

Town of Merton  
Joint Public Hearing with Waukesha County  
Jon Spheeris on Behalf of James & Gerald Grothey  
To Permit a Residential Planned Unit Development

- Public Hearing was Called to Order by Chairman Klink at 5:58 p.m.

Present: Chairman Klink, Supervisor Olson, Plan Commissioners Griffin, Fleming, Morris, Siepmann and Jensen, Attorney Chapman, Planner Haroldson, and Deputy Clerk Claas

Absent: Commissioner Good

Also Present: Rebekah Leto, Pat Leverence, Laura Briggs, Karl & Lisa Holt, Kathleen Burke, Larry Stover, Jon Spheeris Rob Davy, Alex Spheeris, Cindy & Ryan Eastman, Paul Wieseuegel, Jeff Luellwitz, Bill & Sandy Friedrichs, Al Schmitz, Dawn Adams, Shirley Jacques, Mike Pardee, Sue VanVleet, Bruce Hawkins, David Barnett, Mike Androwich, Paul Raab, Peter Drescher, Mary Hobert, Scott Plummer, Suzanne Bong, Cathy Liebert, Jim Liebert, Derek Deubel, Rick & Liz Boelter, Fred Storm, and Dennis Foley

Chairman Klink explained the process for the public hearing and Leto read the public hearing notice.

Leto stated the subject property is approximately 17 ½ acres and is located north and east of Beaver Lake. The property has split jurisdiction between the Town and Waukesha County and both have it zoned as R-1 Residential which requires a one acre lot size minimum. Twelve lots are being proposed as part of a residential PUD with lesser lots and larger areas of open space. The proposal does meet the Land Use Plan density requirements and the R-1 density requirements. Forty percent open space is required which is demonstrated by two large outlots. Wetland delineation has been completed. The primary environmental corridor delineation has not yet been completed, but will likely be required. The development will need to meet all County storm water requirements and all NR151 storm water requirements of the State Statutes and approval from Waukesha County Environmental Health Division for any well and septic that is to be used on the property. Leto stated that this meeting is only for density requirements that this development is proposing. The storm water management, environmental health and all other aspects are addressed on the preliminary and final plat.

John Spheeris stated this parcel is a sensitive piece of land and that's why they met with the neighbors on July 10<sup>th</sup> to show them how they intend to develop the parcel. They also met with Friends of Beaver Lake to address their concerns. This would be a high end development with a coastal theme with a white pergola and gazebo. They're planning on giving the properties a low key, but upper end development with high deed restrictions with a minimum of 2,600 sq. ft. for a ranch and 3,000 sq. ft. for a two story. They know that storm water is a major issue. Spheeris received an email from Dave Schilling of SEWRPC regarding primary environmental corridor and isolated natural areas on the property. The lots will be .6 and .7 acres and will be serviced by well and septic. A retention area will be designed in the southeast and the southwest corners.

Roby Davy – Lake Country Engineering – said there are basically two drainage areas running through the site. One leaves the site through the wetlands on the southwest and one leaves the site on the southeast where the pond is. On the southwest side there is 11.9 acres draining through the site and they're only developing 5.8 acres on site. On the southeast side they are going to have about 8.5 acres

of development draining through it, but there is also 35.6 acres from offsite that runs through this property. Davy reviewed his proposed design storms and the existing storms to the southwest and to the southeast. (For more details on Rob Davy's engineering comments, see the attached report "Preserve at Beaver Lake Preliminary Storm Water Management Report" dated October 3, 2018. A copy of this report can be viewed at the Town Hall.) Davy said they still have to do soil borings on site and they still need to do some research. A lot of the water is coming from offsite. They're going to try to help out and reduce the storm water down to measurably less than what they need to. The current County ordinance says that they can't release any more storm water than what is going there now. They had the soil borings done today, but Davy has not had time to review them yet. He will be meeting with Leife from the County to go over some of County's other concerns. Some of the concerns were the volume of water that's going to be leaving the site. They are going to try to infiltrate the extra volume of water that they're creating on site and he's going to meet with Leife to try to determine how to do that. When they reduce the flow rates, it going to probably increase the time the water is flowing, so he will work with Leife on that as well.

