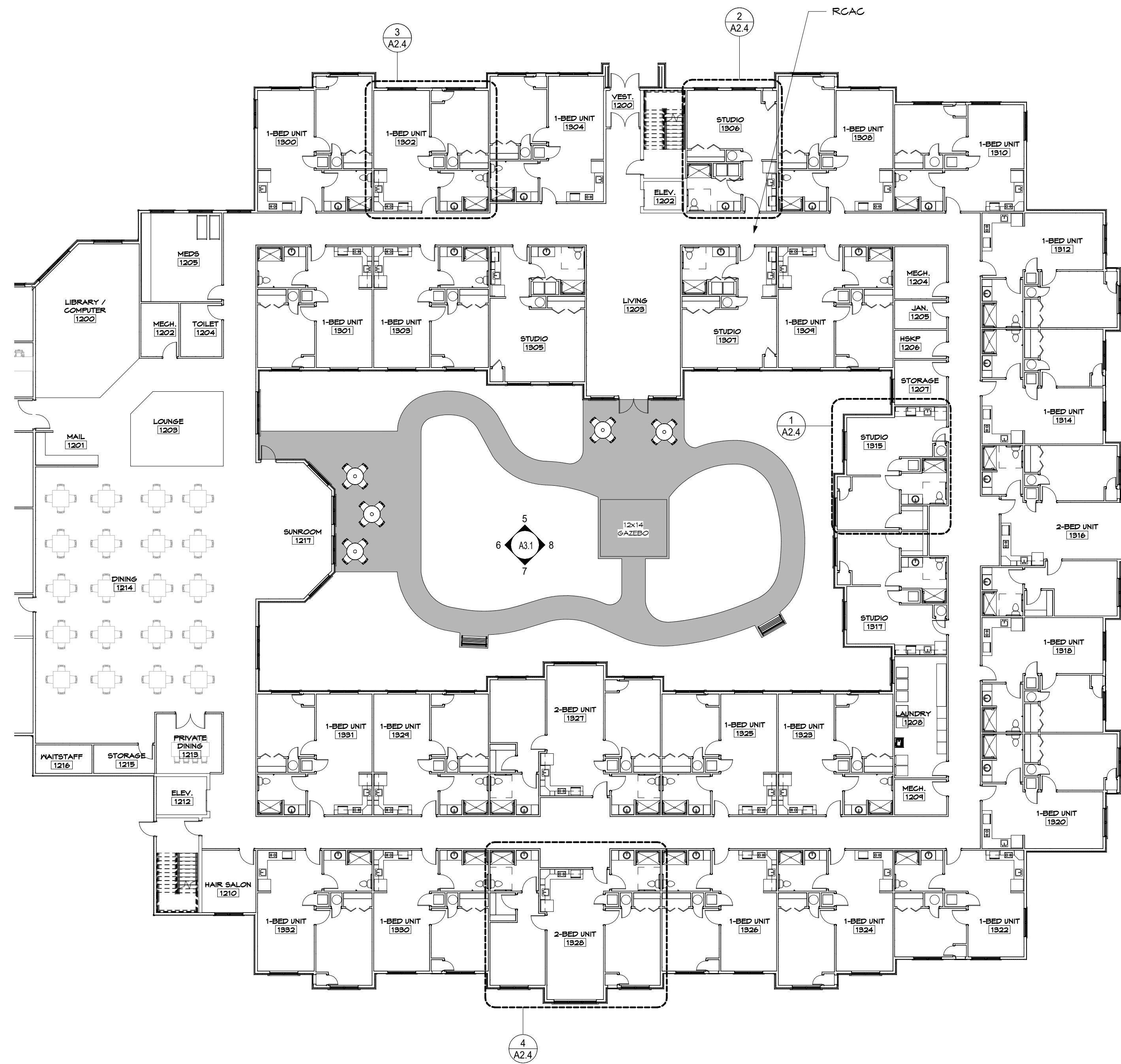
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1 RCAC
A2.2 SCALE: 1/16" = 1'-0"

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THE COURTYARD AT SUSSEX
 W235 N6350 HICKORY DRIVE
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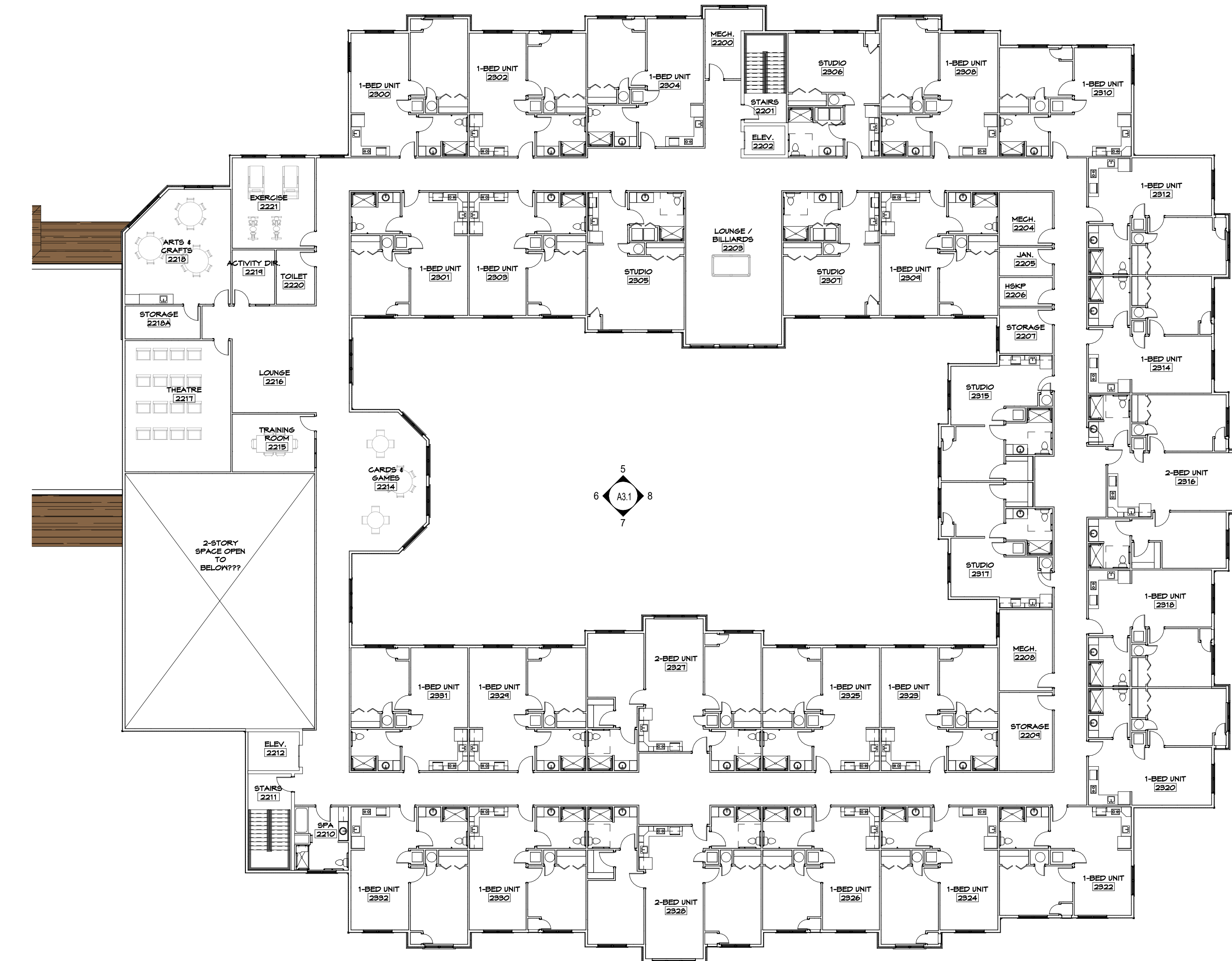
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1
A2.3 SECOND FLOOR
 SCALE: 1/16" = 1'-0"

PROPOSED PROJECT:
THE COURTYARD AT SUSSEX
 W235 N6350 HICKORY DRIVE
 SUSSEX, WI

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 Date 1/21/20
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A2.3

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SUSSEX, WI

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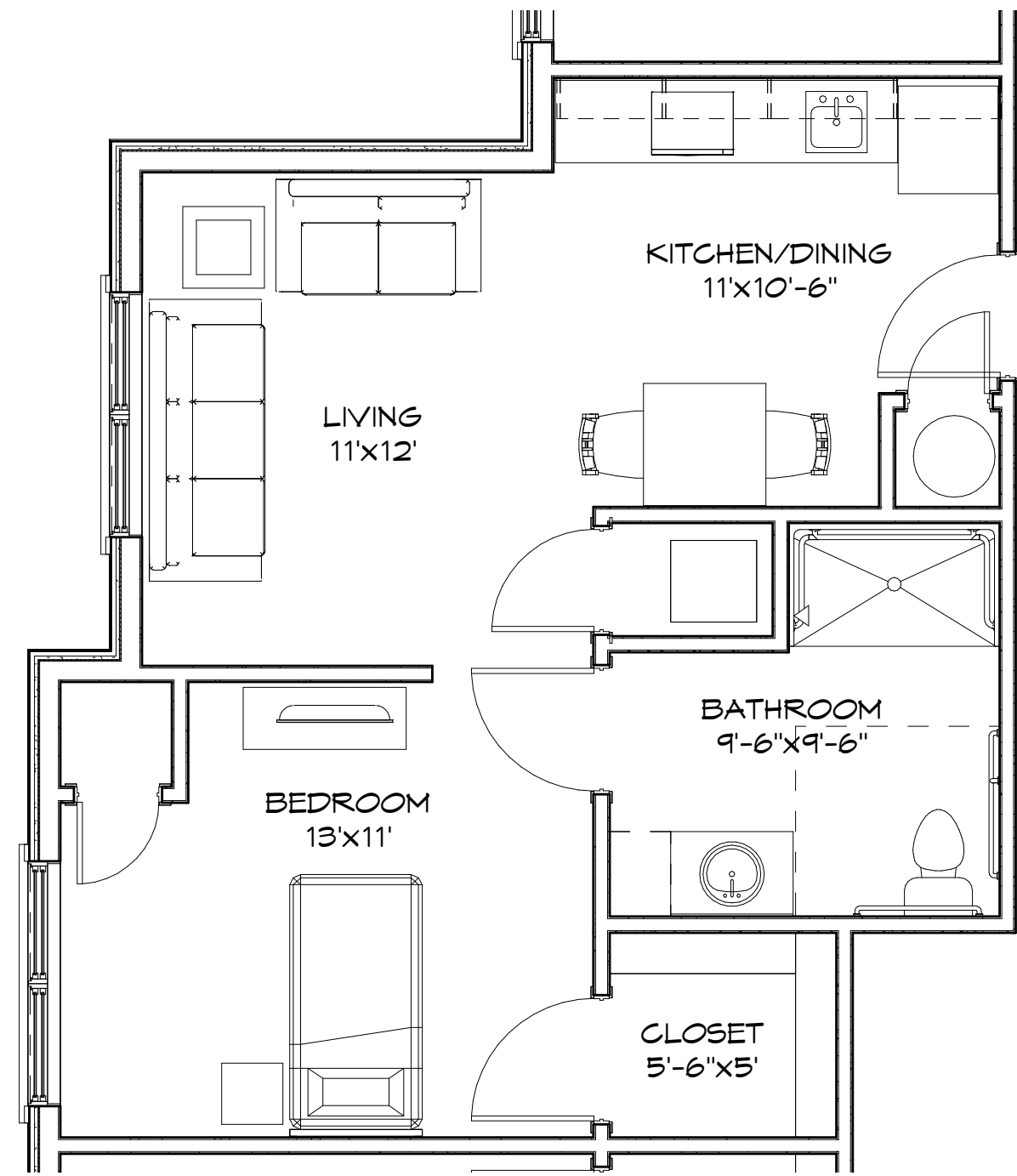
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Date 1/21/20

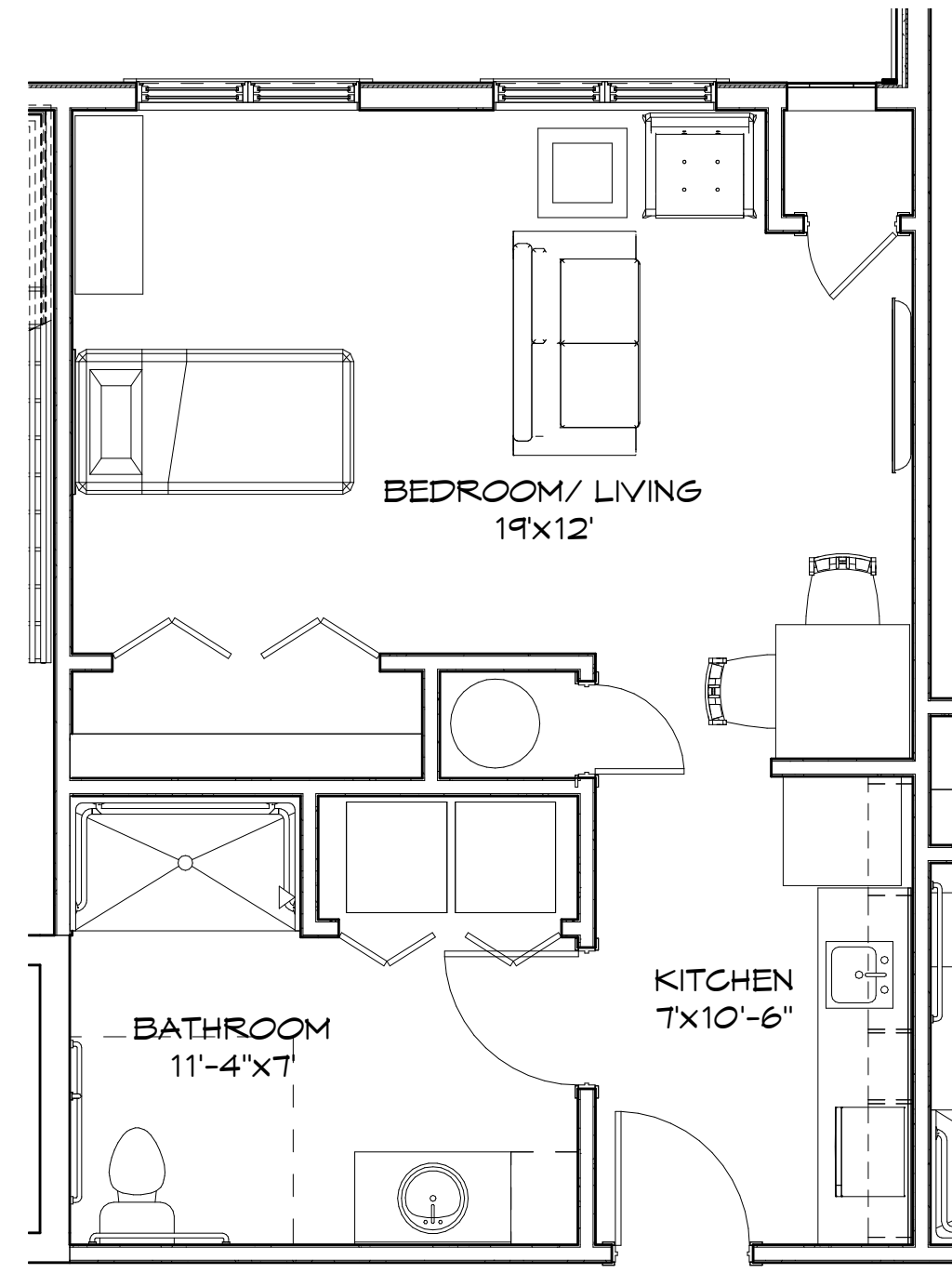
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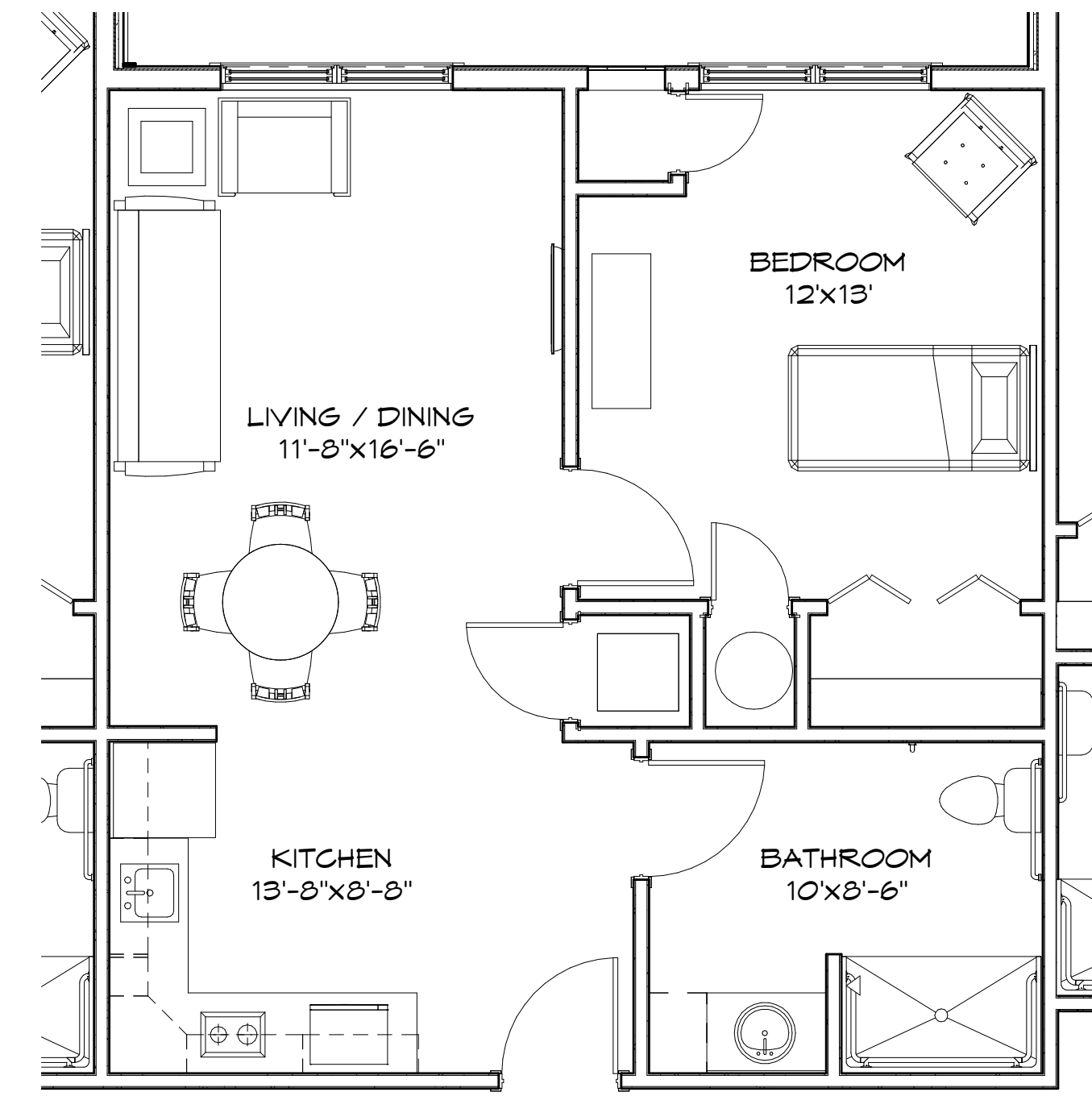
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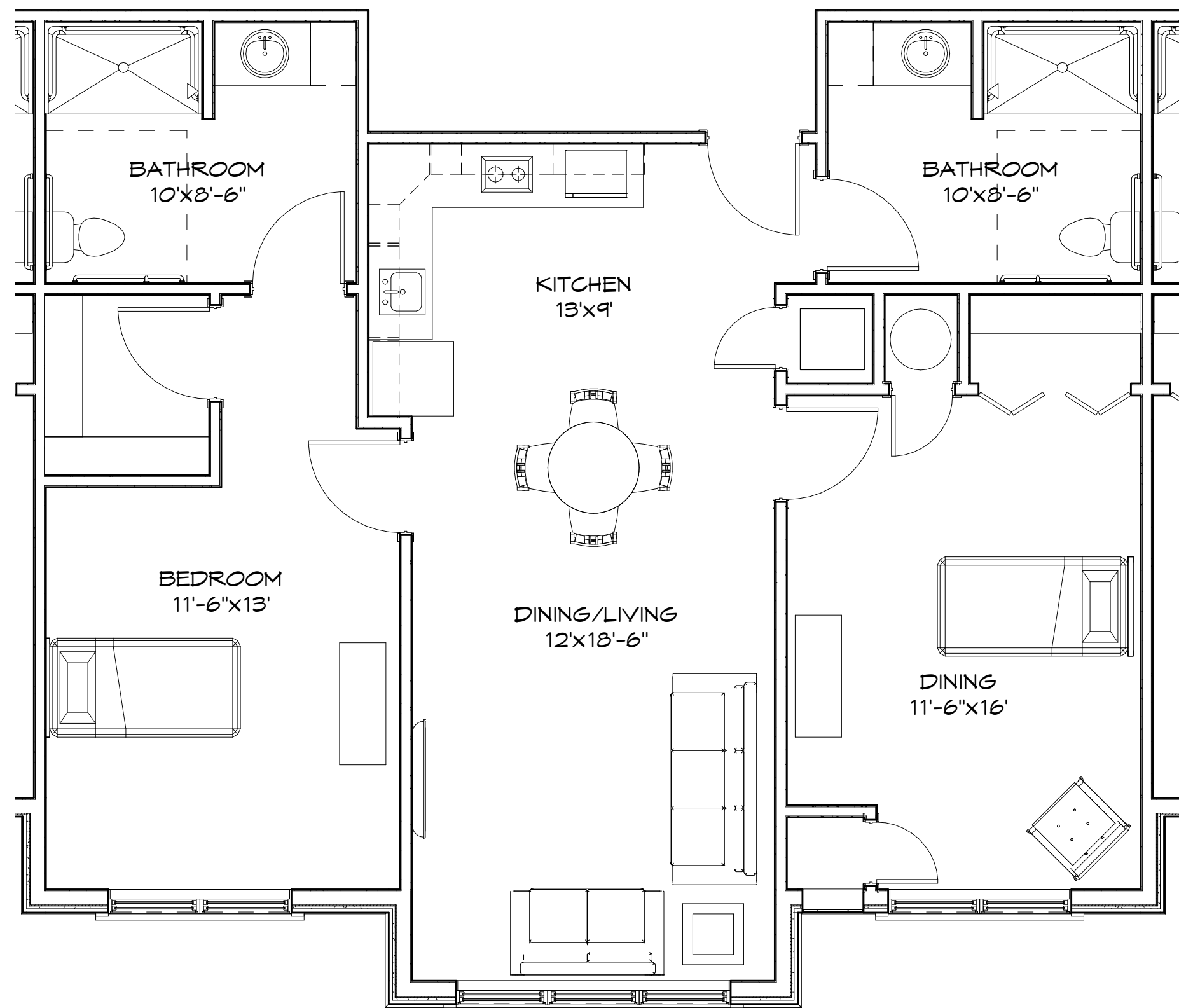
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A2.4 SCALE: 1/4" = 1'-0"



