

Town of Merton
Plan Commission Meeting
Minutes of October 19, 2022

- Meeting Called to Order by Chairman Klink at 5:30 p.m.
- Pledge of Allegiance led by Chairman Klink
- Minutes of the September 21, 2022 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 Queofff, and Good, Attorney Murn, Planner Haroldson, and Deputy Clerk Claas

Also Present: Amy Thomas, Bruce Gallagher, Christine Anello, Andy Gehl, and Attorney Troy Giles

Old Business: None

New Business:

Updated Parking Lot Lighting Plan – To be Included in the Existing Conditional Use Permit for the First Church of Christ Scientist – Requested by Amy Thomas on Behalf of First Church of Christ Scientist – W300N5563 County Road E – Tax Key MRTT0421-999-002 – Haroldson stated the conditional use permit showed low lighting all around the parking lot which they never did, and now they want to put two posts on the east side of the lot, one on the north side and one on the south side. It should not exceed the half candlepower because of the location. Also, the exhibit the Town has on file only shows 19 parking spaces and they have 26, so the conditional use permit needs updating. There will be two new lights in the parking lot and the light at the road will be replaced. The lights in the parking lot will have double lamps and the one at the road will have a single lamp.

A motion to approve was made by Morris/Siepmann. Motion carried.

Request to Amend the Existing Conditional Use Permit to Operate a Private Riding Arena and Boarding Stable – N86W31518 Kilbourne Road -as Requested by Bruce Gallagher on Behalf of Jeri Krause – Tax Key MRTT0321-997-009 – Haroldson stated Gallagher wants to continue with the conditional use that Krause has. Haroldson stated there is not a manure disposal plan on file and requested that Gallagher bring one forward. Haroldson asked for a site plan delineating the primary environmental corridor. She believes a field delineation was done previously. Gallagher was informed that the majority of this property is in shoreland jurisdiction and the plan of operation and conditional use permit would have to go to Waukesha County. Haroldson informed Gallagher that there is a 30' wide drainage easement across the property and it should be avoided if there is any manure spreading on site.

Gallagher stated that in the original conditional use it stated that four of the horses were the owners and six others could be family or friends. He is asking to waive that part of the conditional use permit and just have it say they can have ten horses. He asked to have no distinction on whether they're his horses or not.

A motion to recommend approval as proposed with changes requested known as exhibit A contingent upon Waukesha County was made by Siepmann/Queoff. Motion carried.

Certified Survey Map – To Combine 4 Parcels into Approximately 55 Acres and Split into 2 Parcels – N55W31185 County Road K – Requested by Dennis & Karen Rasmussen – Tax Keys MRTT0417-997-001 & MRTT0417-997 and CHQV0417-997-002 & CHQV0417-993 – Five or six years ago the Rasmussen's proposed the same thing, but because they didn't submit their certified survey map in time, it could not be recorded. The only difference is lot 1 went from 3 acres to 1.5 acres and the easement giving that property access is all on lot 2 now. All 55 acres were surveyed. Their son is looking to build on lot 1. A driveway easement is all prepared and written up by Attorney Langer.

A motion to recommend approval of the Rasmussen Certified Survey Map upon signatures was made by Jensen/Morris. Motion carried.

Certified Survey Map – To Combine 2 Legal Parcels of Record into One Lot with an Outlot – Requested by Paul & Christine Anello – N72W32245 Reddelien Road – Tax Keys MRTT0356-018 & MRTT0356-047 – Haroldson stated they are combining the larger parcel on the lake with the smaller outlot 1. It was reviewed by Waukesha County on 8/18/2022. The recommended changes by Waukesha County have been made on the certified survey map dated 9/21/2022.

A motion to recommend approval to combine two legal parcels into one lot was made by Morris/Jensen. Motion carried.

Town Board Referral to the Plan Commission – For Additional Information Relating to the Andrew Gehl, Gideon Farms, Request to Re-Zone Two (2) Parcels on the Corner of Hwy K and Hwy E – N56W30020 County Road K – Tax Keys MRTT0396-999-006 & MRTT0396-999-002 – Haroldson stated the Town didn't have enough information and Gehl is here for the Town to ask for more information. Some of the things Haroldson said the Town needs are a site plan, a plan of operation, what he's proposing to do on the entire parcel, and where the buildings are going to be.

Gehl stated for him to come up with a plan going forward, he would need to finish evaluating what's there. He said he can't evaluate what's there without getting certain building permits. Most important is the existing barn as he would like to save it. He would need to get in and evaluate the substructure and the electric within that barn. As soon as he starts digging holes around the barn, if he finds foundational issues, he would want to repair them right away. He wants to get permits before he even starts digging. He said he can't get a building permit under the current zoning code. The residence that is there pulled water from the residence that he tore down so he can't get water back to the residence that is there without a building permit.

Attorney Murn asked Gehl if he's talked to the Building Inspector. Gehl said no, the Building Inspector won't return his calls. Murn recommended that he start there to see if he can do any of the work. Gehl said if he can't fix what's there, then all of a sudden he will have a completely different plan. Murn asked to fix what's there, don't you have to know what you're going to do with it if it's substantial rather than just fixing what is? Are you changing direction for what you're going to do? Gehl said some of it is trying to get it up to code and said the water and the electric is completely not up to code and the insulation is not up to code.

Gehl stated when he went to the Planner to get a permit, she says he's public and this doesn't fall into public and he would need to rezone. Haroldson responded that she doesn't give Building Permits and

stated originally the plan was rather extensive, there were going to be all kinds of things that you wanted a B-3 Zoning. The Town got a request for a re-zone. That's all. Haroldson explained that the Town just can't do a blanket rezone without more information and stated that if he's looking to do some work on a non-conforming use there are a certain amount of things he can do, but he needs to tell the Town what he's going to do to the building. He has some rights because it's a non-conforming use, but he's limited to what he can do and the amount of value that he can do to it.