Leto read an email/letter dated 11/1/2018 from Rick & Cindy Eastman of W305N6186 Beaver View Road. The following three points they want the committee to consider:

1. Grothey property is a critical factor in the quality of Beaver Lake. They state that it has a very low coefficient of drainage, with a very high groundwater level. A retention pond with not protect Beaver Lake in the spring when the ground is frozen and there is a snow, thaw, or rain event and they are requesting that the storm water permitting process require a plan from the developer which provides a cushion of safety for runoff.
2. Friends of Beaver Lake and impacted residents would be best served if Waukesha County Parks and Land Use were to require a \$50,000 escrow to insure that the agreed upon storm water management plan is effective.
3. They ask that the regulators, particularly at Merton, would lean away from being so cozy and accommodating with developers.

Chapman asked Davy if there would be rain gardens on each lot. Davy said no, it would be on the southwest corner right next to the wetlands. Spheeris stated that in the deed restrictions it would state no phosphorus fertilizer is to be used on any lawns.

Morris stated that outlot 1 is almost 4 acres and questioned the volume of that storm water structure that is in there. Davy said the actual wet pond will be 4' to 5' deep. The minimum DNR requirement is 3'. Davy likes to create them a little larger so that they have 2' of sediment storage which means they could get 1 ½' of sediment and fill that in before they would have to clean out the bottom. Spheeris stated he asked Davy to over engineer the plan also, because they are aware of how sensitive the area is. Davy stated both the County and the DNR ordinance does not make them accommodate offsite flow, but they are in this case because it is a sensitive area.

Chapman questioned who would own the outlots. Spheeris stated the owners with undivided interest.

Jensen questioned how he designed the pond at the low end of the property and what would happen if they hit ground water before the designed depth. Davy stated they do not know if they will hit ground

water, and he has not looked at the soil borings. If the ground water is higher than that, they will raise the pond up to the level possible so they are not in the ground water. Jensen said with all the rain this year, some of those drainage ponds were full of water the entire time. She questioned if there is another rain event of top of that, is it possible that pond would overflow? Davy stated back in 2008/2009 there was back to back 500 year storms and everything flooded and unfortunately, they don't design for back to back 500 year storm event. So yes, it's possible. If there are two rains close enough together, the pond doesn't have proper time to drain down properly. There are some assumptions made in the hydraulic modeling that are accepted practices throughout the state.

Chapman questioned if in the deed restrictions it would address storm water maintenance including sediment removal. Davy responded that would all be in the maintenance agreement that the County and the DNR make them have before they get their permit.

Klink questioned if there would be screening or fencing around the pond with the fountain in the middle. Spheeris stated there would be landscaping around it. Davy stated that they have to be careful with planting trees. Planting trees on the berm is not allowed.

Chairman Klink opened the meeting for public comments and concerns.

Jeff Luellwitz – N62W30625 Beaver View Road – stated he thinks this should be postponed until they know exactly how deep they can dig this pond because there is a lot of information that is going to be used in the future that is simply now known right now. He questioned why the pond is going to be wet. All it's going to do is create a frog heaven if it's wet and then the neighbors have to listen to frogs every night. He questioned what the Town is going to do regarding the runoff from these roads. Are there going to be ditches? Where is the water from the roads going to go? He doesn't see any way for the water cascading off the roads to end up in any possible storm sewer system from the created roads. The road at the bottom of the subdivision does not currently have a ditch and he talked to the Town numerous times about creating a ditch. Right now the water flows off the property over two or three lots directly into the lake and it stops because the road goes up on an angle and has nowhere to go but into the lake and he thinks that the Town should be responsible for putting in an adequate ditch to be able to take this water that's going to cascade over this pond when it freezes in the winter and keep it off of their lake.

