

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

**Minutes of the Plan Commission Virtual Public Hearing held on April 15, 2020.**

President Goetz called the public hearing to order at 5:00 p.m.

Members present: Commissioners Annette Kremer, Roger Johnson, Deb Anderson, Amanda Schauer, David Ray, Trustee Scott Adkins and Village President Greg Goetz.

Members excused: None.

Others present: Administrator Jeremy Smith, Asst. Administrator Kelsey McElroy-Anderson, Attorney John Macy, Assistant Development Director Kasey Fluet, Deputy Clerk Linda Steinmetz and applicants.

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

**Reconvene the public hearing of an amendment to a Conditional Use and site plan for Sussex Bowl (N64W24576 Main Street) to add additional outdoor uses**

Stephen Hoehnen spoke on behalf of Sussex Bowl, N64W24576 Main Street. Business plans to tear down and rebuild its outdoor storage shed. New shed will be used as an outdoor bar to service the volleyball courts and new fenced area for bag league. The petitioner stated he had received and reviewed the conditional use document and agreed with the document as presented.

Comments from the public: None.

Comments from the Plan Commission: None.

Mrs. Fluet reviewed the Plan Staff Memo (copy attached).

A motion by Johnson, seconded by Goetz to close the public hearing. Motion carried 7-0.

**Consideration and possible action on a Conditional Use and site plan for Sussex Bowl (N64W24576 Main Street).**

Mrs. Fluet stated 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 and site plan for Sussex Bowl.

The Plan Commission concluded that the Petitioner had provided substantial evidence with regards to the following Standards/Regulations:

- The Application is complete and consistent with 17.0502
- The use(s) and plans are compliant with 17.0503 (Review of CU's)
- The use(s) and plans are compliant with 17.0200 (General Conditions)
- The uses(s) and plans are compliant with 17.0416 (B-1 Business Neighborhood)
- The uses(s) and plans are compliant with 17.1000 (Site Plan Review)
- The Petitioner provided substantial evidence and adequately addressed the findings of the impact report per 17.0506.A.

The Plan Commissioners concluded that the Petitioner had provided substantial evidence with regards to the Conditional Use Permit as follows:

- A.3.A. Site Plan Standards compliance
- A.3.B. Plan of Operation compliance
- A.3.C.-H. Various Plan(s) compliance
- A.4.-16. CU condition compliance
- B-L. Administrative CU Condition compliance

A motion by Goetz, seconded by Johnson to approve the Conditional Use and site plan based upon the evidence presented at the Public Hearings for Sussex Bowl (N64W24576 Main Street); a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

Motion carried 7-0.

**Adjournment**

A motion by Kremer, seconded by Ray to adjourn the public hearing at 5:18 pm. Motion carried 7-0.

Respectfully Submitted,

Linda Steinmetz  
Deputy Clerk



MEMORANDUM

TO: Plan Commission  
FROM: Kasey Fluet, Assistant Development Director  
RE: Plan Commission meeting of April 15, 2020  
DATE: April 8, 2020

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All Code Sections in this memo refer to the Sussex Municipal Code Chapter 17 version dated March 25, 2014 with subsequent amendments thereto.

**01. Roll call.**

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

**A. Reconvene the public hearing of an amendment of a Conditional Use and site plan for Sussex Bowl (N64W24576 Main Street) to add additional outdoor uses.**

This site is zoned B-1. The bowling recreational center with outdoor volley ball courts is requesting to amend their conditional use and site plan to include and outdoor bar and bags tournament area. This site has 150 parking stalls with the required 4 stalls designated for handicap parking.

The area for the bags tournament will be located on the grass adjacent to the fenced volley ball courts, this area will be designated by a rope fence around the perimeter. The owner is already allowed to have alcohol at the volleyball court and their request is to extend alcohol to the bags area as well. That issue will require an amendment to their liquor license, which goes before the Finance Committee and Village Board.

The owner will replace their current outdated shed and serve out of the new structure.

**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 recreational facility such as a bowling alley and other outdoor uses; volleyball courts; bags tournament area and outdoor bar is approved herein on the Subject Property, and the use thereof, shall be used in substantial conformity with the presentation at the Public Hearings before the Plan Commission held on February 18, 2020 and March 17, 2020.

- (2) Subject Property. This conditional use permit issued to the Petitioners, 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 Petitioners are 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 Petitioners shall maintain the existing site plan, which shall be attached hereto and incorporated herein as **Exhibit A-1**.
- B Plan of Operation. The Petitioners 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. Once approved the plan of operation shall be attached hereto and incorporated herein as **Exhibit B**.
- C Traffic, Access, Loading, and Parking Plans. The Petitioner shall comply with the existing traffic parking, loading, and egress plan for the subject property on file with the Village Clerk.
- D. Lighting Plan. The Petitioner shall maintain the existing lighting plan for the Subject Property on file with the Village Clerk
- E. Signage Plan. The Petitioner must submit a signage plan for the subject property on file with the Village Clerk.
- F. Public Improvements. There are no current public improvements required at this time.
- G. Sewer, Water, Stormwater and Erosion Control Plans. The Petitioner shall comply with the specific sewer, water, stormwater, and erosion control plans on file with the Village Clerk.
- H. Fence, Landscaping, Berm, and Open Space Utilization Plan. The Petitioner shall comply with the specific Fence, Landscaping, Berm, and Open Space Utilization Plan for the Subject Property shall be attached hereto and incorporated herein as **Exhibit C**.