Gehl said his goal was to rezone to where it is for the next 12 to 18 months so he can get it in to the right spot. He said he can't build any building without coming back to this commission. He believes he's in a catch 22 because he bought a parcel that is zoned public, even though it was never used as public, and it's always been used as agricultural. Haroldson said the use was agricultural, but it was zoned as R-1. He doesn't know how to move forward and he hasn't been able to get a plan to move forward. He is requesting parcel 0396-999-006 to be rezoned to A-1. Haroldson stated the Town is not going to change the zoning until the Town has a complete plan of what it is that he is proposing to do. Haroldson suggested to the Plan Commission that they need to investigate what he can do now with the two buildings he has left on the property as it is zoned currently. Haroldson stated if he's just going to do the house, the Town needs to know what he's proposing to do to the house because it's a non-conforming use. He is only allowed up to 50% of improvements. Gehl said he knows where the 50% is, and he can't do anything. Gehl wants to save the barn.

Morris said he needs to meet with the Building Inspector and find out what he can and can't do and then he's going to have to make a decision and come up with a plan. Then he can come back with a plan and the Town can possibly rezone. The Town can't do anything until he has a definite plan.

Haroldson said the Town will investigate what other options he has to replace what's on the site. She stated she thinks, but she's not sure, that if he tore down and built on the same slab and the same square footage, you could do that. Gehl said he's trying to maintain the barn as it's a historical building, He would like to keep it and restore it. His plan for the 5 acres is to farm. He wants to tie the community back into farming, and he would like to put a restaurant in the old barn.

Murn said the Plan Commission understands that he wants to investigate and if he finds certain things he might want to go one way and if he finds other things he might go in a different direction. The restaurant is an idea. He needs to get whatever permits he needs to investigate in order to move forward. Gehl said he wants a fairly open-ended permit. Murn said there is no such thing as an open-ended permit. He said he would love to put a coffee shop and an ice cream shop on the corner. Haroldson said the Town needs a site plan on what he wants to do, and he needs to submit the site plan with what you want to do with an application. Murn said to submit the information and at any point anything is scrapped and he has to go in a different direction, he can always reapply for something else if there's an idea that shifts.

Jensen questioned if he would go in the direction of the restaurant and an ice cream shop, wouldn't that effect what the zoning would be and the Town really can't change the zoning without knowing if he's going that way. Haroldson said exactly. The Town would not change the zoning until it has the support on why it needs to change the zoning because the land use plan would also need to be changed. Gehl was instructed to call the Deputy Clerk to put it on the Building Inspector's Schedule for him to contact Gehl. Haroldson question if this was a re-zone or if he's just looking to see what he can do with the existing barn. Gehl said he wants to start with a re-zone because he needs permits that won't be allowed in the public zoning. Siepmann stated he would have to have a conditional use because Gehl is

talking about possibly a mixed use and he has non-conforming setbacks and offsets. Haroldson said he could start with a conditional use. Gehl said he would not put anything there if Arrowhead and Swallow Schools were opposed.

Gehl said he would resubmit exactly as is with additional information to re-zone. Haroldson said she thought he was concerned about doing research on the barn. Gehl said he's going to talk to the inspector for research on his barn on what he can do without a re-zone, but he still needs this committee's evaluation of his zoning on his future plan. Haroldson stated that the Town doesn't re-zone without a substantial plan. Gehl said the plan he has currently requires the zoning that he's requesting and he can submit that and he can get it re-zoned. Haroldson said not necessarily. It's a public hearing, no assumptions can be made, and it has to go through Waukesha County. Haroldson said the Town needs substantial information to take to the public, and it may be a conditional re-zone. Siepmann stated this would require a master plan amendment as well.

Gehl questioned how much detail does the Town need to take to the public. Klink said Gehl should look at the barn first and start there because that could change your whole plan entirely. If the barn is a no go, then you can't present that because it's no longer there. Start at the beginning and progress the way through. Those are the things the Town needs to know before a public hearing, because the public will ask, and the Town can't tell them if they don't know. Klink suggested that he start with the Building Inspector. The plan needs to be all inclusive before the Town can have a public hearing.

Gehl asked if he's unable to get the permits he needs to get where the Town's asking him to go, what does he do then. Klink said then he should be able to draft a plan knowing you can't get to that point, so then draft a plan. Gehl needs to know if he can fix up the barn before he can finish his plan. Gehl said if the Building Inspector says he can't give Gehl the permits he needs to fix up the barn, he could get the permits if he has the right zoning. Gehl said regardless of where he's at with the Building Inspector, he doesn't know where he is at with getting in front of the Plan Commission. Murn told Gehl that if he doesn't get anywhere with the Building Inspector, have his attorney set up a meeting with her and Haroldson to get this figured out. No action taken.

Planner Report – No planner update.

County Board Supervisor Update – Morris said County is into the budget right now and he's on the finance committee this time around. It appears that the mill rate is going to go down. The tax rate will go up 1.75%. The big capital thing of next year is Phase 1 of the courthouse remodel.

Griffin stated on the Bell property off of Beaver Lake Road, at the end of Irene Lane where it meets Beaver Lake Road, there were a lot of garbage trees that Bell had cleaned up, but in doing that it exposed a bank there and Griffin is working with them on filling that bank. The culvert will be extended there. Right now there's a berm blocking part of that and they are looking at putting a culvert through that berm.

A motion to adjourn was made by Morris/Good. Motion carried. Meeting adjourned at 6:31 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk