

**VILLAGE OF SUSSEX  
SUSSEX, WISCONSIN**

**Minutes of the Plan Commission Virtual Public Hearing held on April 16, 2020.**

President Goetz called the public hearing to order at 5:30 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, Village engineer Judy Neu, Deputy Clerk Linda Steinmetz and applicants.

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

**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).**

Michael Samuels, agent for Andev Group, LLC spoke on behalf of The Courtyard at Sussex, Assisted Living Facility (letter attached). Andev Group has developed multiple senior living sites in Wisconsin and Illinois. This facility is restricted to residents over the age of 55. Site will have a CBRF section with 27 assisted living units and 25 memory care units and a RCAC section with 58 independent living apartments. Parking is limited to staff and visitors as residents do not drive. There will be a transportation bus available for residents. Site will have 16 employees. Shifts are 7am-3pm, 3pm – 11pm and 11pm – 7am. Seventy four parking stalls are on site. Memory care section is a secure area and fire exits are controlled. Site is designed to meet the needs of an aging resident and provides a safe environment for those no longer able to live independently.

Ben Ganther presented power point presentation of center with samples of similar developments.

Ken Koziczowski presented the site plan. Entrance is off Hickory Drive and there is a continuous loop around the property for fire/ emergency vehicles. RCAC section is two story, remainder of building is one story. Staff parking is on the south side of the building, visitor parking is on the north and east side of the building. At the cul-de-sac, there is a path that connects to the Bug Line Trail.

Josh Pudelko presented the stormwater plan. There will be three stormwater basins/ prairie garden areas (dry ponds) with native plants. Collected storm water will drain into Sussex Creek. There will be a fence with landscaping from Hickory Drive to the dumpster to screen the stormwater ponds from residential housing to the south. Landscaping in enclosed courtyards and around building. Fixtures are designed to prevent light from shining off site. Dumpster will blend into building.

Tom Ostrom – Manager of several senior living sites in Wisconsin and Minnesota explained the difference between RCAC/ CBRF care. Those living in RCAC section typically require a reduced level of assistance and services compared to CBRF residents. They reside in an apartment type setting with access to common areas. As needs become greater, those in RCAC can move into the CBRF area. CBRF residents receive personalized care and assistance with activities of daily living. 50% of CBRF will be for memory care. Staff to include Administration personnel, Full Time Nurses, Care personnel, Activity personnel and Maintenance personnel. Meals are provided daily. Residents are older and do have care needs that can lead to an emergency call. Staff is trained to handle emergency situations and will not call for an ambulance unless needed. They generally have 2-4 emergency calls per month.

Commissioner Johnson had concerns of impact on neighborhood to the south. Asked for more information on landscaping buffer. Fence from Hickory Drive to dumpster is cedar – six feet high and has plantings on both sides of fence plus pine trees to help hide the parking stalls and separate the stormwater pond from the homes to the south.

Michael Samuels presented their code compliance items (letter attached):

- Project is consistent with intent and purposes of Chapter 17 to provide a safe and secure senior housing project at this location.
- Project is consistent with land-use policies – building codes and zoning restrictions are being incorporated.
- Project is designed to be harmonious with the area.
- Project will not adversely affect or be hazardous to the existing neighborhood.
- Project will not be detrimental to the economic welfare of surrounding properties.
- Project is adequately served by public facilities and all utilities will be extended to site.
- Project is adequately served by public sanitation and water.
- Project will not involve uses, activities, materials, and equipment detrimental to persons or property.
- Project will not have an adverse impact on natural resources of the Village.

Mr. Samuels stated they had received and reviewed the conditional use document and agreed with the document as presented.

Comments from the public: Diane Weinfurter, N62W23684 Sunset Drive inquired if other locations were considered and will properties to the south along fence line get tax relief.

Petitioner stated that they hired local real-estate professionals to find sites. This site stood out because of its size and the location is excellent. Developer prefers to locate this type of facility in a neighborhood setting.

Mr. Smith stated taxes are based on assessed values. Staff does not believe this development will have any negative impacts on assessed values.

Comments from the Plan Commission: Commissioner Adkins asked why entrance was off Hickory instead of Silver Spring and if staff parking could be moved to east or north side of the building to reduce impact on homes to the south.