Mike Pardee – W307N6412 Shore Acres Road – questioned the R-1 zoning with one acre lots. Leto said they are proposing a Planned Unit Development which allows for more areas of open space to be clustered together instead of open space being on individual large lots. The lots are smaller and the open space is contiguous. He thinks from a planning standpoint this development would really stick out like a sore thumb. Everything else around there is like one acre, two acre lots and then this is .6 or .7 acre lots kind of all squished in there changes the whole complexion of the neighborhood. He questioned what the penalty is for people who use fertilizer with phosphorus as most people do. Who would police that and how would you even know? He questioned the spring runoff when the ground is frozen. He asked Davy how he takes this into account specifically when everything is frozen and everything is rushing into the lake. Klink responded that storm water management goes through the

County and everything has to be taken into consideration when they're doing their plan. Klink explained that Davy is not here to answer those questions, because the public hearing is to speak on the Planned Unit Development phase. Klink stated that one of the advantages to a Planned Unit Development down in this particular area is that you have a lot of open space where water can be diverted to help it percolate into the ground rather than run down towards the lake as it presently does. Pardee questioned specifically when everything is frozen, is that going to do any good? Leto stated that is all worked out with engineering and Leife, and they will be meeting in the near future to work that out. Leto said he is welcome to check in with the Land Resources Division over the course of the next few months to see where they're at with storm water.

Larry Stover – W309N6319 Cindy Lane – said he is President of Friends of Beaver Lake Incorporated which is an organization with the purpose to protect the lake. He said they appreciate the effort that is going into the design, but there is a “what if” perhaps down the road and they hope that whatever the final plan is, it addresses the issues that are brought up and there is a good solution in place for all the “what ifs” for if something goes wrong down the road whatever that might be. They request that some financial provision be put in place as a legal instrument of some sort of a substantial amount that would allow a remedy to be put in place for a “what if” case.

Kathleen Burke – N64W31151 Beaver Lake Road – asked for a clarification. She understands that it's 12 lots at this point as opposed to the 19 lots that might be allowed. She asked if there was any plan for additional lots at some point. Leto clarified that with density requirements they would be allowed up to 19 lots.

Derek Deubel – W308N6184 Shore Acres Road – asked if everything goes forward as planned or scheduled and approvals are met, what is the timeframe for the development and the building process? Leto stated this is the start of a conditional use process. The next step would be for it to go to the County Park Plan Commission in December of this year assuming there's a meeting. Then Mr. Spheeris will design a preliminary plat and once submitted has a 90 day review period. Then changes are made and he would resubmit a final plat which has a 60 day review period. It takes a few months. Deubel asked if building homes could conceivably happen in summer. Leto answered perhaps.

Frederick Boelter – N62W30649 Beaver View Road – said he is trying to conceive what is now grasslands being converted to 12 homes with hard scape and concrete. He experienced the runoff now and he doesn't understand how the engineering could possibly capture adequately to keep it neutral to what it is today when you add that much hard scape. Boelter asked for them to describe how homeowners are assured by the State, the DNR, the County, that these things are being adequately addressed. Klink stated when storm water management is put in place; obviously it's going to be reviewed. The Town and the County are well aware of the sensitivity of this area and the ordinance says you can't have any more water running off the premise right now than there is already. Davy stated that basic storm water design is this is basically grassland. They have a runoff coefficient of 60. Impervious surface runoff coefficient is 98. Davy explained over the years the County has come up with on a ¾ acre lot the average in the county is x number of square feet of impervious surface. They use those numbers to calculate how much impervious surface is going to be there at 98 and they know how much grass is going to be left at 60 and

they come up with a curve number in between there. The curve number tells them how much is going to run off the ground. That all runs through a pond that has a certain amount of dead space in it. Right now it's just running through a ditch and across the road. The basin is going to have an outlet structure with multiple different sized openings on it. The first one is a two inch opening to handle the smaller storm events. As the pond raises up, they're going to have maybe a six inch opening. As the pond raises up more, it will be through a weir and through a culvert and then if there is a catastrophic event, they will have an emergency overflow so they will know where it's coming out. The water isn't just leaving the site, it's getting detained in a pond with multiple different outlets on it. For a frozen flood, if we get one inch rain on frozen ground, it may act like a 10 year storm event, so you may see that 10 year volume come up, but the outlet structure will still hold the water back in the winter when everything is frozen and it will slow the water down unless we get the rain like we had last February.

Peter Drescher – N62W30475 Beaumont Drive – said we're talking about the runoff which could add water to the lake. His question is regarding the 12 wells being dug and being constructed. How does it affect the Beaver Lake or the surrounding lake water levels. Is that something that's going to be addressed? Leto answered that would be addressed through the Environmental Health Division, but that is primarily through the State. Leto offered him contact information for the Environmental Health Division.

Cathy Liebert – N57W30560 Stevens Road – asked Spheeris if there would be a homeowner's association so that if the pond does get plugged years down the road, that it would be addressed. Spheeris answered yes it's all part of the development and storm water maintenance. She also asked Spheeris the square footage restrictions for the subdivision. He stated 2,600 sq. ft. for a ranch and 3,000 sq. ft. for a two story.

Al Schmitz – N62W30595 Beaver View Road – had concerns about the road coming off of Beaver Lake Road. He thought there was some earlier discussions about that road needing to be widened or the entrance way would need to be widened. Is that part of this? Klink stated that one of the conditions that the Town has been talking about when doing that development, is that we need to have the road 66' right-of-way so we can address some of those issues all the way down to the entrance. It should make the hill and everything safer for people coming up and down and for the buses.

David Barnett – 5918 N Hwy 83 – said from 1979 to 1999 he lived on Beaver View Road and at the time he was planning on remodeling and he was required to get soil boring tests done on the property. The soil boring tests came back and condemned his septic system and he was forced to put in a holding tank. He would like to address this issue. That property is adjacent to this parcel and he thinks it's a serious potential problem. He asked Mr. Spheeris if he was prepared to put in a sewer system. Klink stated the County would not allow something that would not function properly. Barnett asked if they would have access to the perc tests. Leto said absolutely. They will submit them to the Environmental Health Division at Waukesha County and that is part of open records. Leto said from a subdivision standpoint, if a lot doesn't perc for some type of system, it can't be created. It is her understanding for newly created lots, that holding tanks aren't permitted. Barnett said to Spheeris that aesthetically, the subdivision doesn't fit.

Fred Storm – N57W30866 Lakewood Drive – said he is a resident on the south shore of Beaver Lake. He would like to make a recommendation this should be given some consideration that once these sites have been developed, that the seller or the developer should make a determination whether that particular site can support an on-site sewage disposal system or if it requires a mound or a holding tank. He thinks that should be revealed before anyone buys any of those lots. Klink and Leto both said it would be.

James Liebert – N57W30560 Stevens Road – said his concern has to do with impervious surface. He questioned under what circumstances could the residents or the developer add more impervious surfaces to this property. He understands that County controls the square footage of impervious surfaces and only so much can be built on a particular lot. Would the County control that? Klink stated they've already cut down the number of lots that they could have down to 12, so they've already controlled some of that. Liebert stated he's talking about the future. He's asking if the developer can come in and add more impervious surfaces at some time in the future. Haroldson stated that each individual lot owner would need to get approval from the Building Inspector and at that point he would review what's going on with that property. There is shoreland jurisdiction so all but probably three lots would need to get a Zoning Permit from Waukesha County. There is a review process. In the covenants and restrictions it's going to limit anything from being built in the outlots. Leto asked Spheeris if he thought about placing impervious limitations within the restrictions for each lot. Spheeris said he hadn't thought about it. It is something to consider.

Michelle Schmitz – N62W30595 Beaver View Road – asked where the outlets would be coming out. They live directly across from that and there is a 12" culvert that goes into the lake and is under water most of the time in the spring. Klink said until it's designed, they really don't know at this time. Klink stated when they are close to finalizing their storm water plan, it will be available.

Spheeris stated that he wanted everyone aware that there is already an existing problem with the storm water that is coming down on the property. As the engineer said, they are taking 36 acres of additional land and condensing it so that they won't have the problems that occur now. They will at least be minimizing what they've got. He stated he has seen that the Friends of Beaver Lake have talked to another firm as far as trying to alleviate some of the drainage problems and Spheeris said he knows for a fact that what he is proposing is ten times better than what they are proposing. As for the pond, they thought a wet pond would be more aesthetically pleasing and it will probably attract frogs, but it won't attract mosquitos. They want to work with everybody and hopefully will be improving the water shed problem that exists on the property.

Klink closed the public hearing at 6:56 p.m.

Respectfully submitted,

Holly R Claas  
Deputy Clerk