- I. Architectural and Building Plan. The Petitioner shall comply with the specific Architectural and Building Plan for the Subject Property on file with the Village Clerk.
- J. Outdoor Storage and Uses Plan. No outdoor storage is permitted. The outdoor uses approved are the volleyball courts, outdoor bar and bags tournament area and any area approved with an outdoor establishment permit. If the Petitioner wishes to have additional outdoor uses they must seek approval from the Plan Commission without a new public hearing unless the Plan Commission determines a public hearing is necessary.
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 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
- 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 Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Plan Commission, in its sole discretion, finds to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- H. Should any paragraph or phrase of this 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 30<sup>th</sup> 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.

**Additional Plan Commission conditions:**

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

**Policy Questions:**

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

**Action:**

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

**B. Consideration and possible action on a Conditional Use and site plan for Sussex Bowl (N64W24576 Main Street).**

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 and site plan for Sussex Bowl.

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

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

- The Application is complete and consistent with 17.0502** Yes or No
- The use(s) and plans are compliant with 17.0503 (Review of CU's)** Yes or No
- The use(s) and plans are compliant with 17.0200 (General Conditions)** Yes or No



**The uses(s) and plans are compliant with 17.0416 (B-1 Business Neighborhood**

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.-H. Various Plan(s) compliance**

Yes or No

**A.4.-16. CU condition compliance**

Yes or No

**B-L. Administrative CU Condition compliance**

Yes or No

**Action Items:**

**1.** Act on the CU and site plan.

**Staff Recommendation:** Staff recommends approval of the Conditional Use and site plan based upon the evidence presented at the Public Hearings for Sussex Bowl (N64W24576 Main Street); a finding the use and structures meet the principals of 17.1002(A-H); subject to the standard conditions of Exhibit A.

**03. Adjournment.**

## **Exhibit “A”**

### **Village of Sussex Plan Commission**

#### **Standard Conditions of Approval Plan of Operation and Site Plan**

The Plan Commission for the Village of Sussex authorizes the Building Inspector to issue a building permit to the Petitioner and approves the general layout, architectural plans, ingress and egress, parking, loading and unloading, landscaping, open space utilization, site plan and plan of operation subject to the following conditions:

1. Presentation compliance. Subject to Petitioner operating the premises at all times in substantial conformity with the presentation made to the Village Plan Commission, as modified or further restricted by the comments or concerns of the Village Plan Commission.

2. Inspection compliance. Subject to the Petitioner submitting to and receiving the approval from the Village Administrator, written proof that the Village Building Inspector and Fire Chief have inspected the subject property and have found that the subject property is in substantial compliance with applicable federal, State, and local laws, statutes, codes, ordinances, policies, guidelines and best management practices, prior to this approval being effective.

3. Regulatory compliance. Subject to the Petitioner and Owner fully complying with all Village, County of Waukesha, State of Wisconsin and federal government codes, ordinances, statutes, rules, regulations and orders regarding the premises, including but not limited to compliance with Section 17.1000 of the Village of Sussex Zoning Code entitled “Site Plan Review and Architectural Control,” as determined by Village Staff.

4. Satisfaction of Engineer. Subject to the Developer satisfying all comments, conditions, and concerns of the Village Engineer regarding the Petitioner’s application prior to this approval being effective.

5. Required plans. Subject to the Developer submitting to and receiving written approval from the Village Administrator of all of the following plans as deemed necessary by the Village Administrator:

- A. Landscaping plan
- B. Parking plan
- C. Lighting plan
- D. Signage plan
- E. Traffic plan
- F. Grading plan

- G. Tree preservation plan
- H. Open space plan
- I. Water plan
- J. Surface and stormwater management plan
- K. Sewer plan
- L. Erosion control plan
- M. \_\_\_\_\_
- N. \_\_\_\_\_
- O. \_\_\_\_\_
- P. \_\_\_\_\_

6. Screening of All Dumpsters. Subject to the Petitioner and Owner screening all dumpsters as required by the ordinance to the satisfaction of the Village Administrator.

7. Payment and reimbursement of fees and expenses. Subject to the Petitioner and Owner paying all costs, assessments and charges due and owing to the Village of Sussex either by the Petitioner or imposed on the subject property, including, but not limited to, real estate taxes, personal property taxes, utility bills, special assessments, permit fees, license fees and professional fees which shall include all costs and expenses of any type that the Village incurs in connection with Petitioner’s application, including the cost of professional services incurred by the Village (including engineering, legal and other consulting fees) for the review of and preparation of the conditions of approval, attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce any of the conditions of this approval due to a violation of these conditions by the Petitioner or the Owner, as authorized by law.

8. Condition if the Property is in the B-4 Central Business District. If the property is in the B-4 Central Business District, the Petitioner shall comply with the standards and conditions found within the Village of Sussex Downtown Design and Development Plan and other plans as may be approved from time to time by the Community Development Authority in its role as a Redevelopment Authority to guide development within the Village’s Downtown.

9. Subject to acceptance. The Owner by requesting a permit either directly or through an agent, and accepting the same is acknowledging that they have received a copy of this conditional approval, that they understand and accept the same, and that upon failure to satisfy these conditions this approval is void, and the same is deemed to not have been approved, and the Petitioner will therefore need to re-commence the application process.

10. Any official named in this document can appoint a designee to perform his or her duties.