Mr. Smith stated staff did not want entrance on Silver Spring Drive due to curve in road and closeness to traffic light at Main Street.

Mr. Koziczkowski stated main entrance is on north side of building to buffer traffic from homes located to the south. There will be transportation pickups throughout the day at the main entrance. Parking could not be placed on northeast side of site due to wetlands. Mr. Anbar questioned if it was possible to have staff park on east side of building and have overflow parking in back near homes. Mr. Samuels stated they could adopt rules of operation to have staff park in certain areas on site. Commissioner Adkins stated he prefers to keep any constant flow of traffic away from the homes to the south.

Commissioner Adkins also had concerns about lights shining into the homes south of the site. Petitioner stated they would look into alternatives concerning lighting. Commissioner Johnson stated he also wished to keep parking lot lights from spilling over onto properties to the south.

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

A motion by Goetz, seconded by Kremer to close the public hearing.

Motion carried 7-0.

**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 The Courtyard at Sussex, Assisted Living Facility (W235N6350 Hickory Drive).

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. 1000 (Site Plan Review)
- Petitioner has 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.-J. Various Plan(s) compliance
- A.4.-18. CU condition compliance
- B-L. Administrative CU Condition compliance

A motion by Johnson, seconded by Kremer to approve the Conditional Use, Plan of Operation, site plan, architectural plan, lighting plan subject to Village Engineer looking at reducing the effect of the lights on the properties to the south, 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), to recommend to the Village Board approval of the Developers Agreement; subject to any conditions of the ARB, 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.

Motion carried 7-0.

**Adjournment**

A motion by Kremer, seconded by Anderson to adjourn the public hearing at 6:44 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 16, 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. 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).**

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- *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 survey or, 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/packaged 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 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 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.

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.**



## **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.



March 17, 2020

Mr. Gregory Goetz, Village President

Members of the Village of Sussex Plan Commission:

Ms. Annette Kremer

Ms. Amanda Schauer

Mr. Roger Johnson

Ms. Debbie Anderson

Mr. David Ray

Mr. Scott Adams

**Re:** Application for Conditional Use

Ladies and Gentlemen,

Andev Group, LLC is the contract purchaser of the approximately 7.7-acre parcel located at Hickory Street and Silver Springs Road. The attached proposal is for development of a Senior Living Community. The property at this location is currently undeveloped land. The proposed purchaser of the property is ANDEV Group, LLC, or its nominee, who would be purchasing in order to provide the Senior Living Community facility to be operated by Encore Management and Development, a major senior living operator. ANDEV Group, LLC is a Midwest developer of senior housing having developed multiple sites located in Wisconsin and Illinois.

The existing site is zoned B-4 which requires a conditional use approval for a Senior Living Community facility. The proposed building will house three separate types of housing, specifically designed for and restricted to residents over the age of 55. The building will house a CBRF composed of an assisted living section with 27 apartments and a memory care section with 25 units. The building also includes an RCAC-Licensed section consisting of 58 independent living apartments with full kitchens and amenities.

The site is surrounded by zoning types: B-4 to the north, B-2 to the east, Rs-4 to the south and Rs-4 to the west. Based on the use of the facility, the road, and driveway design and landscaping features, the impact on neighboring parcels will be minimal.

Parking for the assisted living and memory care portions of the facility is limited to staff and visitors, as residents do not drive, and transportation is provided by the operator by van or bus. Visitation is typically light, with an increase on certain holidays or special events. The day shift is the maximum staffed shift and includes approximately 16 employees. Shifts will most likely operate on a 7-3, 3-11 and 11-7, 24-hour rotation.

Parking ratios are not specifically set out in the ordinance for this unique use. The fact is that very few of the residents in this type of community own or drive cars. We have provided 74 total parking spaces which the operator has determined will adequately provide space for all employees in the largest shift,



visitors and the few residents who may have a vehicle. Transportation for residents is always available through the community's handicapped-accessible bus/van.

As residents of the memory care units are impaired and pose a wandering risk, that section of the building is a "secure" facility. Exterior courtyards are fenced and building exiting is controlled. Residents needing to go off-site are supervised. Fire exits are controlled through the use of code-approved delayed egress devices.

Like the country as a whole, Sussex's population is becoming significantly older, and the demographic and social changes that are beginning to affect the city will forever alter how the community looks and feels. With an aging population, this community will face both new opportunities and challenges in responding to older people's needs and wishes.

One out of eight people age 65 and older (13 percent) has Alzheimer's disease. As older people move toward retirement, local governments, community and health organizations and families are becoming more aware of the challenges of our aging population:

- Local governments are realizing the demand for accessible, age-friendly infrastructure and transportation options.
- Families are navigating the social and economic challenges of parents and grandparents that require extra care and who may have to move from their homes and communities to access services and specialized accommodations.

All of ANDEV Group's senior housing establishments are conceived and designed specifically to meet the needs of the growing segment of the senior population, many of whom are no longer capable of independently performing activities of daily living such as cooking, cleaning, laundry, dressing, bathing, etc. but are not so ill or incapacitated that they need full-time nursing care. Additionally, many of these older persons suffer from dementia and memory loss. These people are at risk to themselves as they become easily confused, disoriented and lost. They are not, however, necessarily in need of being placed in a nursing home. Assisted living housing provides a safe and protective environment for them in which their needs can be met while maintaining a residential setting for their comfort.

Older adults are a vibrant cohort of all communities and contribute to the economy, support extended families, participate in volunteerism, and generally enhance the social health of our neighborhoods. By encouraging creative housing solutions such as assisted living communities, transportation alternatives, and social and recreational programs we have the opportunity to play an important role in facilitating the ability of older adults to age in place in Sussex.

With respect to the factors applicable to the Special Use contained within the Village of Sussex ordinance section 17.0503 for ANDEV's proposed Senior Living Community we submit the following:



(1) We believe that the project is consistent with the intent and purposes of the chapter and, specifically according to the provisions of Sussex's ordinances to provide a variety of safe and secure senior housing alternatives for an aging population within a single integrated community.

(2) The project is consistent with applicable land-use policies contained in the Village's Master Plan of current adoption in that all building codes and zoning restrictions are being incorporated and respected without variance.

(3) The project, as can be seen from the elevations and renderings has been designed, and will be constructed, landscaped, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area. This area is currently vacant land covered with vegetation that is of no particular character and will improve that character with engineered stormwater control management, an aesthetically pleasing building, and professionally designed landscapes.

(4) The project will not adversely affect or be hazardous to existing neighboring uses. ANDEV has met with the neighbors and their representatives prior to presenting its application to the Plan Commission to ensure that their questions, opinions, and preferences are heard and satisfactorily addressed. The developer has been informed that the primary concern of the residents of the single-family homeowners that will be nearest to the project is that there be fencing to protect their young children from approaching the stormwater detention area nearest their homes. The project design will be altered to respect this preference.

(5) The project will not be detrimental to the economic welfare of surrounding properties or the community. To the contrary, the project anticipates the direct creation of approximately 75 new jobs and will support local businesses and suppliers – generating increased sales and real estate taxes that will benefit the residents of the entire village.

(6) The project is adequately served by public facilities, such as existing roads, schools, stormwater drainage, public safety, public transportation, and public recreation, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide any such service. All of the utilities necessary for the project's construction and maintenance will be extended to the site and are sized of sufficient capacity to accommodate the needs of the proposed new community.

(7) The project is adequately served by public sanitation facilities. The same factors listed above regarding roads, stormwater, etc. are applicable to the availability and capacity of the water main and sanitary sewer connections.

(8) The project will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors. The project has been specifically designed and engineered to provide all necessary traffic improvements to accommodate further development consistent with existing zoning to the north of the project without connecting to the single-family neighborhood to the east, but still providing a second route for fire and emergency services from the north if necessary.



(9) The project will not directly or indirectly have a substantial adverse impact on the natural resources of the village, including, but not limited to, prime agricultural soils, water recharge areas, lakes, rivers, streams, major forests, wetlands, and wildlife areas, all of which are being respected in the design of stormwater detention and avoidance of natural wetlands.

I am available to answer questions or provide further clarification if necessary,

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael D. Samuels", written over a horizontal line.

Michael D. Samuels, authorized agent for  
Andev Group, LLC