

Town of Merton
Plan Commission Meeting
Minutes of August 3, 2022

- Plan Commission Meeting was Called to Order by Chairman Klink at 5:30 p.m.
- Pledge of Allegiance was led by Chairman Klink
- Minutes of the July 20, 2022 Public Hearings and Plan Commission Meeting. A motion to approve the minutes as written was made by Siepmann/Good. Motion carried.

Present: Chairman Klink, Commissioners Griffin, Jensen, Morris, Siepmann, Queoff, and Good, Attorney Murn, Planner Haroldson, and Deputy Clerk Claas

Also Present: Denis Schuh, Mark Theisen, Jerry Heine

Old Business:

Land Altering Conditional Use Permit Status as Presented by Denis Schuh – N49W28689 Chardon Drive – Schuh stated all walls are in, and he still wants to put in odds and ends stones, but everything is done other than that. Klink questioned if all the gravel and green space is put in. Schuh said the green space he seeded today and there is another little area that he wants to seed tomorrow. Klink asked when it will be stabilized and green. Schuh responded it will take two or three weeks for the grass to grow. Good questioned how big the area that is actually grass and how many loads of stone. Schuh said it's from the top of his house all the way down on the north side and he didn't know the amount of stones. Siepmann asked what is left to do. Schuh said he just has some things that are just cosmetic to finish it. He wants to put more stones around where the mulch is, put stones in the back of the lot just as accents, and finish the grass. Siepmann questioned if the road on the switchbacks will be TB. Schuh stated the switchback going down is TB, the other road going down is also TB. Griffin questioned grass on the east side as shown on the original plan.

Klink clarified that the backyard is all gravel other than the little green space on the side and asked if Schuh is going to leave it all gravel. Schuh said yes, because everyone else has all weeds in the back. Klink asked how he proposed to maintain it. Schuh said he will spray it and go over it with his excavator from time to time. Murn asked if he put down a weed barrier. He stated that he did. Griffin asked if he plans to make grass from the patio out to the first row of trees like he had in one of his original drawings. Schuh said no, that's going to stay gravel.

Siepmann stated he was frustrated because the plan and what's out there are two completely different and now there's gravel everywhere. It's non-compliant. There's double the amount of gravel from the proposal. Schuh stated he needed the gravel there in order to build the walls because it was all muddy, and he's not going to take the gravel all away once he made it so he can ride on it. Murn explained that's why the Town issues conditional use permits with exhibits showing what was going to be done and if it ever changes or it is deviated from, that's grounds to either revoke or amend. Murn said Schuh was supposed to give us notice of the change and stated there's a lot of gravel which was not something that was in the original plan based on the pictures that were attached to the conditional use permit. Schuh said as he was doing it, he thought it looked nice and thought that it would be more functional. Murn said the concern is gravel versus grass, and a lot of the issue is that Schuh has not complied with the conditional use permit and he has not satisfied the terms.

There was discussion on green space and open space. Haroldson stated the Town's Zoning Code does not address green space, it addresses open space.

Siepmann stated that he thinks it's important that the final product matches the plan that the Plan Commission was given. Morris stated he could remove that gravel and basically start over in that area. Siepmann said he could put topsoil over the gravel.

Haroldson stated the conditional use was for land altering for the amount of land that he was moving, and for erosion control and storm water. He met the storm water permitting. Waukesha County went out there. His detention area still exists. Schuh said everything flows to the detention area, and it has the same flow as when he started.

Griffin stated the east side area and the area from the patio to the first row of arborvitaes that he showed the Plan Commissioners was going to be all green and now is solid gravel. This was to be all green just like the west side. Siepmann stated that they understand that he put the gravel down to get the job done, but it doesn't mean he can just leave it. Schuh said he didn't think it would make a difference and he had to put gravel in to do the work. He needed to get everything done, and as he was trying to do it, he thought it looked good and it was practical for things that change in life.

Jensen said none of the Plan Commissioners are really happy with what they see now. They anticipated they would see more green space because of the drawings, but these are not actual landscape plans. Siepmann said he thinks it's as simple as saying it has to be what the plans says. Siepmann stated he thinks it's a good enough plan, but Schuh is not compliant. Murn said the Plan Commission needs to decide whether they're comfortable with this or if they want changes. Siepmann said they approved what the plans show and he's not comfortable granting him permission to just keep covering with rock and gravel. Schuh stated that he thought gravel was a cover that could be used to stop any kind of erosion. Klink talked about the landscape plans and the ground cover for the non-driveway areas and stabilization for the non-driveway areas. Siepmann stated gravel is not the most stable. Haroldson said she would have to say the walls are stable. Griffin said the portion that the Plan Commission asked him to do, he did. It's the rest of it that the Plan Commission has an issue with. Haroldson asked Schuh if he could narrow down the gravel driveway, and all along he has said that he would have a gravel switchback. Siepmann stated the Plan Commission approved his plans reluctantly knowing that it was going to be a lot of coverage, but the Plan Commission didn't say that he could do anything straight down on the east side. Griffin said Schuh wrote that there would be 20' of grass on the east side going straight down.

Morris said he thinks the Plan Commission is going to have to have him fill in a good portion of this with topsoil over the gravel or remove it. Schuh said it would be almost impossible to remove it. Where would he take it to? Haroldson said he could put topsoil on top of the gravel. Schuh said he landscaped it to the backyard for flow and everything is set up for the flow to the low spot on the land, just like it was. Klink said it sounds to him like everyone is saying Schuh needs to put some more grass and not have so much gravel and at least come close to the plan that was given to the Plan Commission. Schuh said he could never have done as much as he did in such a short period of time without the gravel there. Klink said now that it's done, it needs to be restored closer to the plan that Schuh gave. Schuh said it would be harder to maintain. Siepmann said but it's not green, and it's not per the plan.