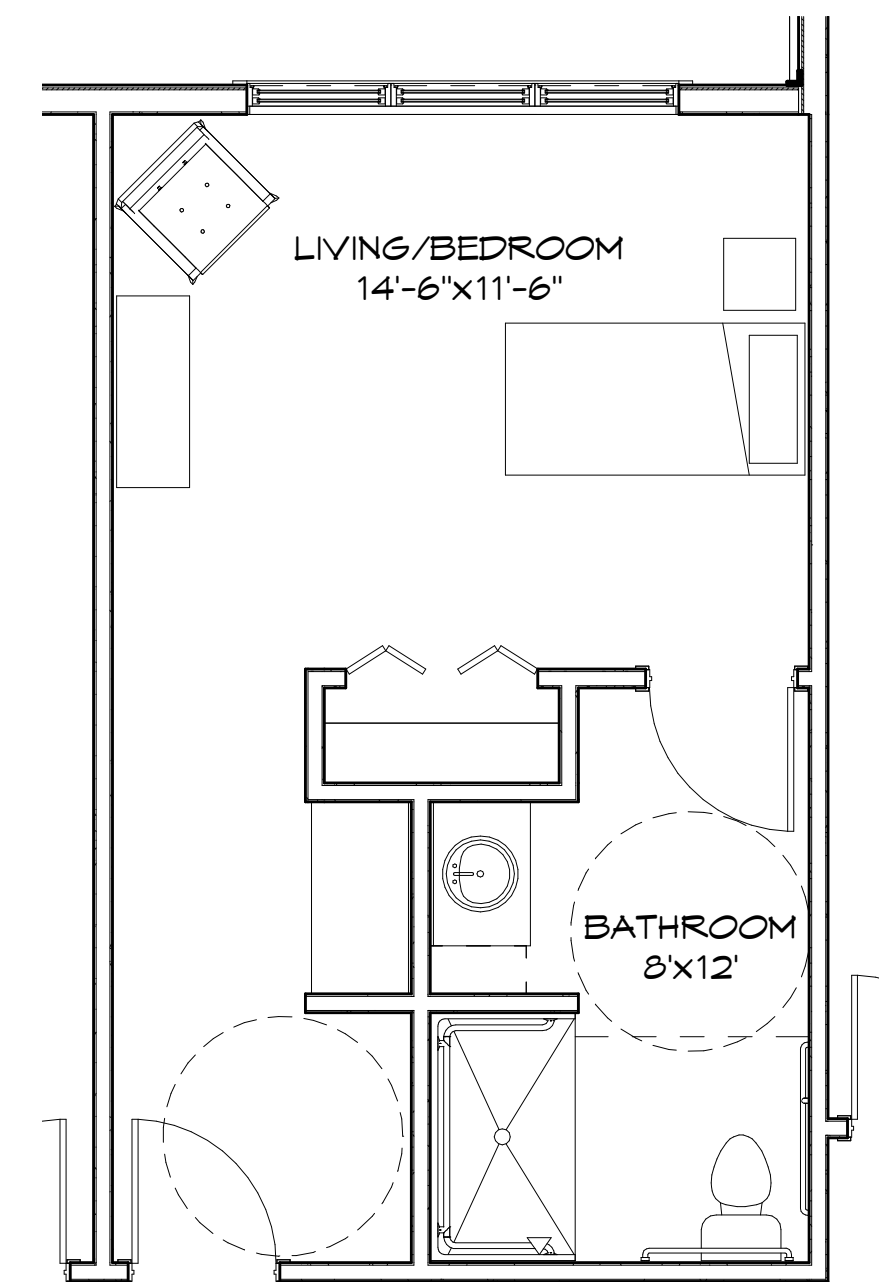
2 RCAC - STUDIO B
A2.4 SCALE: 1/4" = 1'-0"



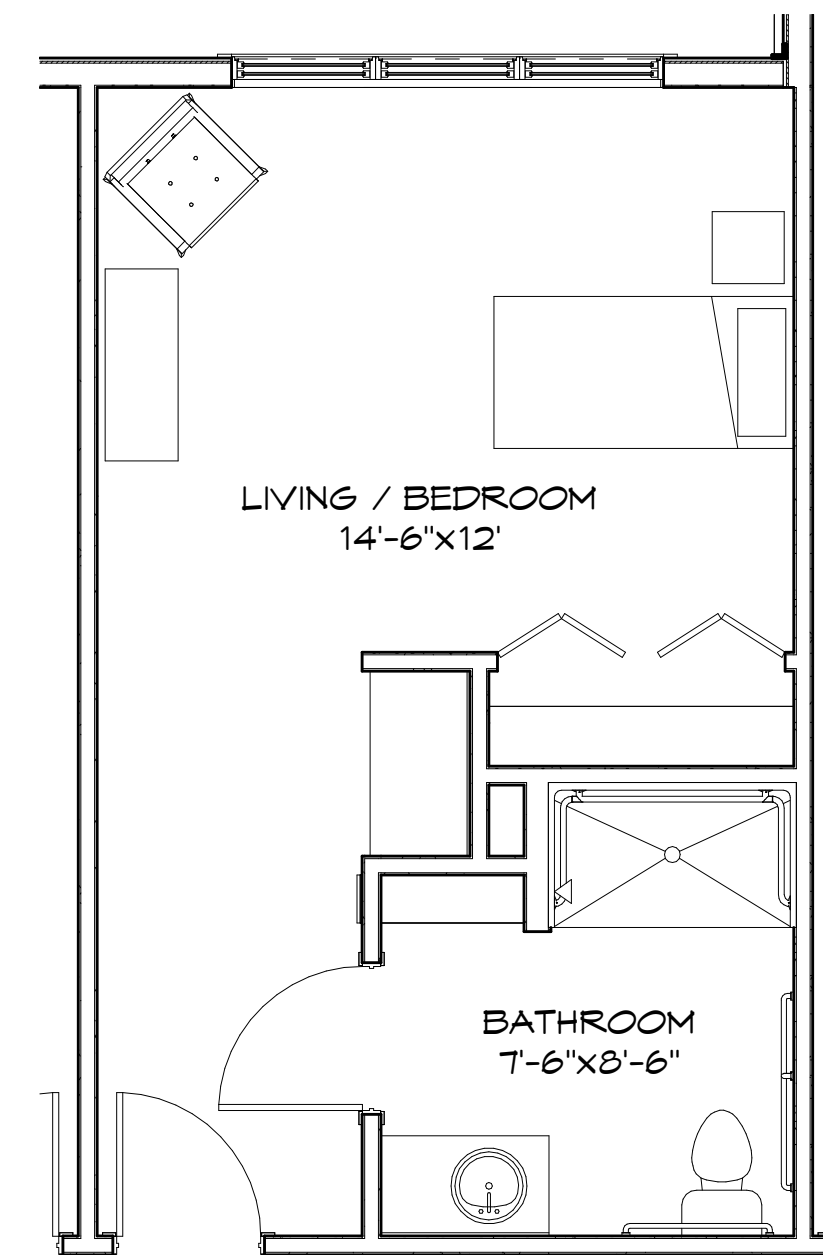
3 RCAC - 1-BED UNIT
A2.4 SCALE: 1/4" = 1'-0"



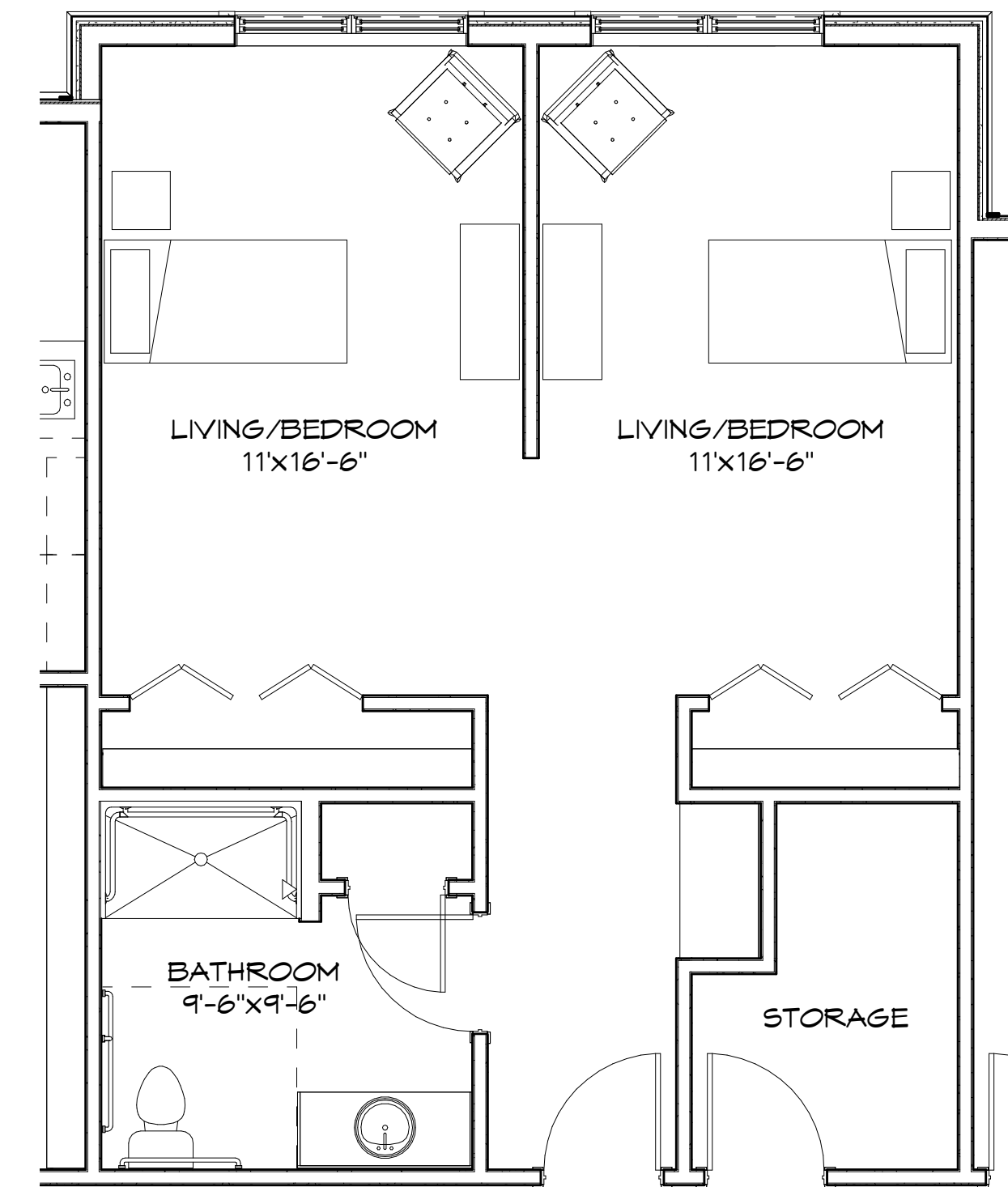
4 RCAC - 2-BED UNIT
A2.4 SCALE: 1/4" = 1'-0"



5 CBRF - 1-BED UNIT A
A2.4 SCALE: 1/4" = 1'-0"



6 CBRF - 1-BED UNIT B
A2.4 SCALE: 1/4" = 1'-0"



7 CBRF - 2-BED UNIT
A2.4 SCALE: 1/4" = 1'-0"

SITE PLAN SUBMITTAL 1-24-2020

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PROPOSED PROJECT:
THE COURTYARD AT SUSSEX
 W235 N6350 HICKORY DRIVE
 SUSSEX, WI

REVISIONS	
#	DATE

Project Number 20-1050
Date 1/21/20
Drawn By VP
Checked By KK

A3.0

SITE PLAN SUBMITTAL 1-24-2020



1 NORTH ELEVATION (FRONT)
A3.0 SCALE: 1" = 20'-0"



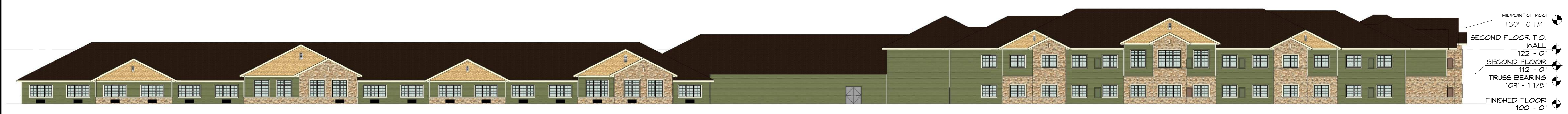
3 WEST ELEVATION
A3.0 SCALE: 1" = 20'-0"



5 NORTH AL COURTYARD ELEVATION
A3.0 SCALE: 1" = 20'-0"



6 SOUTH AL COURTYARD
A3.0 SCALE: 1" = 20'-0"



4 SOUTH ELEVATION
A3.0 SCALE: 1" = 20'-0"



2 EAST ELEVATION
A3.0 SCALE: 1" = 20'-0"

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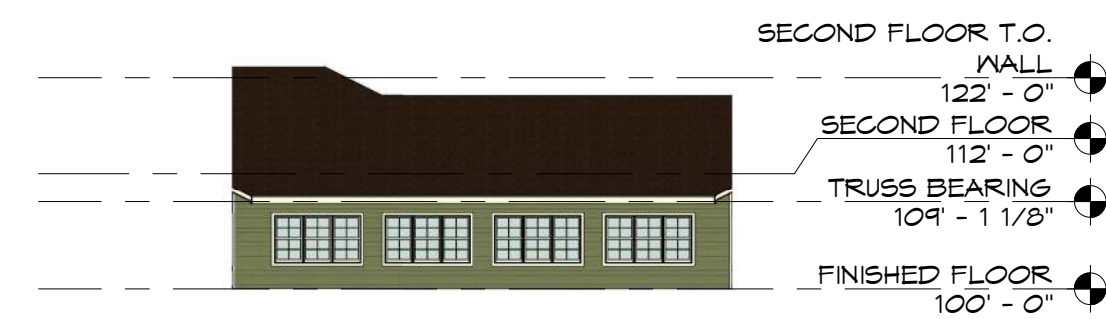
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A3.1 SCALE: 1" = 20'-0"



2 WEST MC COURTYARD
A3.1 SCALE: 1" = 20'-0"



3 SOUTH MC COURTYARD
A3.1 SCALE: 1" = 20'-0"



4 EAST MC COURTYARD
A3.1 SCALE: 1" = 20'-0"



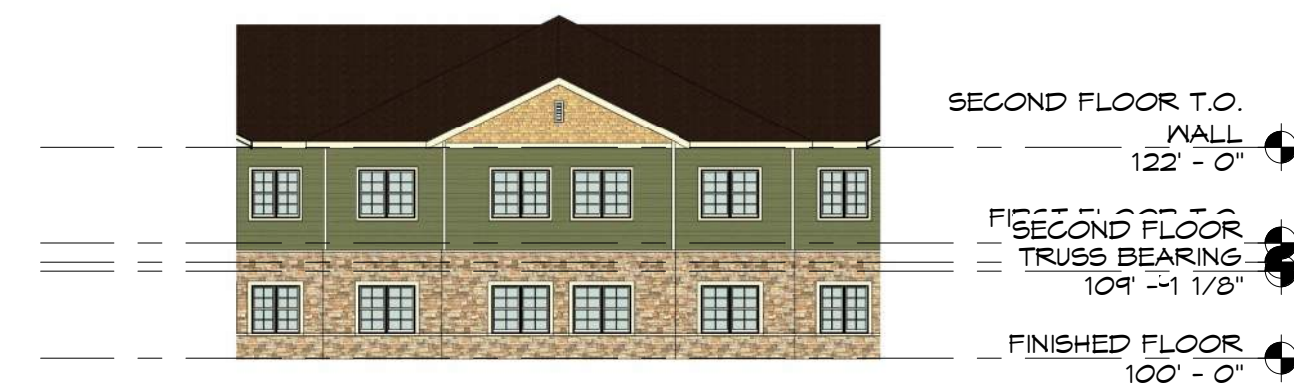
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A3.1 SCALE: 1" = 20'-0"



6 WEST IL COURTYARD
A3.1 SCALE: 1" = 20'-0"



7 SOUTH IL COURTYARD
A3.1 SCALE: 1" = 20'-0"



8 EAST IL COURTYARD
A3.1 SCALE: 1" = 20'-0"

PROPOSED PROJECT:

THE COURTYARD AT SUSSEX
W235 N6350 HICKORY DRIVE
SUSSEX, WI

REVISIONS

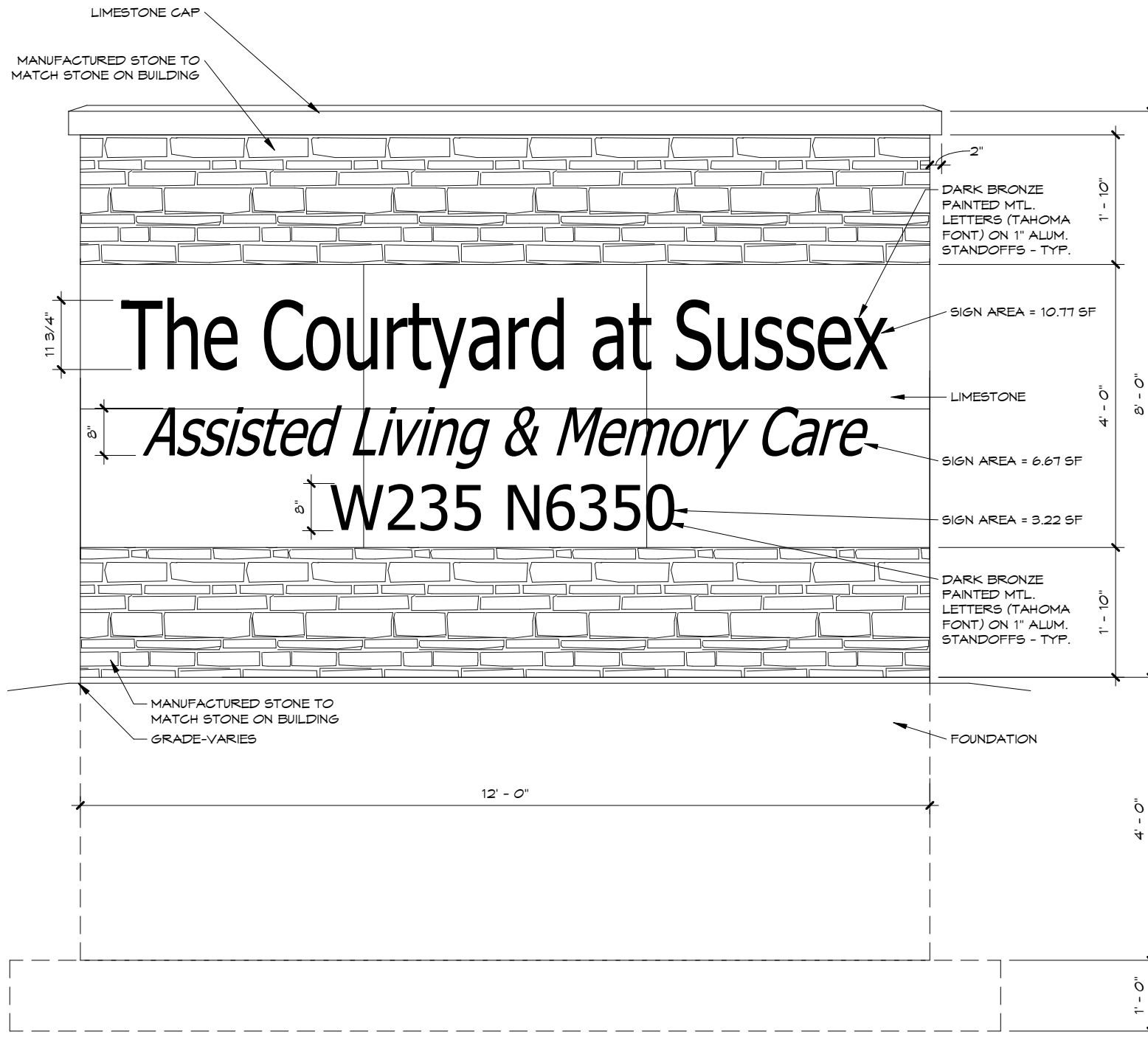
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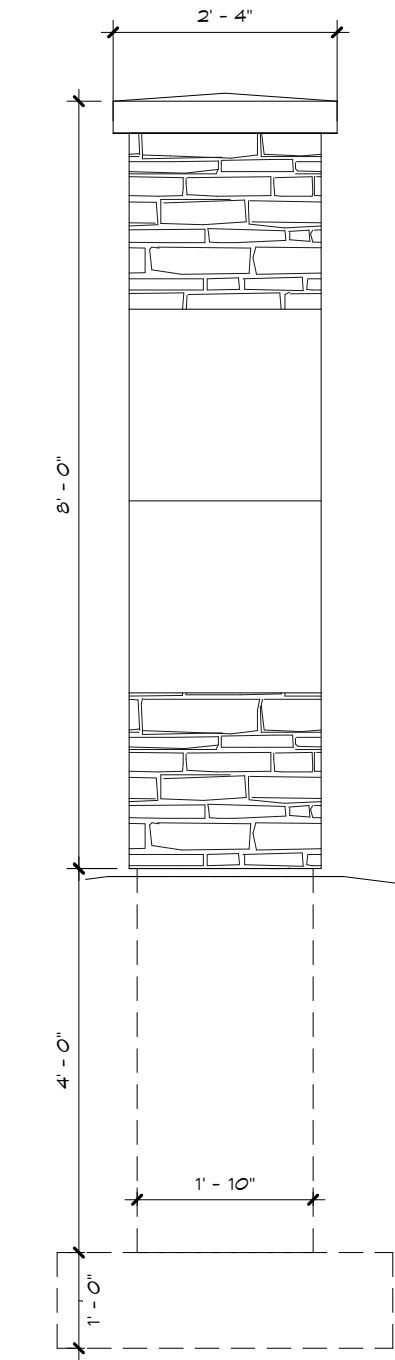
A3.1

SITE PLAN SUBMITTAL 1-24-2020

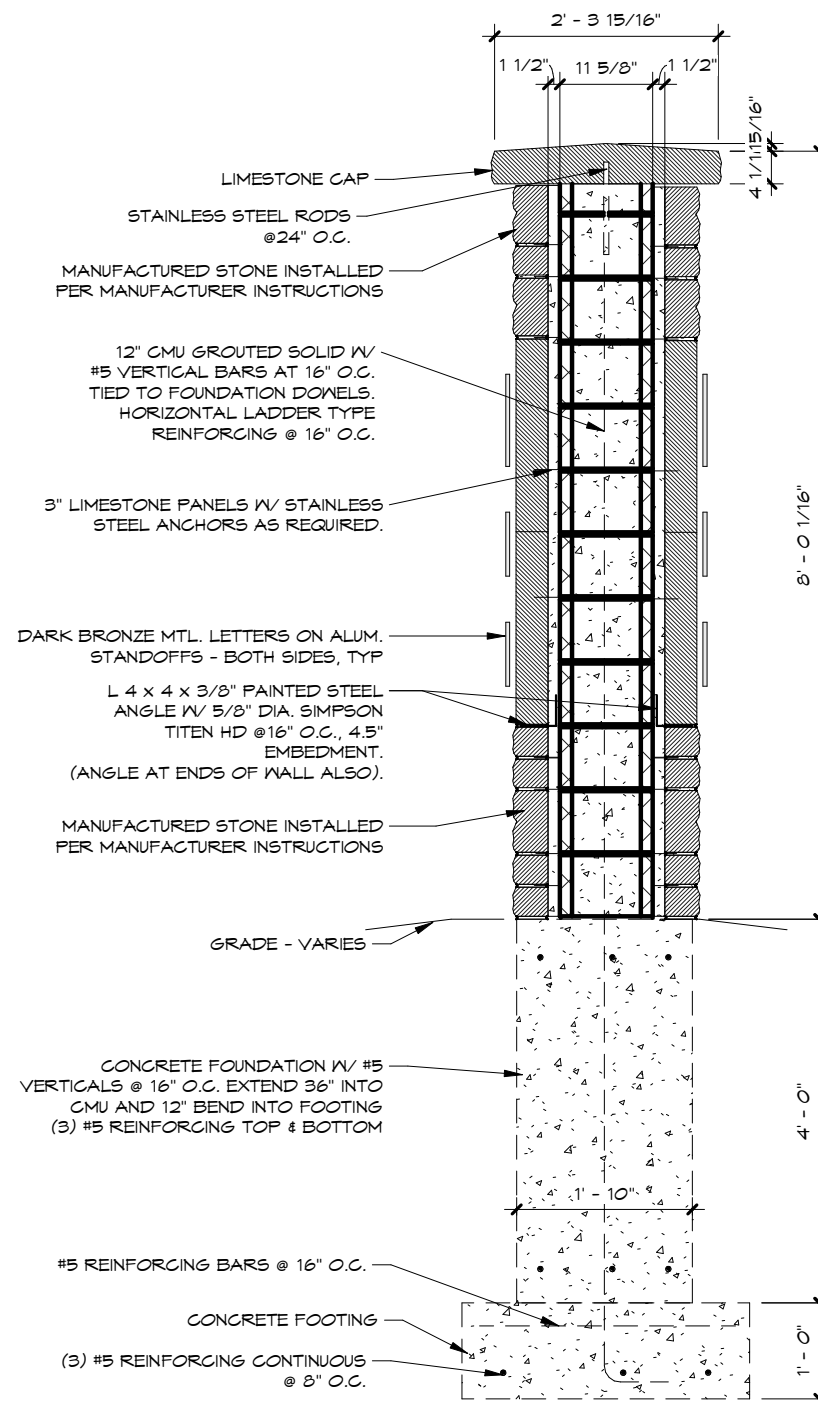
Z:\Projects\20-1050 Sussex Silver Spring RCAC-CBRF\04 Architecture\04-03 Design\20-1050_Sussex Silver Spring.rvt
1/23/2020 3:32:16 PM



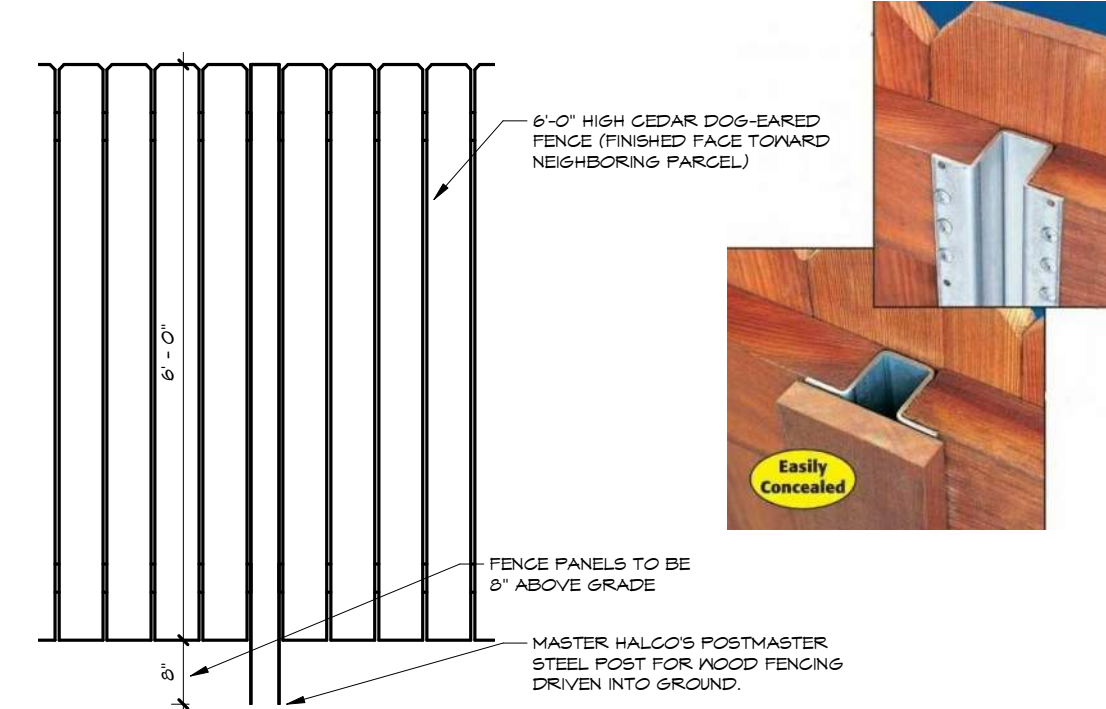
1 SIGN FRONT
A9.0 SCALE: 1/2" = 1'-0"



2 SIGN END
A9.0 SCALE: 1/2" = 1'-0"



3 SIGN SECTION
A9.0 SCALE: 1/2" = 1'-0"



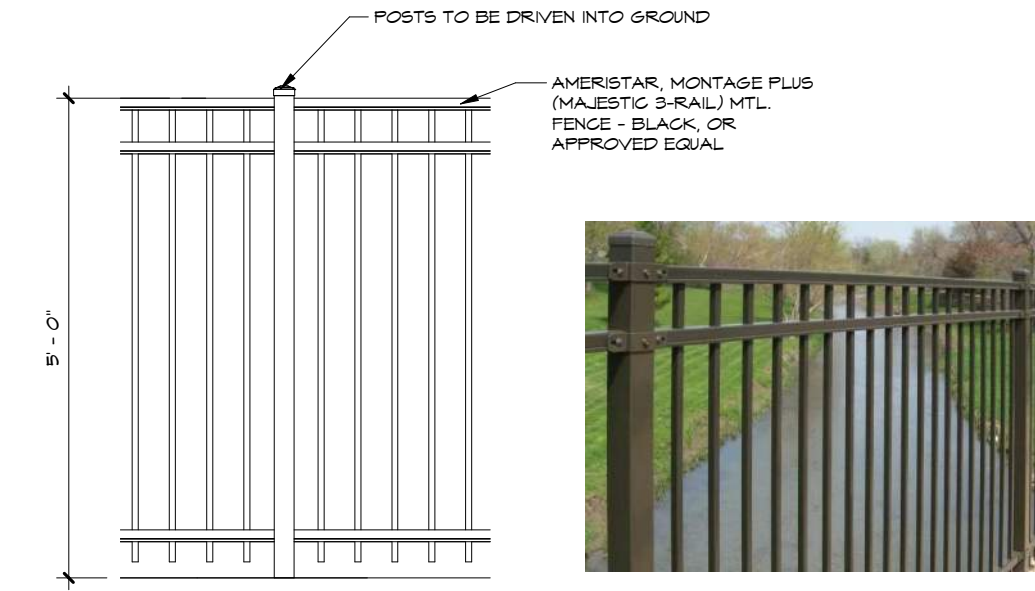
4 CEDAR FENCE
A9.0 SCALE: 1/2" = 1'-0"



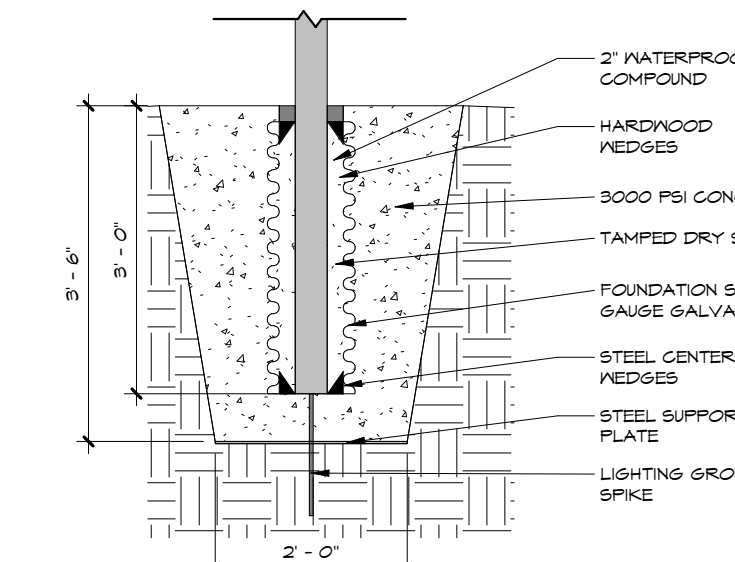
5 GAZEBO
A9.0 SCALE: N.T.S.



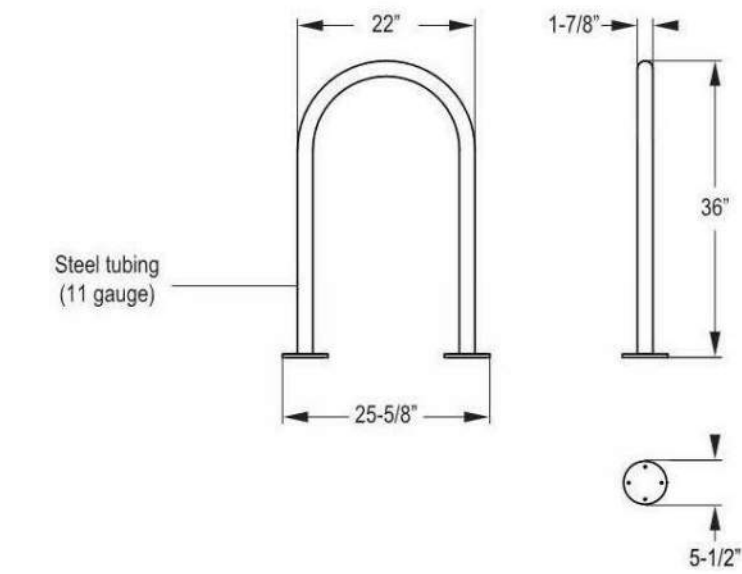
16 BENCH
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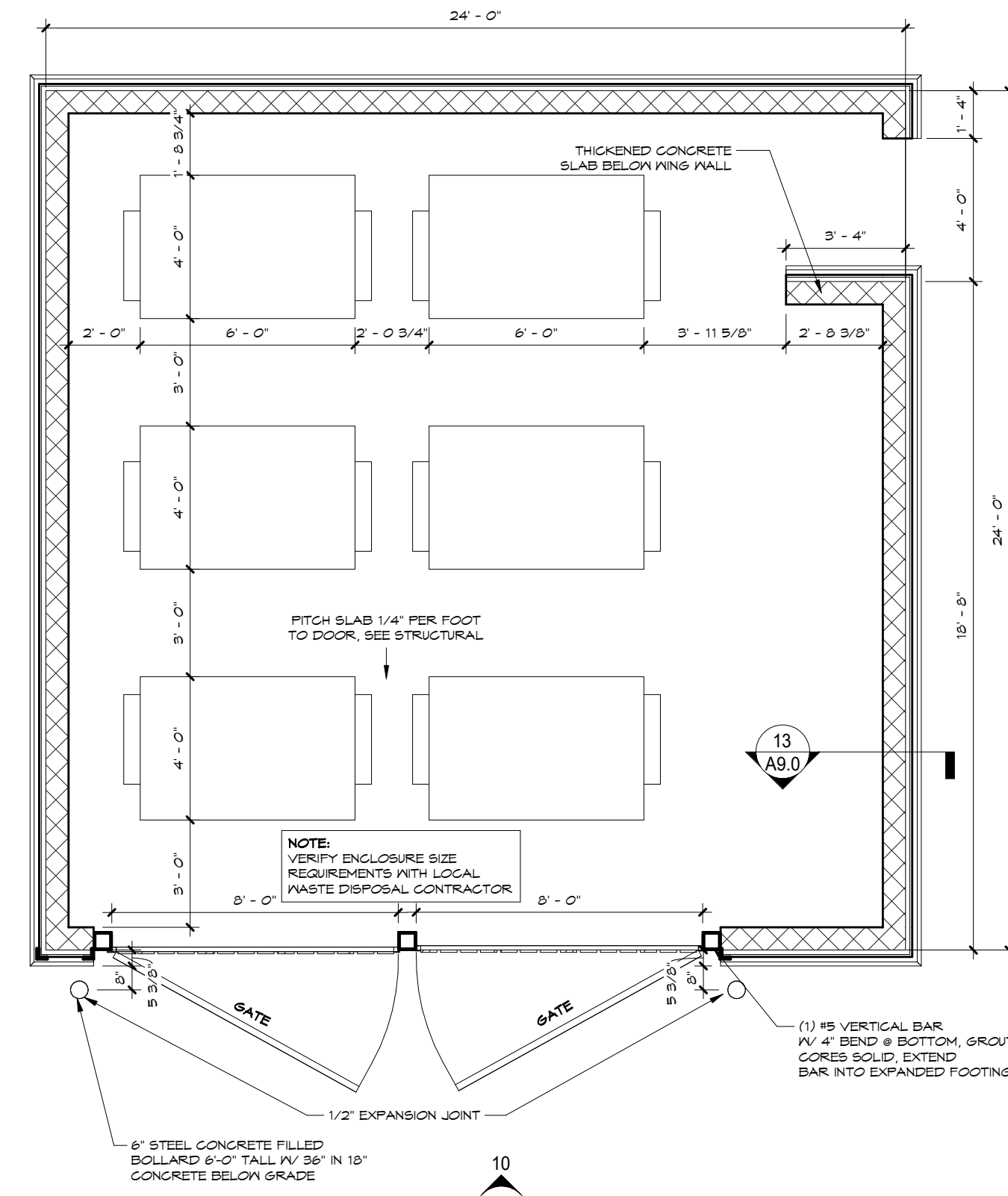
6 COURTYARD FENCE
A9.0 SCALE: 1/2" = 1'-0"



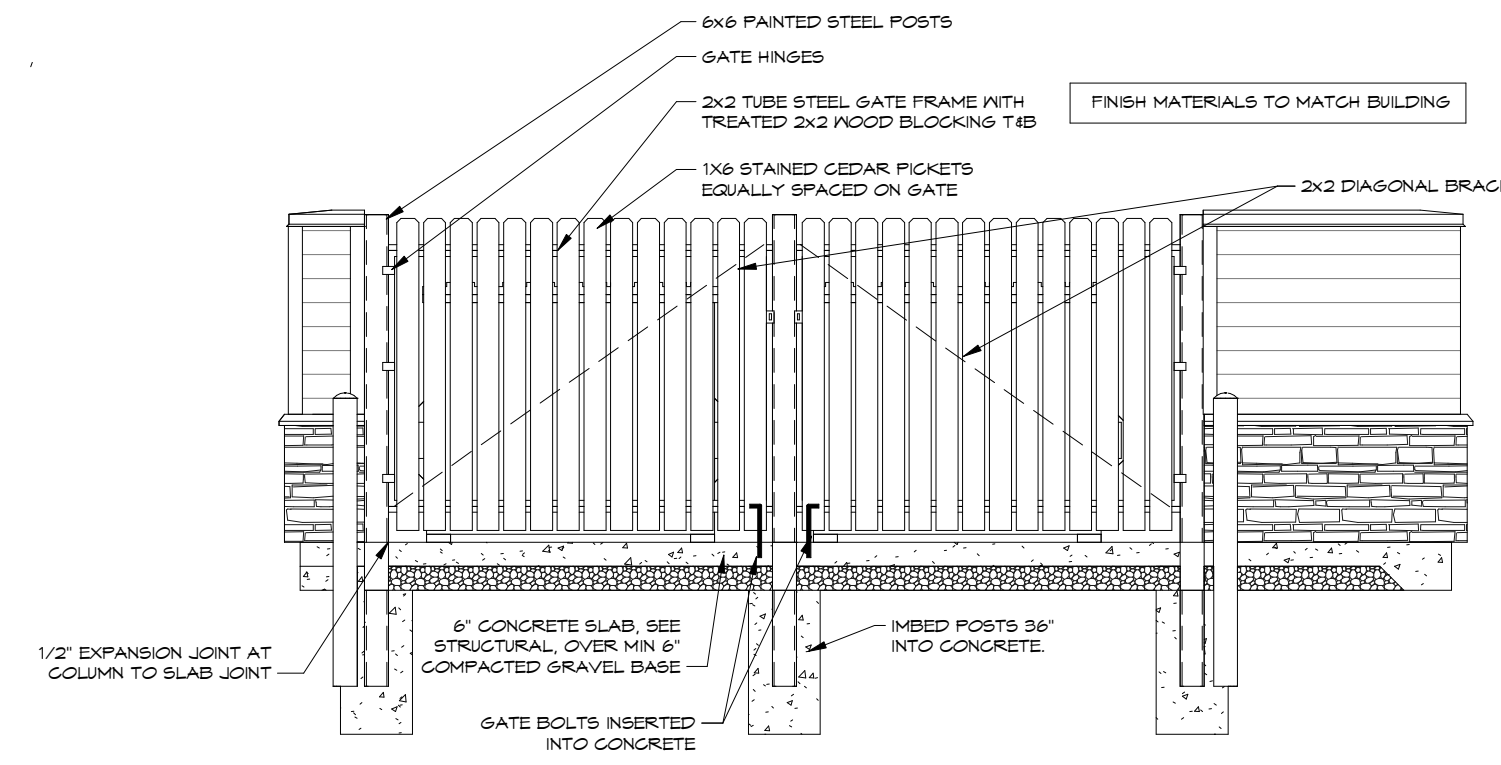
7 FLAG POLE FOUNDATION
A9.0 SCALE: 1/2" = 1'-0"



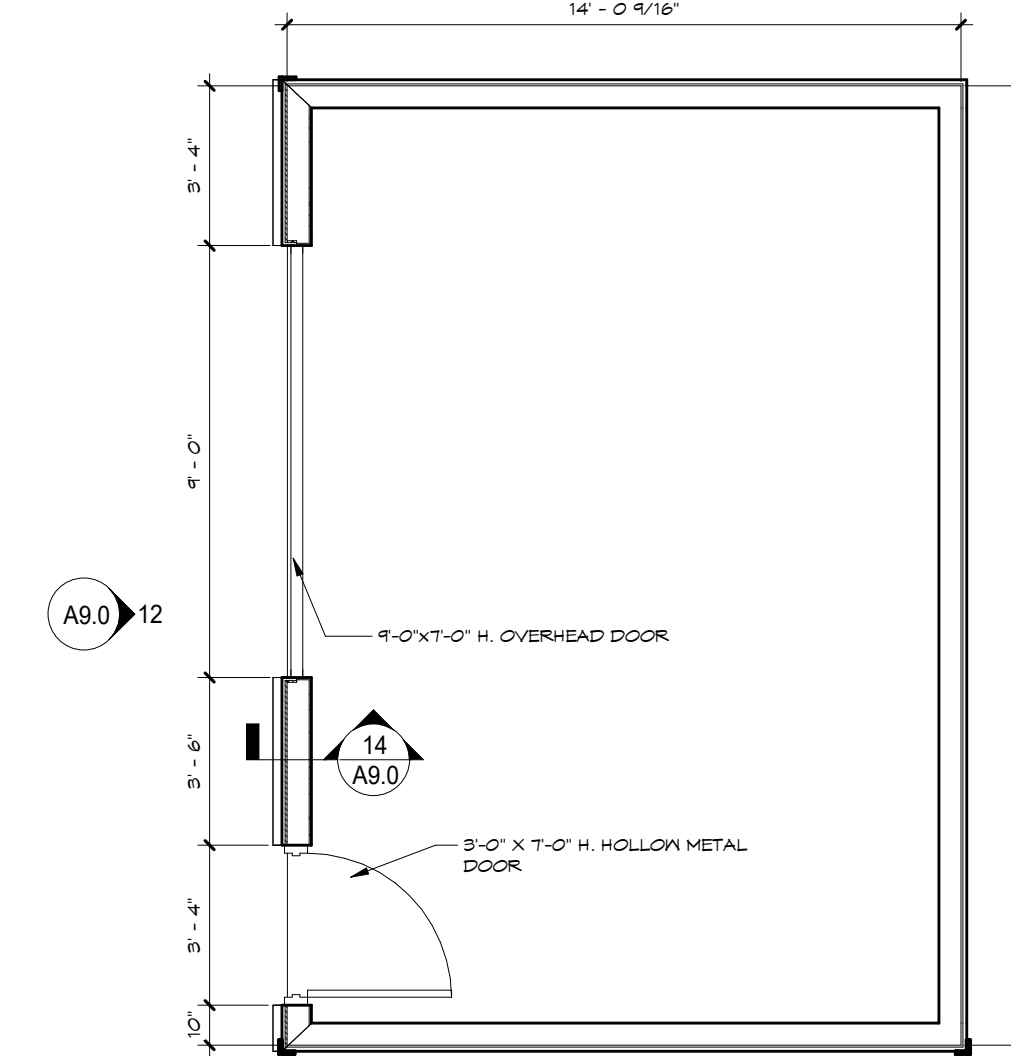
8 'U' BIKE RACK
A9.0 SCALE: N.T.S.



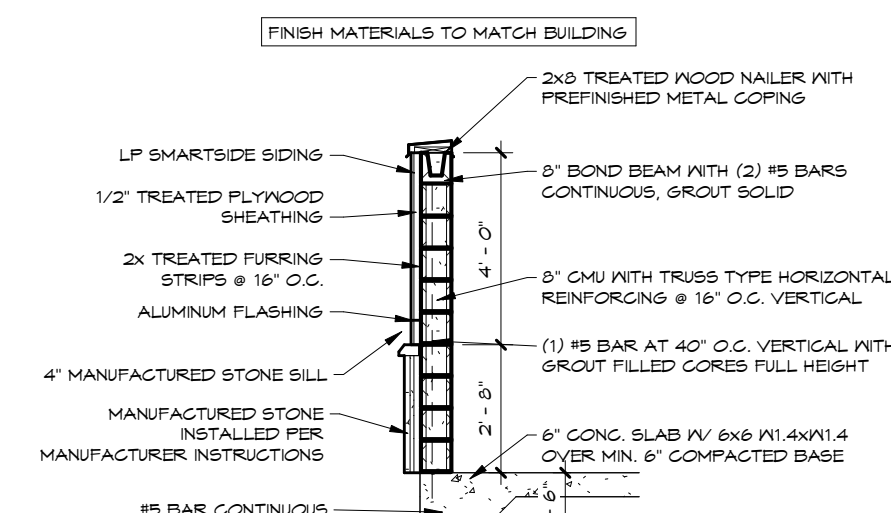
9 DUMPSTER ENCLOSURE
A9.0 SCALE: 1/4" = 1'-0"



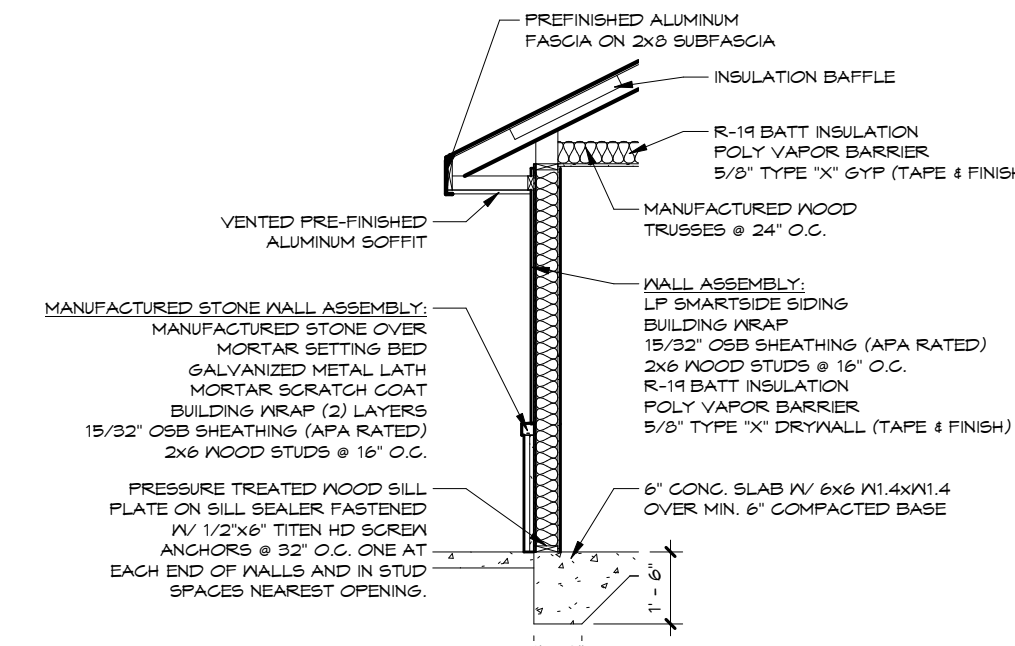
10 DUMPSTER ENCLOSURE
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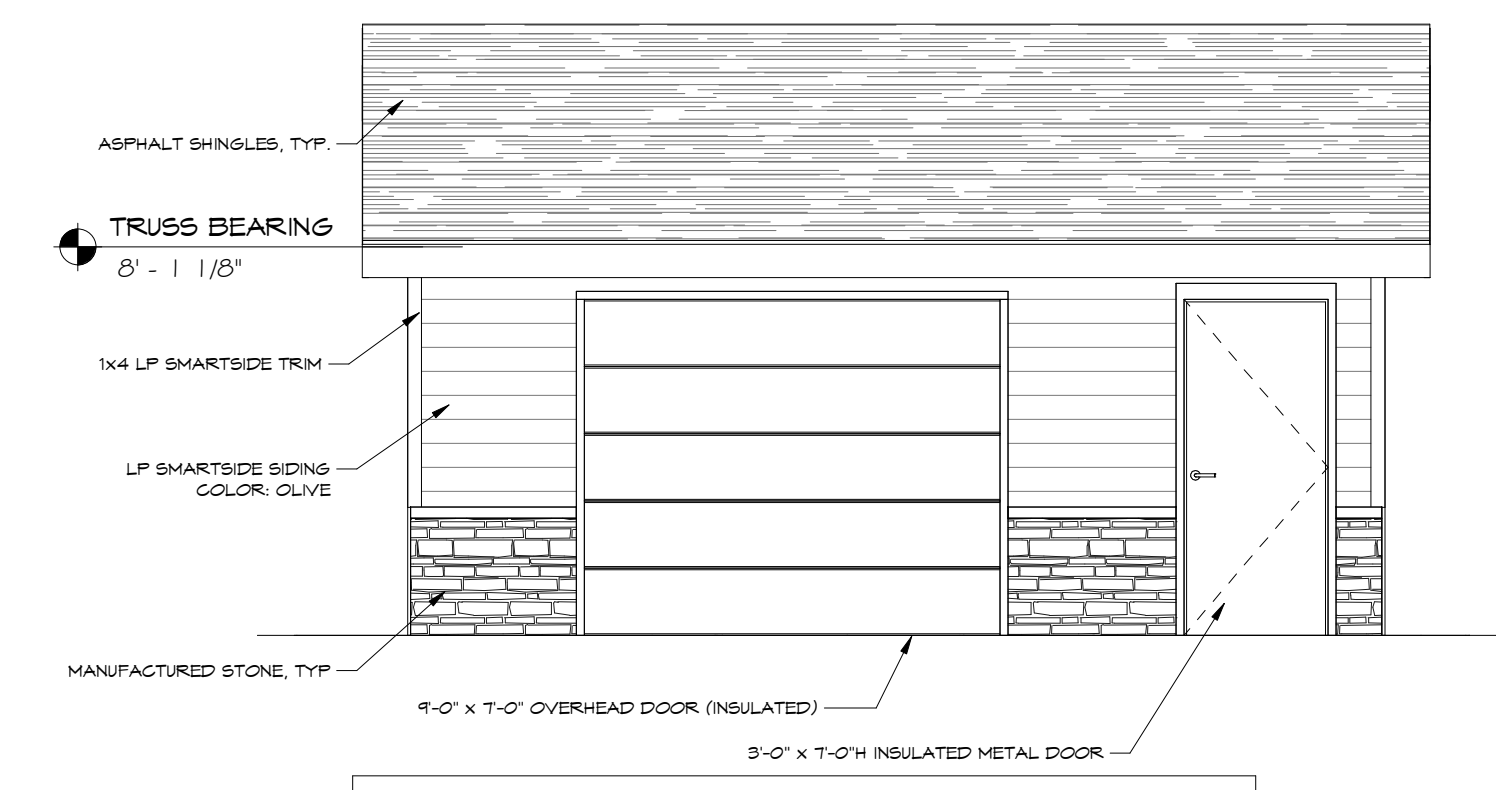
11 SHED FLOOR PLAN
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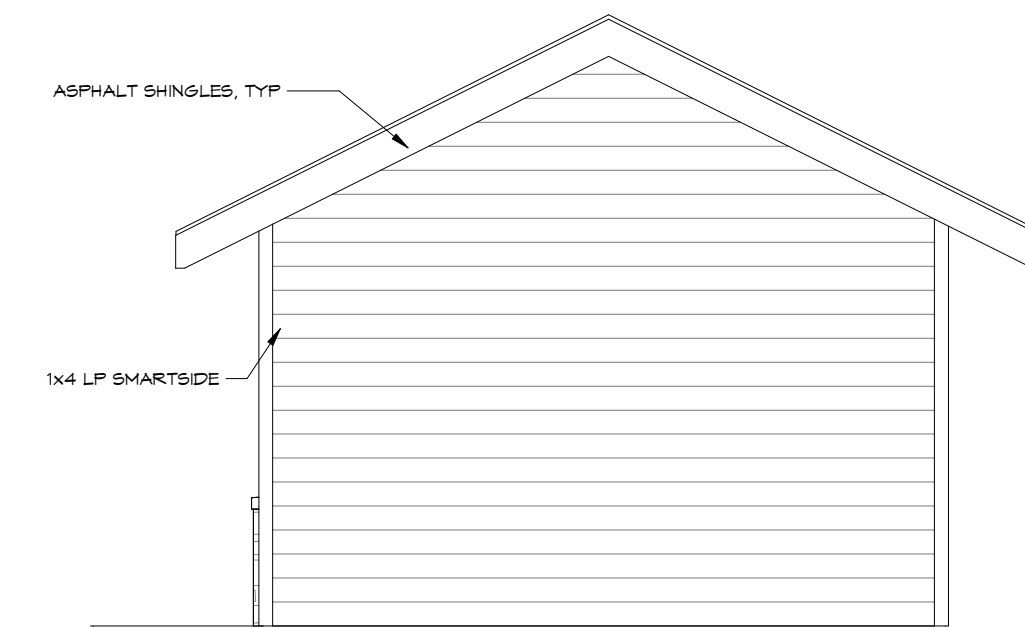
13 DUMPSTER ENCLOSURE SECTION
A9.0 SCALE: 1/4" = 1'-0"



14 SHED WALL SECTION
A9.0 SCALE: 1/4" = 1'-0"



12 SHED FRONT ELEV.
A9.0 SCALE: 1/4" = 1'-0"



15 SHED END WALLS
A9.0 SCALE: 1/4" = 1'-0"



Ganther Construction Architecture, Inc.
4825 County Road A
Oshkosh, Wisconsin 54901
tel. 920.426.4774 fax
920.426.4788 www.ganther.com

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PROPOSED PROJECT:
THE COURTYARD AT SUSSEX
W235 N6350 HICKORY DRIVE
SUSSEX, WI

REVISIONS	
#	DATE

Project Number 20-1050
Date 1/21/20
Drawn By VP
Checked By KK

A9.0

SITE PLAN SUBMITTAL 1-24-2020

Category	Symbol	Dimensions	Notes
BACK WALKWAY EGRESS	+	3.3 fc 9.0 fc 1.0 fc 9.0:1	3.3:1
COURT YARD RIGHT SIDE	+	1.3 fc 8.2 fc 0.0 fc	N/A
COURTYARD LEFT SIDE	+	1.6 fc 6.4 fc 0.0 fc	N/A
COURTYARD MIDDLE	+	1.7 fc 8.7 fc 0.0 fc	N/A
FIRE LANE	+	0.9 fc 5.3 fc 0.1 fc 53.0:1	9.0:1
MAIN PARKING LOT	+	1.6 fc 11.2 fc 0.2 fc 56.0:1	8.0:1
MAIN SIDEWALK EGRESS	+	3.3 fc 6.8 fc 1.0 fc 6.8:1	3.3:1
OUTSIDE LOT	+	0.0 fc 0.0 fc 0.0 fc	N/A

Category	Symbol	Quantity	Manufacturer	Model
Lighting	A1	2	LSI INDUSTRIES, INC	45Q B3 S11G20 S BRZ ABKIT 45Q STL PL 3/4X30 118C KIT BCVR 48C BRZ XDLS B 3 LED SS XX UE BRZ S4MS
Lighting	A2	14	LSI INDUSTRIES, INC	45Q B3 S11G20 S BRZ ABKIT 45Q STL PL 3/4X30 118C KIT BCVR 48C BRZ XDLS B FT LED SS XX UE BRZ S4MS
Lighting	A3	2	LSI INDUSTRIES, INC	45Q B3 S11G17 S BRZ ABKIT 45Q STL PL 3/4X30 118C KIT BCVR 48C BRZ XDLS B 3 LED SS XX UE BRZ S4MS
Lighting	AW1	2	LSI INDUSTRIES, INC	XDLS B FT LED SS XX UE BRZ SAW
Lighting	CP1	1	LSI INDUSTRIES, INC	SCS LED 1SL SC UNV DIM XX WHT
Lighting	WC1	17	WAVE LIGHTING	502VF-LR11-W-BZ
Lighting	WP1	33	ELITE	OWS-FC-303-LED-6000L-DIM10-MVOLT-40K-BZ
Lighting	FL1	4	LSI INDUSTRIES, INC	XFLM MF LED 28 HO NW UE BRZ 156040BRZ 122540BRZ

**Ganther Construction
Architecture, Inc.**

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THE COURTYARD AT SUSSEX
W235 N6350 HICKORY DRIVE
SUSSEX, WI

PROPOSED PROJECT:

REVISIONS

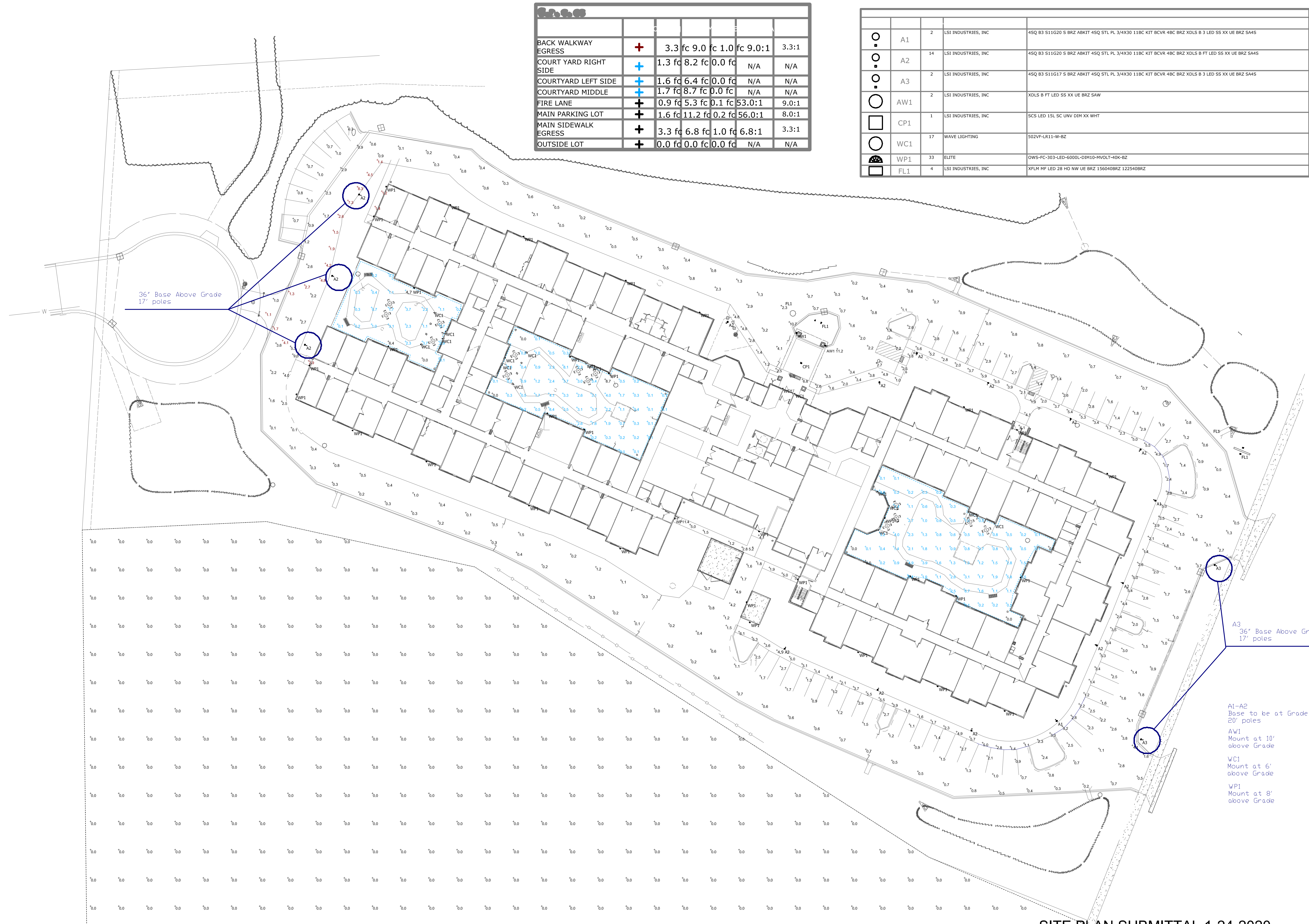
#	DATE	DESCRIPTION

Project Number 20-1050
Date 1/20/20
Drawn By
Checked By KK

PH1.0

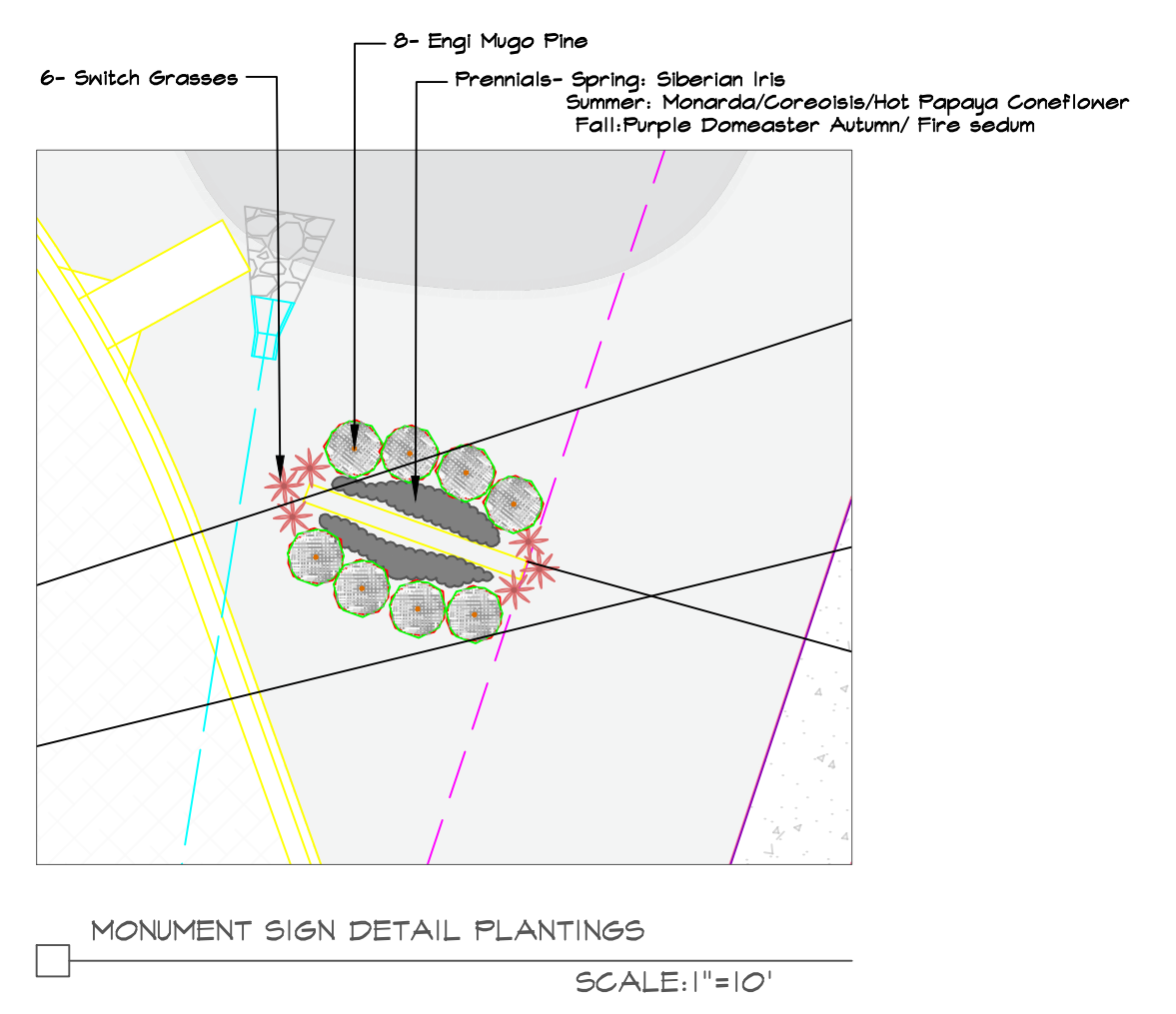
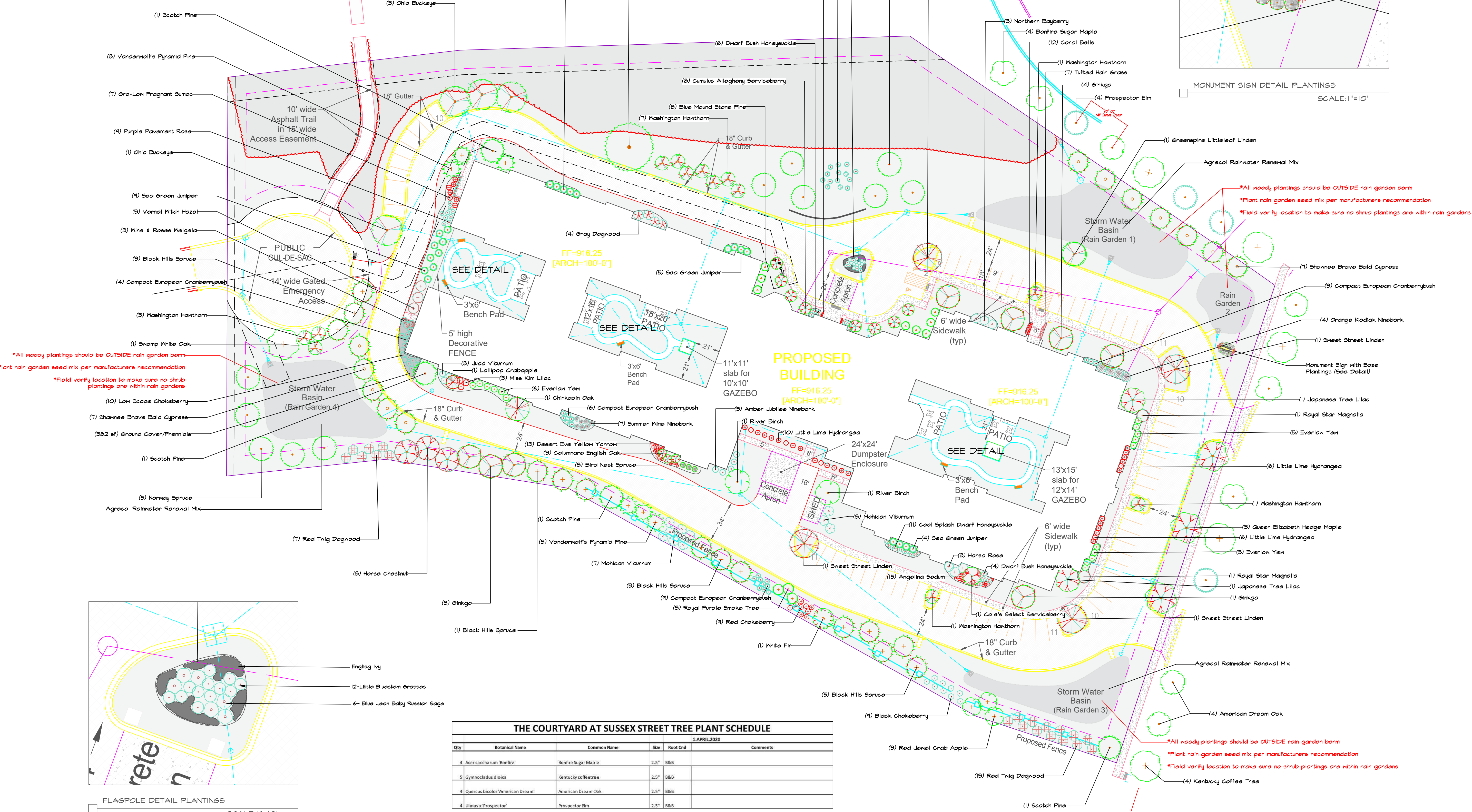
SITE PLAN SUBMITTAL 1-24-2020

Plan View
Scale - 1" = 30ft



Wildflower	Qty/Line
Nicotiana glauca	3.00
Aster erinoides	0.10
Aster novae-angliae	1.50
Baptisia leucantha (alba)	4.00
Eupatorium maculatum	0.80
Eupatorium perfoliatum	0.50
Liatris pycnostachya	2.50
Liatris spicata	5.00
Lobelia cardinalis	0.25
Lobelia siphilitica	0.50
Monarda fistulosa	1.50
Physostegia virginiana	1.50
Pyrolanthum virginianum	0.50
Rudbeckia hirta	2.25
Rudbeckia subtomentosa	2.00
Solidago ohioensis	0.50
Tradescantia virginiana	1.25
Verbena hastata	1.00
Vernonia fasciculata	1.00

Grasses, Sedges, & Rushes	Qty/Line
Bromus ciliatus	20.00
Calamagrostis canadensis	1.00
Carex bebbii	2.00
Carex crawfordii	1.00
Carex crinita	0.75
Carex stipitata	1.50
Carex vulpinoidea	1.00
Elymus canadensis	24.00
Elymus virginicus	32.00
Glyceria grandis	1.00
Panicum virgatum	3.50
Scirpus atrovirens	0.50
Scirpus cyperinus	0.50
Sorghastrum nutans	1.00
Spartina pectinata	3.00



*All woody plantings should be OUTSIDE rain garden berm
*Plant rain garden seed mix per manufacturers recommendation
*Field verify location to make sure no shrub plantings are within rain gardens

*All woody plantings should be OUTSIDE rain garden berm
*Plant rain garden seed mix per manufacturers recommendation
*Field verify location to make sure no shrub plantings are within rain gardens



Qty	Botanical Name	Common Name	Size	Root Cal	Comments
4	Acer saccharum 'Bonfire'	Bonfire Sugar Maple	2.5"	BBB	
5	Gymnocladus dioica	Kentucky coffeetree	2.5"	BBB	
4	Quercus bicolor 'American Dream'	American Dream Oak	2.5"	BBB	
4	Ulmus x 'Prospector'	Prospector Elm	2.5"	BBB	

PROPOSED GARDEN DESIGN FOR:
THE COURTYARD AT SUSSEX
SENIOR LIVING FACILITY
SUSSEX, WISCONSIN

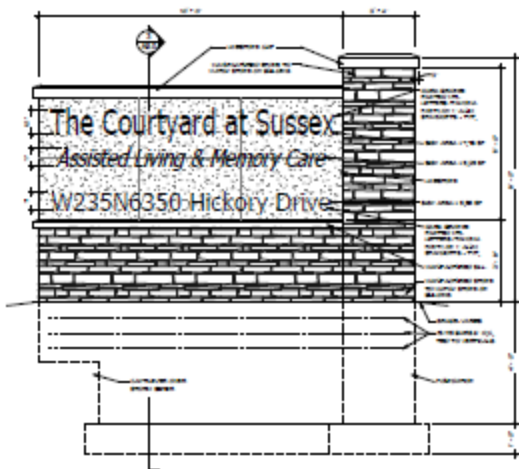
GARLAND ALLIANCE
LANDSCAPE ARCHITECTS

5707 6th Ave.
Kenosha, WI 53140
garlandalliance@gmail.com
(414) 688-1641

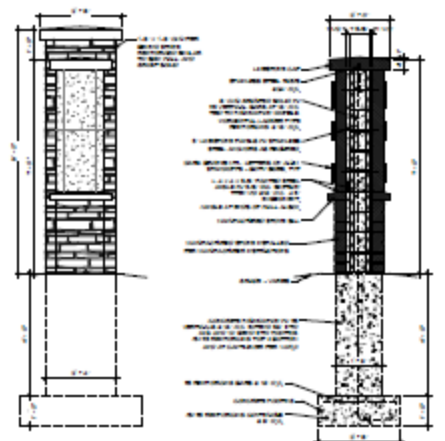
REVISIONS:	DATE	DESCRIPTION
JANUARY 21, 2020	APRIL 1, 2020	
JANUARY 23, 2020	APRIL 3, 2020	
FEBRUARY 19, 2020		
FEBRUARY 27, 2020		
FEBRUARY 28, 2020		
MARCH 16, 2020		

SCALE: 1"=40'
SHEET NUMBER: L1.1

LANDSCAPE PLAN

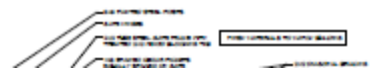


1 SIGN FRONT
SCALE: 1/2" = 1'-0"



2 SIGN END
SCALE: 1/2" = 1'-0"

3 SIGN SECTION
SCALE: 1/2" = 1'-0"



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2020
VILLAGE OF SUSSEX ORDER
GRANTING A CONDITIONAL USE AND PRESCRIBING CONDITIONS FOR
SUSSEX ASSISTED LIVING LLC
IN THE VILLAGE OF SUSSEX

WHEREAS, an application has been filed by Tom Ostrom, owner of Sussex Assisted Living LLC (hereinafter collectively “Petitioner”); and

WHEREAS, The Petitioner intends to purchase the Subject Property for the intention of development; and

WHEREAS, Real Property Health Acquisitions (RPH Sussex LLC) (hereinafter “Owner”) as property owner endorses this application and will be selling the Subject Property to Petitioner for completion of said project.

WHEREAS, the Petitioner is requesting that a conditional use permit be granted pursuant to the Zoning Ordinance for the Village of Sussex for property located at the corner of Hickory and Silver Spring as described on **Exhibit A** attached hereto and incorporated herein (hereinafter “Subject Property”); and

WHEREAS, the Subject Property is zoned B-4 Central Mixed Use District; and

WHEREAS, the Petitioner seeks a conditional use permit to develop the Subject Property as a community based residential facility (CBRF) development by means of constructing a 103,999 square foot senior living building to have a total of 110 units, 58 units for residential care apartments (10-studio, 42-one bedroom and 6-two bedroom) 27 assisted living units and 25 memory care units; and

WHEREAS, in accordance to Section 17.0506 (B)(3) -a community based residential facility is a conditional use in the B-4 Central Mixed-Use District; and

WHEREAS, the Petitioner filed the conditional use permit application with the Village Clerk and upon referral of the application by the Village Clerk, the Plan Commission for the Village of Sussex determined that the application met all requirements as set forth in Section 17.0502 and scheduled a public hearing thereon as soon as practical; and

WHEREAS, upon publication of the required “Notice of Public Hearing” and mailing of said “Notice of Public Hearing” to all parties-in-interest as required by Section 17.1401 of the Zoning Ordinance, the Plan Commission held a public hearing on April 16, 2020 as required by Section 17.0505 of the Zoning Ordinance for the Village of Sussex; and

WHEREAS, the Plan Commission has followed the review procedures of Section 17.0503 by reviewing 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; and

WHEREAS, the Plan Commission finds that the application is consistent with the zoning district regulations of B-4 Central Mixed Use District where the district is intended to provide for the orderly and appropriate development of the Central Mixed Use Business District as designated by the Community Development Authority, in conformance with and to implement “The Downtown Design and Development Plan”; and

WHEREAS, the Plan Commission for the Village of Sussex, following the public hearing and necessary study and investigation, having given the matter due consideration, and having based its determination on the effect of granting such conditional use permit on the health, general welfare, safety, and economic prosperity of the Village and specifically of the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved, as well as impact on the surrounding properties as to noise, dust, smoke, odor, or other similar factors, hereby determines that the use will not violate the spirit or intent of the Zoning Ordinance 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 a hazardous, harmful, noxious, offensive, or nuisance by reason of smoke, dust, odor, or other similar factors 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 conditional use is operated pursuant to the following conditions and in strict compliance with the same.

THEREFORE, IT IS ORDERED AS FOLLOWS:

Commencing upon the date hereof, a conditional use permit for the Subject Property is hereby granted. The conditional use permit granted herein shall apply only to the specific use of the Subject Property by the Petitioner for a community based residential facility development as well as the permitted and accessory uses set forth in Section 17.0419, B-4 Central Mixed Use District and auxiliary uses as set forth in Section 17.0710 and the conditional use permit shall continue in existence only so long as the conditional use is operated in compliance with this permit. The Petitioner shall be responsible for their operator(s) full compliance with these conditions. This conditional use permit is subject to initial and continued compliance with each and every one of the following conditions, restrictions, and limitations.

- A. This conditional use is granted for the Petitioner for the above for the above enumerated uses, incorporating the findings as set forth above and subject to the following conditions:
 1. Presentation Compliance. The community based residential facility development is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearing before the Plan Commission held on April 16, 2020.
 2. Subject Property. This conditional use permit issued to the Petitioner, shall be limited to the property described in **Exhibit “A”** attached hereto and incorporated herein and to the site plan presented at 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 Village Clerk for the Village of Sussex in order for this CU to be in effect. The Petitioner shall be entitled to amend or change any plan contemplated herein subject to the specific language of the Conditional use 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 as solely determined by the Plan Commission. If the Plan Commission for the Village of Sussex feels, in its sole discretion, that the amendment or change to any plan contemplated herein is substantial, the amendment or change will require a new permit and all Village procedures in place at the time must be followed.
- A. Site Plan. The Petitioner shall submit and receive approval from the Village Plan Commission, pursuant to Section 17.1000, a specific site plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit A-1**. The site plan must include a ten foot wide path extending from the northwest property boundary to connect to the Bugline Trail and extend the path to connect to the property to the north and as shown on site plan Exhibit A-1 along with a connection from the cul-de-sac to this pathway, and the Petitioner shall complete all work depicted on the site plan, at Petitioner's expense.
- 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 presentations at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit B**.
1. Of particular concern is the balance of the operator of this facility providing adequate staffing 24/365 with appropriate protocols such that the use does not overburden the Emergency medical resources of the Village. A key aspect of this approval is for the petitioner to provide and follow a staffing and operations plan that must be approved by the Fire Chief such that Village emergency medical resources are only utilized for actual emergency medical purposes at the facility. If the Fire Chief finds that the petitioner fails to implement said plan or said plan still results in impacts to the Village's emergency medical services beyond the agreed upon service call volume from the adopted plan, then the petitioner shall within 90 days of notice from the Village attempt to set a revised plan for the operations of the same. If no agreement is reached on a revised plan within 90 days of notice this CU shall be brought forward to the Plan Commission for review based upon the impact of the operations to the general welfare and safety of the public.

- C. Traffic, Access, Loading, and Parking Plans. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific traffic, access, loading, parking and egress plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit C**.
- D. Lighting Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific lighting plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit D**.
- E. Signage Plan. The Petitioner shall submit to and receive approval from the Architectural Review Board a specific signage plan for the Subject Property. When approved said signage plan shall be attached hereto and incorporated herein as **Exhibit E**.
- F. Public Improvements. In conjunction with the development of the site there are requirements to install certain public improvements (public street, water, sewer, stormwater, and sidewalk) and those improvements shall be installed and reviewed by the Village Engineer with accepted by the Village Board. When approved said public improvement plans shall be attached hereto and incorporated herein as **Exhibit F**.
- G. Sewer, Water, Stormwater and Erosion Control Plans. The Petitioner shall submit to and receive approval from the Village Engineer a specific sewer, water, stormwater, and erosion control plan(s) for the Subject Property. When approved said plans shall be attached hereto and incorporated herein as **Exhibit G**.
- H. Fence, Landscaping, Berm, and Open Space Utilization Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific fence, landscaping, berm and open space utilization plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the presentation at the meetings. The plan shall be attached hereto and incorporated herein as **Exhibit H**.
- I. Architectural and Building Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission a specific architectural and building plan for the Subject Property, the same to be in substantial conformance with the preliminary plans on file and with the

presentations at the meetings. The plans shall be attached hereto and incorporated herein as **Exhibit I**.

J. Outdoor Storage and Uses Plan. The Petitioner shall submit to and receive approval from the Village Plan Commission an Outdoor Storage and Uses Plan, the same to show that no outdoor storage or use shall be permitted on the Subject Property with the following specific exceptions and any such plan must meet the following minimum requirements or conditions:

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. Equipment shed shall be kept in good maintenance condition at all times.

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 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, Section 9.07 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 except for as

allowed by Outdoor Establishment Permit under Chapter 4.09 or Auxiliary Use under section 17.0710.

11. Fees and Expenses. The Petitioner, upon issuance of this 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 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 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 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 conditional use permit based upon the finding that the use 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 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 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 conditional use permit as the Plan Commission for the Village of Sussex deems appropriate.
17. Assessed Value. This project is located within a TIF District and it is essential component of approval of this use on the subject property to produce sufficient increment for the financial viability of the TIF District and the general welfare of the community. The Petitioner agrees to maintain a taxable residential class

assessment and an assessed value on the subject property of at least \$14,000,000 starting with the assessment on January 1, 2018 through the life of the TIF District #6, which is anticipated to close in 2040. In the event the assessed value in any year is less than \$14,000,000, the Petitioner shall pay to the Village by January 31 of the year following such assessment the difference between the tax amount paid based upon the actual assessed value and the amount that would have been paid if the assessed value had been \$14,000,000. No additional payment is necessary for any year if the assessed value for that year is above \$14,000,000 and the subject property is classified as residential and not tax-exempt. If the subject property, or any portion of the subject property becomes tax-exempt for any reason, the obligation to pay an amount equal to the taxes that would be paid for property with an assessed value of \$14,000,000 that is classified as residential continues in effect. The clerk will provide notice to the Petitioner with each annual tax bill to the amount owed. This payment is essential and failure to pay the amount by January 31 of each year shall automatically result in the Conditional Use being brought before the Plan Commission for revocation, and is grounds for revocation. Nothing herein shall be interpreted as modifying any agreement the Village may have with the Owner, ECT International, Inc., Mammoth Springs, LLC or any other person or entity, nor shall this be interpreted as relieving any obligation such persons and entities may have to the Village. In the event the obligations herein match obligations agreed upon by others, the obligations to the Village are joint and several.

18. Financial Guarantee and Agreement. Subject to the Developer submitting to the Village Clerk and receiving approval as to form from the Village Attorney and as to amount from the Village Engineer, a letter of credit or cash and subject to the Developer submitting to and receiving from the Village Attorney and the Village Engineer, approval of a Developer's Agreement for the improvements (including all public, private and site development improvements), prior to commencing construction of any improvement, whether public or private, or site development or approval of the final Land Division, whichever is earlier.
- 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 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 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 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 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 conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Village Plan Commission if the Village Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Village 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 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 conditional use and the remainder shall continue in full force and effect.
- I. This conditional use permit shall be effective for an initial term that ends five years from the date of January 1 of the year the conditional use is approved. During the final year of the 5 year term of the CU 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 CU. 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 conditional use agreement, then, in that event, the 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 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 final year of the term of the CU. Failure of Petitioner to apply for the renewal as provided herein shall be deemed a violation of the conditions of the conditional use and may serve as a basis for termination of the 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 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 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 conditional use does not continue in conformity with the conditions of the original approval or subsequent approved amendments or changes, the 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 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 conditional use permit, all prior conditional use permits granted to the Subject Property are hereby revoked and terminated.
- K. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the 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 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.

Let copies of this order be filed in the permanent records of the Plan Commission for the Village of Sussex, and let copies be sent to the proper Village authorities and the Petitioner.

Approved this _____ day of _____, 2020 BY THE PLAN COMMISSION FOR THE VILLAGE OF SUSSEX

Gregory L. Goetz
Village President

Sam Liebert
Village Clerk-Treasurer

OWNER APPROVAL

I hereby approve the issuance of this Conditional Use in its entirety.

Dated this _____ day of _____, 2020

By: _____
_____, Owner

STATE OF WISCONSIN)
)ss.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of _____, 2020 the above-named _____, Authorized Signatories of _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

PETITIONER ACCEPTANCE

I hereby accept the terms of this Conditional Use in its entirety.

Dated this _____ day of _____, 2020

By: _____
_____, Petitioner

STATE OF WISCONSIN)
)ss.
COUNTY OF WAUKESHA)

Personally came before me this _____ day of _____, 2020 the above-named
_____, Authorized Signatories of
_____, to me known to be the person who executed the foregoing
instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

This conditional use was drafted by Jeremy Smith, Village Administrator off of a model by
Attorney John P. Macy ARENZ, MOLTER, MACY & RIFFLE, S.C., Village Attorneys for the
Village of Sussex.

DEVELOPER'S AGREEMENT FOR

SUSSEX ASSISTED LIVING LLC
THE COURTYARD AT SUSSEX

VILLAGE OF SUSSEX, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this 16TH day of April 2020, between Sussex Assisted Living LLC a Wisconsin-based limited liability corporation, with offices at 101 N Wacker Drive Suite 608, Chicago, IL 60606, hereinafter called "DEVELOPER", and the VILLAGE of Sussex in the County of Waukesha and the State of Wisconsin, hereinafter called the "VILLAGE".

WITNESSETH:

WHEREAS, the DEVELOPER has a contract for the development of land and buildings with the owner of land in the VILLAGE, said land being described on **EXHIBIT A** attached hereto and incorporated herein, hereinafter called "SUBJECT LANDS"; and

WHEREAS, the DEVELOPER desires to develop the SUBJECT LANDS for a 103,999 square foot senior living facility with 110 units as illustrated on the Site Plan and set forth on **EXHIBIT B**, attached hereto and incorporated herein, hereinafter called the "DEVELOPMENT" by use of standard regulations as set forth in Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a condition of approval, the governing body of a municipality within which the SUBJECT LANDS lie may require that the DEVELOPER make and install any public improvements reasonably necessary and/or that the DEVELOPER provide financial security to ensure that the DEVELOPER will make these improvements within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned B-4 Central Mixed Use Development which allows the above-described DEVELOPMENT as a conditional use; and

WHEREAS, the DEVELOPER may be required to grant additional easements over a part of the SUBJECT LANDS for sanitary sewer, storm sewer, water, and sidewalks; and

WHEREAS, the DEVELOPER and VILLAGE desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the VILLAGE, provided that said public improvements are constructed to municipal specifications, all applicable government regulations, this agreement and as required by the VILLAGE Engineer, without cost to the VILLAGE; and

WHEREAS, this vacant site is located within the TIF district and will add a significant financial tax base to the Village, and the DEVELOPER shall guarantee that upon completion of DEVELOPMENT the assessed value by January 1, 2022 shall be fourteen million (\$14,000,000.00) and shall maintain at least this value or make payment to the Village as if the value was at least \$14,000,000 through the life of TIF District #6.

WHEREAS, this agreement is necessary to implement the VILLAGE zoning and land division ordinances; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the VILLAGE Plan Commission and VILLAGE Board, conditions of certain agencies and individuals in the County, all VILLAGE ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission of the VILLAGE of Sussex has given conditional use permit to the DEVELOPMENT, attached hereto and incorporated herein, hereinafter called "CUP" as **EXHIBIT C**, conditioned in part upon the DEVELOPER and the VILLAGE entering into a DEVELOPER's Agreement, as well as other conditions as approved by the VILLAGE Board; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by VILLAGE

ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS

Except as otherwise expressly provided to the contrary in this Agreement, DEVELOPER shall, at DEVELOPER's sole cost and expense, develop the SUBJECT LANDS and construct the Improvements in accordance with the approved Plans and Specifications incorporated herein as follows:

A. **BUILDING AND SITE IMPROVEMENTS:** The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all plans are in conformance with all federal, state, county and VILLAGE specifications, regulations and ordinances, and written proof from the VILLAGE Engineer evidencing review and approval of said plans.
2. The DEVELOPER shall construct, complete, and install all buildings, structures, and site improvements in accordance with the Plans and Specifications approved by the VILLAGE and on file with the VILLAGE Clerk.
3. The completion of the buildings, Private Improvements, site improvements, and structures in compliance with said Plans and Specifications constitute material terms of this Agreement.

B. **PUBLIC STREETS, SIDEWALKS, AND PATHS:**

DEVELOPER shall, at its sole cost and expense, complete, or cause the completion of, the grading, construction, and surfacing of roads, including curbs and gutters for the Cul de Sac at Pembroke, and sidewalks along Silver Spring and Hickory Drive, perform and complete work and improvements, all as shown on and in accordance with approved plans and specifications and subject to the following:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer

or Surveyor that all public street and sidewalk plans are in conformance with all federal, state, county and VILLAGE specifications, regulations and ordinances, and written proof from the VILLAGE Engineer evidencing review and approval of said plans.

2. DEVELOPER shall grade and install all planned public streets and sidewalks in accordance with the CUP, approved development plan of said DEVELOPMENT and the plans and specifications on file in the VILLAGE Clerk's office.

3. DEVELOPER shall construct a ten foot wide paved path extending from the northwest property boundary to connect to the Bugline Trail and extend the path to connect to the property to the north and as shown on site plan attached hereto and incorporated herein, hereinafter as **EXHIBIT D**.

4. Sidewalk is to be placed in the right of way along all public streets except on cul-de-sacs and from the cul-de-sac to the path leading to the Bugline Trail. If the sidewalk is not placed in the right of way the Developer shall provide a sidewalk easement for the same.

5. DEVELOPER shall maintain public streets, sidewalks, and paths including snowplowing unless otherwise agreed to by the VILLAGE Administrator, until Final Acceptance is granted by resolution by the VILLAGE Board.

6. DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Said "as-builts" shall be on reproducible Mylar and digital file, and shall include field locations and hydrant valves and curb stops, if any.

7. Contractors working on the development or on individual buildings are required to clean up all mud, dirt, stone or debris on the streets, sidewalks, and paths no later than the end of each working day. In addition, the DEVELOPER shall have ultimate responsibility for cleaning up any and all mud, dirt, stone or debris on the streets until such time as the final lift of asphalt has been installed by the DEVELOPER and Final Acceptance is granted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for placing the mud, dirt, stone or debris on the street, sidewalk, and path, to clean up the same or to hold the subject property owner who hired the

contractor responsible. The DEVELOPER and/or subject property OWNER shall clean up the streets, sidewalk, and path within twenty-four (24) hours after receiving a notice from the VILLAGE. If said mud, dirt, stone or debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER's and/or subject property OWNER's expense, at the option of the VILLAGE.

8. DEVELOPER shall complete all improvements no later than November 1, 2022.

C. SANITARY SEWER:

DEVELOPER shall at its sole cost and expense, complete or cause the completion of the construction, installation, and provision of a complete sanitary sewage collection system throughout the entire SUBJECT LANDS and perform and complete work and improvements on the VILLAGE sanitary sewer collection system adjacent to the SUBJECT LANDS all in accordance with the plans and specifications approved by the VILLAGE subject to the following:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the sanitary sewer plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans.

2. To construct, furnish, install and provide a complete sewerage system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of sewerage systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.

3. To furnish "as-built" plans of the sanitary sewage system for the SUBJECT LANDS, including locations of laterals to lot lines, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of building permits.

4. To televise the sanitary sewer system for the SUBJECT LANDS, repair any defects as determined by the VILLAGE Engineer, supply the video tape to the VILLAGE of Sussex, and clean all sewer lines prior to the issuance of building permits and acceptance of the improvements by the VILLAGE.

D. WATER:

DEVELOPER shall at its sole cost and expense, complete or cause the completion of the construction, installation, and provision of a complete water distribution system throughout the entire SUBJECT LANDS and perform and complete work and improvements on the VILLAGE water distribution system adjacent to the SUBJECT LANDS all in accordance with the plans and specifications approved by the VILLAGE subject to the following:

1. Prior to the start of construction of improvements, DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER's Engineer that the water system plans are in conformance with all Federal, State and VILLAGE of Sussex specifications, regulations, ordinances and guidelines and written proof that the VILLAGE Engineer has approved said plans.
2. To construct, furnish, install and provide a complete water system for the SUBJECT LANDS, all in accordance with the plans, specifications and drawings on file in the VILLAGE Clerk's office and all applicable Federal, State and VILLAGE of Sussex ordinances, specifications, regulations and guidelines for the construction of water systems in the VILLAGE of Sussex and as approved by the VILLAGE Engineer.
3. The DEVELOPER shall furnish "as-built" plans showing changes from the construction plans, pursuant to specifications approved by the VILLAGE Engineer. Subject to intellectual property rights, said "as built" plans shall be on reproducible Mylar and digital file, and shall include field locations of hydrant valves and curb stops, if any.
4. That no occupancy permits shall be issued until the water system for the SUBJECT LANDS has been dedicated to and accepted by the VILLAGE. The VILLAGE may require that parts or all of the water system for the SUBJECT LANDS be installed, dedicated, and approved prior to the issuance of any building permits to ensure that the system will function properly.
5. The water system plans shall clearly show that any water laterals beyond the curb stops are private improvements that will not be dedicated to the VILLAGE, and water improvements up to the curb stops are public improvements that will be dedicated to the VILLAGE.

E. SURFACE AND STORM WATER DRAINAGE:

DEVELOPER shall at its sole cost and expense, complete or cause the completion of the construction, installation, and provision of adequate facilities for storm and surface water drainage in accordance with the plans and specifications subject to the following: hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that all surface and storm water drainage facilities and erosion control plans are in conformance with all federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and written proof that the VILLAGE Engineer, DNR, and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, have reviewed and approved said plans.
2. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and storm water drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and where appropriate from adjacent property, in accordance with all plans and specifications on file in the VILLAGE Clerk's office, and all applicable federal, state, county and VILLAGE regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, including where necessary as determined by the VILLAGE Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/ detention basins.
3. The DEVELOPER agrees that the site grading and construction of surface and storm water drainage facilities shall be completed and accepted by the VILLAGE before any occupancy permits are issued.
4. To maintain roads free from mud and dirt from construction of the development.
5. The storm and surface water drainage system provided under this Agreement is a private improvement and will not be dedicated to the VILLAGE.
6. DEVELOPER by separate agreement, upon transfer of ownership, his heirs, successors and assigns running with the SUBJECT LANDS shall be responsible

for the maintenance, operation, and replacement of all storm/surface water facilities (including detention and retention facilities and appurtenant equipment) as set forth in the VILLAGE approved maintenance agreement attached hereto as **EXHIBIT E**. This includes, but is not limited to, the responsibility for, on a routine and emergency basis, as needed, conducting all dredging and/or cleaning of the storm/surface water facilities and equipment to assure that they perform in accordance with the approved plans and specifications.

7. The DEVELOPER shall clean all storm sewers installed or impacted directly pursuant to this agreement, if any, prior to issuance of occupancy permits and acceptance of improvements by the VILLAGE Board.

8. The VILLAGE retains the right to require DEVELOPER to install additional surface and storm water drainage measures if it is determined by the VILLAGE Engineer that the original surface and storm water drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.

9. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved by the VILLAGE Engineer prior to the issuance of occupancy permits.

F. GRADING, EROSION AND SILT CONTROL:

DEVELOPER shall, at its sole cost and expense, grade, and maintain all required erosion and sediment control measures on the SUBJECT LANDS in accordance with the approved plans and specifications on file with the VILLAGE Clerk subject to the following:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the VILLAGE written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the VILLAGE Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, and the Army Corps of Engineers, if applicable, have approved said plans.

2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation and washing are prevented in accordance with the plans and specifications reviewed and approved by the VILLAGE Engineer, the Waukesha County Department of Park and Land Use, Land Resources Division, and Army Corps of Engineers, if applicable.

3. All disturbed areas shall be restored to the satisfaction of the VILLAGE Engineer within seven (7) days of disturbance. Any cash or letter of credit posted with the VILLAGE will not be released until the VILLAGE Engineer is satisfied that no further erosion measures are required.

G. LANDSCAPING AND SITE WORK: The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainage ways, building foundation sites, private driveways, paths and trails by use of sound conservation practices as specified in the Tree Mitigation Plan and Landscape Plan attached herein as **(EXHIBIT F)**.

2. The DEVELOPER, as required by the VILLAGE, shall remove and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.

3. Landscaping and removal of unwanted items, including buildings, will be completed and certified as complete by the VILLAGE Engineer prior to the issuance of any building permits.

4. The DEVELOPER shall delineate all wetlands that are on the property by means of cedar posts, as approved by the Village staff prior to the issuance of building permits.

5. The VILLAGE has the right to trim and remove any features which would interfere with safe operation and maintenance of the VILLAGE right-of-ways and drainage ways.

H. STREET SIGNS AND TRAFFIC CONTROL SIGNS:

DEVELOPER shall, at its sole cost and expense install or cause the installation of all necessary street and traffic control signs on the SUBJECT LANDS subject to the following:

1. Street signs, traffic control signs, culverts, posts and guard rails as required by the VILLAGE shall be obtained and placed by the VILLAGE, or by the DEVELOPER with approval of the VILLAGE, and the cost thereof shall be paid by the DEVELOPER.

2. All traffic control signs and street signs, as required by the VILLAGE will be installed by the VILLAGE at the cost of DEVELOPER within fifteen (15) working days of the placement of the first lift of asphalt.

I. STREET LIGHTS: The DEVELOPER hereby agrees to install or cause WE Energies to install a street lighting system in the development according to a plan prepared by We Energies and on file with the VILLAGE Clerk and approved by the VILLAGE of Sussex prior to issuance of building permits unless waived by VILLAGE Staff. The Lighting Plan shall be **EXHIBIT G** which shall be attached to this agreement prior to the approval of an occupancy permit for any building.

J. ADDITIONAL IMPROVEMENTS:

The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the VILLAGE Engineer determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the VILLAGE is authorized to order DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the VILLAGE may cause such work to be carried out and shall charge against the financial guarantee held by the VILLAGE pursuant to this agreement.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS:

The improvements set forth in Sections I above shall be completed by the DEVELOPER, by November 1, 2022 except as otherwise provided for in this Agreement Board approval. In every case, regardless of circumstances, all work

contemplated by this agreement must be completed no later than November 1, 2022, unless this ultimate deadline is extended in writing by the VILLAGE Board.

SECTION III. FINAL ACCEPTANCE.

Throughout this agreement, various stages of the development will require approval by the VILLAGE. “Final Acceptance” as used herein, however, shall be the ultimate acceptance of all of the improvements in the completed development as a whole, and shall be granted specifically by separate resolution of the VILLAGE Board. The two-year guarantee period provided for in this agreement shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the two-year guarantee period.

SECTION IV. DEDICATION OF IMPROVEMENTS:

Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the VILLAGE, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the VILLAGE, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the VILLAGE shall have the right to connect or integrate other improvements as the VILLAGE decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the VILLAGE Board. All improvements will be accepted by the VILLAGE Board by separate resolution at such time as such improvements are in acceptable form and according to the VILLAGE specifications. Said resolution shall be recorded, if needed, with the Waukesha County Register of Deeds. DEVELOPER will furnish proof to the VILLAGE, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.

SECTION V. ACCEPTANCE OF WORK AND DEDICATION:

When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the VILLAGE as set forth herein, the same shall be accepted by the VILLAGE Board if said improvements have been completed as required by this agreement and as required by all federal, state, county or VILLAGE guidelines, specifications, regulations, laws and ordinances and approved by the VILLAGE Engineer.

SECTION VI. APPROVAL BY VILLAGE NOT TO BE DEEMED A WAIVER.

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping and all other improvements are upon the DEVELOPER. The fact that the VILLAGE or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

SECTION VII. GUARANTEES OF IMPROVEMENTS:

A. Guarantee. DEVELOPER shall guarantee after Final Acceptance the public improvements against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance by providing the VILLAGE with cash or a letter of credit in a form acceptable to the VILLAGE Attorney in an aggregate amount of 10 percent of the total costs of the public improvements. The DEVELOPER shall pay for any damages to VILLAGE property and/or improvements resulting from such faulty materials or workmanship. This guarantee shall not be a bar to any action the VILLAGE might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations. If the DEVELOPER fails to pay for any damages or defects to VILLAGE property and/or improvements, and the VILLAGE is required to draw against the cash or letter of credit on file with the VILLAGE, the DEVELOPER is required to replenish said monies up to the aggregate amount of ten percent (10%) of the total cost of all improvements.

B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the VILLAGE Board at the expiration of the guarantee period.

C. Notice of Repair. If during said guarantee period, the improvements shall, in the reasonable opinion of the VILLAGE Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the VILLAGE of the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the VILLAGE in the aforementioned notification, after notice has been sent as provided herein, the VILLAGE Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise, and the VILLAGE Board may draw upon such guarantee security to pay any costs or expenses incurred in connection with such repairs or replacements. Should the costs or expenses incurred by the VILLAGE Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the guarantee security, then the DEVELOPER shall immediately pay any excess cost or expense incurred in the correction process.

D. Maintenance Prior to Acceptance.

1. All improvements shall be maintained by the DEVELOPER so they conform to the approved plans and specifications at the time of their Final Acceptance by the VILLAGE Board. This maintenance shall include routine maintenance, such as crack filling, roadway patching and the like. In cases where emergency maintenance is required, the VILLAGE Board retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the guarantee period.

2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the VILLAGE Board. Should the DEVELOPER fail to meet this requirement, the VILLAGE Board will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.

3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the VILLAGE Staff. Such correction measures

shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches, storm sewers, and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as a) the roads, ditches, and other disturbed areas have become adequately vegetated and the VILLAGE Board is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development, or b) during the two-year warranty period for public improvements prescribed hereinabove, whichever is first to transpire.

SECTION VIII. VILLAGE RESPONSIBILITY FOR IMPROVEMENTS:

Except as otherwise provided herein, the VILLAGE shall not be responsible to perform repair, maintenance, or snow plowing, unless otherwise approved by the VILLAGE Administrator, on any improvements until accepted by the VILLAGE Board.

SECTION IX. DEVELOPMENT WITHIN A TIF DISTRICT. DEVELOPER shall maintain the property as a taxable property through the life of the TIF District #6, which will end approximately in 2040. This project is located within a TIF District and it is an essential component of approval of this use on the subject property to produce sufficient increment for the financial viability of the TIF District and the general welfare of the community. The DEVELOPER shall maintain a taxable residential class assessment and an assessed value on the subject property of at least \$14,000,000 starting with the assessment on January 1, 2018 through the life of the TIF District #6. In the event the assessed value in any year is less than \$14,000,000, the DEVELOPER shall pay to the VILLAGE by January 31 of the year following such assessment the difference between the tax amount paid based upon the actual assessed value and the amount that would have been paid if the assessed value had been \$14,000,000. No additional payment is necessary for any year if the assessed value for that year is above \$14,000,000 and the subject property is classified as residential and not tax-exempt. If the subject property, or any portion of the subject property becomes tax-exempt for any reason, the obligation to pay an amount equal to the taxes that would be paid for property with an assessed value of \$14,000,000 that is classified as residential continues in effect. The VILLAGE will provide notice to the DEVELOPER at the approximate time that the annual tax bill is mailed to the amount owed. This payment is essential and failure to pay the amount by January 31 of each year shall

automatically result in the Conditional Use being brought before the Plan Commission for revocation, and is grounds for revocation of the CU and its terms for default of this DEVELOPER's Agreement. Nothing herein shall be interpreted as modifying any agreement the VILLAGE may have with Art Sawall, ECT International, Inc., Mammoth Springs, LLC or any other person or entity, nor shall this be interpreted as relieving any obligation such persons and entities may have to the VILLAGE. In the event the obligations herein match obligations agreed upon by others, the obligations to the VILLAGE are joint and several.

SECTION X. FINANCIAL GUARANTEE:

Prior to the execution of this agreement by the VILLAGE, the DEVELOPER shall file with the VILLAGE cash or a letter of credit (**EXHIBIT H**) setting forth terms and conditions in a form approved by the VILLAGE Attorney in the amount as approved by the VILLAGE Engineer as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement. If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements by November 1, 2022 unless otherwise extended by this agreement or by action of the VILLAGE Board, or
- C. The letter of credit on file with the VILLAGE is dated to expire sixty (60) days prior to the expiration of the same if the same has not been extended, renewed or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by VILLAGE Engineer, and in a form approved by the VILLAGE Attorney, to pay the costs of improvements in the development, the DEVELOPER shall be deemed in violation of this agreement and the VILLAGE Board shall have the authority to draw upon the letter of credit.

The amount of the letter of credit may be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed and paid for, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the VILLAGE Administrator.

The lending institution providing the irrevocable letter of credit shall pay to the VILLAGE Board all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the

irrevocable letter of credit, and upon its failure to do so, in whole or in part, the VILLAGE shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS:

It is expressly understood and agreed that no occupancy permits shall be issued for any buildings, until the VILLAGE Engineer has determined that:

- A. The installation of the first lift of asphalt of the public street(s) providing access to and fronting a specific building for which a building permit is requested has been completed and accepted by the Village Engineer.
- B. The site grading and construction of surface and storm water drainage facilities required to serve the building are completed, are connected with an operating system as required herein, are cleaned as needed, and are accepted by the Village Engineer.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the VILLAGE Engineer. Provided, however, that in the event the building becomes substantially completed at a time of year wherein the weather makes the installation of landscaping and/or the second lift of asphalt on driveways and/or parking lots, the Village may issue a temporary occupancy permit during such weather-related delays.
- D. All required grading plans have been submitted to, reviewed by and approved by the VILLAGE Engineer.
- E. The DEVELOPER has paid in full all permit fees and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the VILLAGE, filed with the VILLAGE Clerk and recorded with the Register of Deeds.

G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish including buildings and unwanted items are removed from the development and disposed of lawfully.

H. All required "as built" plans for the Public Improvements on the SUBJECT LANDS have been submitted and approved by the VILLAGE Engineer.

I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures (unless waived by the VILLAGE Administrator), the sanitary sewer system, and the water system.

J. There is no default of any aspect of this agreement as determined by the VILLAGE Administrator.

K. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the VILLAGE Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING PERMITS:

The VILLAGE reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement.

SECTION XIII. MISCELLANEOUS REQUIREMENTS

The DEVELOPER shall:

A. EASEMENTS:

Provide any easements on SUBJECT LANDS deemed necessary by the VILLAGE Engineer such easements shall be along lot lines if at all possible.

B. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workmanlike manner.

C. SURVEY MONUMENTS:

Properly place and install any Lot, block or other monuments required by State Statute, VILLAGE Ordinance or the VILLAGE Engineer.

D. GRADES:

Prior to the issuance of a building permit for a specific Lot, the DEVELOPER or their agent shall furnish to the Building Inspector of the VILLAGE a copy of the stake out survey showing the street grade in front of the Lot, the finished yard grade, the grade of all four corners of the building, and the building corner grades of the adjacent buildings where applicable, as existing and as proposed.

E. STORMWATER MANAGEMENT PRACTICES MAINTENANCE AGREEMENT:

Execute and record said agreement. Said language, once approved shall be recorded at the Waukesha County Register of Deeds and attached herein as **EXHIBIT E**.

F. RESERVE CAPACITY ASSESSMENTS - SANITARY SEWER:

As provided in the VILLAGE Land Division Ordinance, the DEVELOPER agrees to pay a reserve capacity assessment to be used for the costs of reserve capacity created by the VILLAGE in the VILLAGE's sanitary sewerage collection and treatment facilities for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be in an amount established by the VILLAGE's Land Division Ordinance and including annual increases and due at the time of issuance of the BUILDING PERMIT.

The DEVELOPER hereby waives, pursuant to Section 66.0703(7) (b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein.

The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of special assessment levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property. In addition, the DEVELOPER waives its right under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this

Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

G. RESERVE CAPACITY ASSESSMENTS - WATER:

The DEVELOPER agrees to pay a reserve capacity assessment as required in Sections 18.0810(D) and 18.1007 and other relevant sections of the VILLAGE Code, to be used for the costs of reserve capacity created by the VILLAGE in the VILLAGE's water system for the benefit of the DEVELOPER. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII, Wisconsin Statutes. The reserve capacity assessments against the above-described property shall be an amount established in the VILLAGE's Land Division Ordinance and is subject to annual increases and due at the time of issuance of the BUILDING PERMIT.

The DEVELOPER hereby waives, pursuant to Section 66.0703(7) (b), Wisconsin Statutes, any and all requirements of the Wisconsin Statutes which must be met prior to the imposition of special assessments [including, but not limited to, the notice and hearing requirements of Chapter 66 Subchapter VII] and agrees that the municipality may proceed immediately to levy the special assessments as outlined herein. The DEVELOPER further waives its right to appeal from the special assessments and stipulates that the amount of the special assessments levied against its property has been determined on a reasonable basis and that the benefits to its property from the proposed improvements exceed the amount of the special assessment against such property.

In addition, the DEVELOPER waives its rights under Section 66.0627 and agrees to promptly pay any special charges which may be levied against its property. The municipality shall levy such assessments in conformity with this Agreement, pursuant to Chapter 66 Subchapter VII and Section 66.0627, Wisconsin Statutes.

H. UNDERGROUND UTILITIES:

Install all existing and proposed electrical, telephone, cable and gas utilities underground. Coordination of installation and burial and all costs shall be the responsibility of the DEVELOPER.

I. PERMITS:

Provide and submit to the VILLAGE requesting the same, valid copies of any and all governmental agency permits.

J. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the VILLAGE Engineer. Excess topsoil may be removed as DEVELOPER determines based upon the approved Grading Plan and VILLAGE Engineer consent.

K. DIGGERS HOTLINE.

Developer shall become a member of Diggers Hotline and provide evidence of such membership to the VILLAGE Clerk before commencement of any land disturbing activities on the Subject Lands. Developer shall maintain said membership until all subsurface Improvements required under Section I have received final acceptance from the VILLAGE as provided in Section III.

L. PREVAILING WAGE RATES AND HOURS OF LABOR:

If any aspect of the development involves a project of public works that is regulated by Wisconsin Statutes Section 66.0903 then: (1) The Developer shall pay wage rates not less than the prevailing hourly wage rate as described and regulated pursuant to such statutes and related laws; and (2) The Developer shall comply with the prevailing hours of labor as described and regulated pursuant to such statutes and related laws; and (3) The Developer shall fully comply with the reporting obligations, and all other requirements of such laws; and (4) The Developer shall ensure that the Developer's subcontractors also fully comply with such laws. The Developer's General Indemnity obligation of this Agreement shall apply to any claim that alleges that work contemplated by this Agreement is being done, or has been done, in violation of prevailing wage rates, prevailing hours of labor, or Wisconsin Statutes Section 66.0903, for any work arising out of this agreement.

M. NOISE:

Make every effort to minimize noise, dust and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

N. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the VILLAGE Board. The VILLAGE shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving a notice from the VILLAGE Engineer. If said debris is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER'S and/or subject property owner's expense.

O. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the VILLAGE Engineer. If said mud, dirt and stone is not cleaned up after notification, the VILLAGE will do so at the DEVELOPER's expense. The VILLAGE will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

P. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

Q. IMPACT FEES.

DEVELOPER and VILLAGE acknowledge that the VILLAGE has caused a needs assessment study to be performed pursuant to Wis. Stat. §66.0617 and that the VILLAGE has enacted an ordinance (18.10065) that imposes impact fees pertaining to the VILLAGE's parks, playgrounds and land for athletic fields, and that imposes impact fees pertaining to the VILLAGE's Library. The DEVELOPER acknowledges and agrees that the ultimate occupants of the Lots on the SUBJECT LANDS will likely utilize the Village's parks, playgrounds, and athletic fields, and Library and that the impact fees imposed by VILLAGE Ordinances are necessary to pay for the capital costs of the facilities described in this section in order to accommodate land development. These Fees shall be paid prior to the release of the BUILDING PERMIT.

R. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the VILLAGE of Sussex Zoning Code.

S. NO AGRICULTURE USE.

The DEVELOPER shall not permit any open space or undeveloped lands within the Subject Property to be used for any agricultural uses as defined in Tax 18 of the Wisconsin Administrative Code. In the event that the DEVELOPER uses the land in a manner that causes the subject property or any portion thereof to be assessed in a manner that reduces property tax liability the DEVELOPER shall make an additional payment in lieu of taxes (PILOT) so that the total tax payment plus PILOT equals the amount that would be paid on residential property assessed with a value of \$14,000,000.

T. DEED RESTRICTIONS:

Execute and record deed restrictions in a form that is subject to the approval of the VILLAGE Board and VILLAGE Attorney, and provide proof of recording prior to sale of lots for the SUBJECT LANDS. The Deed Restrictions shall address the tree preservation requirements of this agreement, maintenance of open areas and signage, and any other restrictions imposed in the approval process for the development.

SECTION XIV. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:

The DEVELOPER shall pay and reimburse the VILLAGE promptly upon billing for all fees, expenses, costs and disbursements which shall be incurred by the VILLAGE in connection with this development or relative to the construction, installation, dedication and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work. VILLAGE employee costs shall be based on regular VILLAGE pay rates (or Engineering and administrative overtime, if applicable) plus 60% on the hourly rate for overhead and fringe benefits for any time actually spent on the project. Any costs for outside consultants shall be charged at the rate the consultant charges the VILLAGE. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the

VILLAGE pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats.

SECTION XV. METHOD OF IMPROVEMENT.

Developer hereby agrees to engage contractors for all work performed by the DEVELOPER under this agreement who are qualified to perform the work. Developer further agrees to use materials and make the various installations in accordance with the approved plans and specifications, which are made part of this agreement by reference and including those standard specifications as the Village Board or its Commissions may have adopted and published prior to this date.

SECTION XVI. GENERAL INDEMNITY:

In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the VILLAGE, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insured on its general liability insurance the VILLAGE, its officers, agents, employees and any independent contractors hired by the VILLAGE to perform services as to this development and give the VILLAGE evidence of the same upon request by the VILLAGE.

SECTION XVII. VILLAGE RESPONSIBILITY:

A. The VILLAGE agrees to pay for the following oversizing costs, if it is determined by the VILLAGE that the oversizing is necessary. The oversizing costs shall be calculated by viewing bids for similar improvements to determine the cost differences between the stated sizes. The VILLAGE reserves the right to determine the bid amounts to be used in this calculation.

- 1 Cost of increasing the size of the water main from eight inches to a larger size, including the cost of larger valves.
- 2 Cost of increasing the size of the sewer main from eight inches to a larger size.

3. The VILLAGE agrees to allow the DEVELOPER to connect to the VILLAGE of Sussex's municipal water system and sewerage system at such time as the water system and sanitary sewer system required herein has been dedicated to and accepted by the VILLAGE of Sussex and the appropriate approvals have been granted for such service from all Federal, State, SEWRPC, and local governments and agencies.

SECTION XVIII. INSURANCE:

The DEVELOPER, its contractors, suppliers and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the VILLAGE.

SECTION XIX. EXCULPATION OF VILLAGE CORPORATE AUTHORITIES:

The parties mutually agree that the VILLAGE President of the VILLAGE Board, and/or the VILLAGE Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

SECTION XX. GENERAL CONDITIONS AND REGULATIONS:

All provisions of the VILLAGE Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

SECTION XXI. ZONING:

The VILLAGE does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the VILLAGE herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

SECTION XXII. COMPLIANCE WITH CODES AND STATUTES:

The DEVELOPER shall comply with all current and future applicable codes of the VILLAGE, County, State and federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized

employees and/or representatives of the VILLAGE, County, State or federal government.

SECTION XXIII. AGREEMENT FOR BENEFIT OF PURCHASERS:

DEVELOPER agrees that in addition to the VILLAGE'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any Lot or any interest in any Lot or parcel of land in the SUBJECT LANDS.

SECTION XXIV. ASSIGNMENT:

The DEVELOPER shall not assign this agreement without the written consent of the VILLAGE. If required by the VILLAGE, the assignee must agree to all terms and conditions of this document in writing.

SECTION XXV. PARTIES BOUND:

The DEVELOPER or its assignees shall be bound by the terms of this agreement or any part herein as it applies to any phase of the development.

SECTION XXVI. HEIRS & ASSIGNS:

This agreement is binding upon the DEVELOPER, owners, their successors and assigns, and any and all future owners of the SUBJECT LANDS (the "Successors") -This section allows for VILLAGE enforcement of the terms and conditions of this Agreement against all such Successors. This section does not, however, grant rights to such Successors absent VILLAGE written consent, as described in Section XXIV.

SECTION XXVII. SURVIVAL.

All agreements, representations, or warranties made herein shall survive the execution of this Agreement, performance of this Agreement, and the making of the grants hereunder. This Agreement shall be binding upon the Parties their respective heirs, personal representatives, executors, or successors and assigns.

SECTION XXVIII. OWNERSHIP OF SUBJECT LANDS.

DEVELOPER warrants and represents that, as of the date of execution of this Agreement it has title to the Property.

SECTION XXIX. PARAGRAPH HEADINGS.

The paragraph headings in this Agreement are inserted for convenience only and are not intended to be part of, or to affect, the meaning or interpretation of this Agreement.

SECTION XXX. INCORPORATION OF RECITALS.

The recitals to this Agreement are hereby incorporated by reference and made a part of Agreement, and are intended to affect the meaning and/or interpretation of this Agreement.

SECTION XXXI. COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

SECTION XXXII. ENTIRE AGREEMENT.

This Agreement constitutes the entire understanding and agreement between the parties. In the event of a conflict between this Agreement and the Village Code of Ordinances or any other enabling code, law or regulation in effect at the time of this Agreement or thereafter, the terms and conditions of the Village Code of Ordinances in effect at the time of the acceptance by DEVELOPER shall be controlling. If this Agreement is silent with respect to any specific issue, the Village Code of Ordinances and any applicable federal and state statutes shall govern.

SECTION XXXIII. RECORDING OF AGREEMENT.

This Agreement, or a Memorandum thereof, shall be recorded with the Register of Deeds for Waukesha County.

SECTION XXXIV. AMENDMENTS:

The VILLAGE and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the VILLAGE Board.

SECTION XXXV. MORTGAGEE CONSENT: The undersigned mortgagee of the property identified in Exhibit A, consents to this Developer's Agreement, and agrees that its lien of mortgage shall be subordinate to the rights of the VILLAGE granted by this Developer's Agreement.

IN WITNESS WHEREOF, the DEVELOPER and the VILLAGE have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

_____.

By: _____, DEVELOPER

STATE OF ILLINOIS
COUNTY OF COOK

Personally came before me this _____ day of _____, 2020,
the above named Thomas Ostrom, Authorized Signatory of Sussex Assisted
Living, LLC, the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF IL
My commission expires: _____

_____.

By: _____, MORTGAGEE

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2020,
the above named _____, Authorized Signatory of
_____ the foregoing instrument and acknowledged
the same.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____

VILLAGE OF SUSSEX
WAUKESHA COUNTY, WISCONSIN

VILLAGE President

VILLAGE Clerk-Treasurer

STATE OF WISCONSIN
COUNTY OF WAUKESHA

Personally came before me this _____ day of _____, 2020,
the above-named Greg Goetz, VILLAGE President, and Sam Liebert, VILLAGE
Clerk-Treasurer, of the above-named municipal corporation, to me known to be the
persons who executed the foregoing instrument and to me known to be such
VILLAGE President and VILLAGE Clerk-Treasurer of said municipal corporation
and acknowledged that they executed the foregoing instrument as such officers as
the deed of said municipal corporation by its authority and pursuant to the
authorization by the VILLAGE Board from their meeting on the _____ day of
_____, 2020.

NOTARY PUBLIC, STATE OF WI
My commission expires: _____