Murn said Schuh could revise this plan to find a middle ground that potentially the Plan Commission is comfortable with and he is comfortable with and then resubmit it and make it part of the conditional use permit. Haroldson agreed. Klink said Schuh heard the concerns of the board and there is way too much gravel. Schuh should amend the plan and bring it back to the Plan Commission knowing that some of that gravel is going to have to become green space – grass. Schuh said what he's trying to say is that he thinks everything is done. It's done. Morris said he doesn't think the Plan Commission agrees. Klink told Schuh the board is directing him to go back and give the Plan Commission a plan knowing full well that they want more green space and the east side that you had all grass should be grass. Bring that back to the Plan Commission so that the new and approved drawing can be tacked onto the conditional use permit. Klink told Schuh he needs to come somewhat close to the drawing he gave the board that was approved. Klink said Schuh should go back and draw up a plan that's more likely to be more pleasing with more grass space on it and bring it back so that it can be approved and attached to the conditional use.

Murn said if he was in front of any other municipality this would be a very simple conversation. These people here are empathetic and understanding and they are being very openminded to allow you to readjust your plan, bring it back, and have everybody approve and have it be a middle ground between what the board wants and what you would like. That's really rare. The Town is not being cruel. The Town is sticking legally to a plan that was all agreed to contractually. Klink told Schuh he was given direction, and please go back and do that.

Schuh asked if they have a percentage on the area the Plan Commission wants grass. Klink said go as close to the plan as you can. Schuh said that will be very hard to maintain. He's trying to make it so he can do this property with ease. Siepmann said the plan was something he designed; the Plan Commission didn't come up with this. Schuh said as he was doing it, he realized there was things that would be better. Murn asked him if he communicated that to Haroldson. Schuh said he did not. He did not think it would make a difference.

Haroldson clarified that the Plan Commission wants him to go back and look at where Schuh is going to increase the green space. Siepmann asked if they could get some photographs that aren't from grade level so they can get a broader view of it. It would be nice to have an actual depiction of what's there.

Schuh asked if there is a difference between if he would put mulch versus grass. Good said the original plan said grass, not mulch.

No action taken.

New Business:

Land Altering Conditional Use Permit – To Conduct Land Altering Activities on Approximately 104.5 Acres – Located at the SW Corner of Beaver Lake Road and CTH E Adjacent to Beaumont Lane (with 108,900 SF of Disturbance) to Construct a Pond – Requested by Mark Bell on Behalf of Beaumont Farm Legacy, LLC – Tax Key MRTT0393-999 – Attorney Murn reviewed the conditional use permit stating a lot of the conditions are patterned off the ordinances. The use must not negatively affect the water table, the water wells or the water quality. They have been issued a temporary driveway permit allowing access off of Beaver Lake Road. Griffin verified that the driveway permit is good until 30 days past completion of the project. They will have 30 days after the completion of the project to remove the driveway and restore the area. Bell shall report to the Town regarding the timeline to fill in the berm at the location of the temporary driveway. Bell will need to provide maps of where the excavated materials will be placed.

A motion to recommend approval of the land altering conditional use as drafted subject to staff approval of exhibits was made by Siepmann/Jensen. Motion carried.

Land Altering Conditional Use Permit – For Purposes of Grading, Dredging, Placement of Clean Fill, Topsoil Removal and Channel Improvement for North Lake Improvement – Work to be Done on the North Lake Sand and Gravel Property – Requested by Mark Theisen on Behalf of the North Lake Management District – Tax Key MRTT0324-991-002 – Chairman Klink stated Theisen had a chance to review the conditional use permit. Attorney Murn reviewed the conditional use permit. Haroldson questioned if the concerns about the pit being open after their work is done there was clarified and that the pit will not be closed immediately while the sediment dries out. Murn said she added that to section 7 of the conditional use. Written notice should be provided to the Town by permittee when the basin has been filled in. Theisen stated he is taking the gravel and using it as part of the berm and then it will go back when it's done.

A motion to recommend approval for the dredging project for the North Lake Management District spearheaded by Mark Theisen was made by Morris/Siepmann. Motion carried.

Certified Survey to Split Approximately 89 Acres – N95W32339 County Line Road – into 2 Parcels as Requested by Tina Stapelfeldt – Simply Luxury Homes LLC on Behalf of Karl Kaun – Tax Key MRTT0305-994 – Planner Haroldson stated the Plan Commission approved this conceptually when Stapelfeldt was here a month ago. There are two concerns that Haroldson has. The signature page lists William and Gail Fons, and that needs to be changed to Karl Kaun. The other item is Waukesha County does not review this CSM so that area needs to be eliminated.

A motion to recommend approval of the Certified Survey Map for the Kaun property with the changes the Planner recommended was made by Jensen/Queoff. Motion carried.

Planner Report/Update: Haroldson stated she has no planner update. There was talk about updating and tightening up some of the ordinances pertaining to green space and open space.

County Board Supervisor Update: Morris stated Oconomowoc River Conservancy District and Tall Pines is having a program for farmers and land owners on August 16th at the Oconomowoc Community Center

A motion to adjourn was made by Griffin/Morris. Motion carried. Meeting adjourned at 6:34 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk