

Town of Merton
Plan Commission Meeting
Minutes of August 16, 2023

- Meeting Called to Order by Chairman Klink at 5:54 p.m.
- Pledge of Allegiance led by Chairman Klink
- Minutes of the July 5, 2023 Public Hearing & Plan Commission Meeting. A motion to approve the minutes was made by Siepmann/Morris. Motion carried.

Present: Chairman Klink, Commissioners Griffin, Jensen, Morris, Siepmann, Queoff & Good, Attorney Van Kleunen, Planner Haroldson, Ben Greenberg of Waukesha County Parks & Land Use, and Deputy Clerk Claas

Also Present: Jackie & Steve Payne, Donna Hann, Rick & Cindy Eastman, Joe Barke, Jill & Andy Gehl, Brian Randall, and Mariah & Joe Chwala

Old Business: None

New Business:

Conditional Use Permit Request to Operate a Gift Shop/Farm Stand in an Existing Accessory Building and to Use a Kitchen in an Existing Barn to Prepare Maple Syrup and Other Products for Sale and to use the Barn for Limited Special Events -- Requested by Steve & Jackie Payne – N67W32764 County Road K – Tax Key MRTT 0367-994-002 – Klink indicated that part of the Town’s conditions would be that they comply with County’s conditions. Attorney Van Kleunen said the Town could draft conditions and send them to County for review and comments, and the County would draft their conditions. Klink stated the drafts would come back to the Plan Commission for review and make a recommendation to the Town Board. Greenberg stated it might be of some value in the near future to have some type of informal discussion to maybe go over the items in a less formal setting.

Haroldson stated that there are a couple of things they could get going on like submitting their Building Permit for the gazebo building to the Building Inspector. Greenberg stated Jackie applied for a Zoning Permit. He believes all the permits required by the County for the use and the structures have been submitted. Klink said they would be applying for an after-the-fact Building Permit. Greenberg questioned if the Building Inspector would require a Building Permit for the poly structure. The County would not issue a permit because it’s in Town Zoning, but the Conditional Use Permit would apply across the board. Greenberg stated there would be a PSE (preliminary site evaluation) requirement and there might be a requirement for restaurant licensing. Greenberg said the preliminary site evaluation would be understanding if this is being considered a commercial use by the Building Inspector because then a different consideration applies in terms on how to evaluate that County will have the Dept. of Public Works review it again. They didn’t seem concerned with the two to three cars a day that Jackie indicated, but they are concerned about sight line distances and the approach if things got more intense throughout a single day. Greenberg also thinks that a separate septic system would be required if it is considered to be a commercial use. Morris stated with the testimony that they’ve given; he doesn’t see a real indication this is going to be commercial. Greenberg said that is what we’re trying to identify. It wasn’t clear, because they did host an event. Morris questioned the evaporating of the maple syrup. Steve said the evaporating is done outside of the barn. They tried it under the barn, but there was too much steam in the building.

Haroldson stated one of the thoughts or concerns is that when you have 30 or 40 people, whether they're family or not, it's an event and she thinks they are looking to help them have the opportunity to have four or five events a year and not necessarily label it family events. She also thinks over time they will need to apply with the Town Board for these special events which other people do if they have music or anything else. Steve said none of the events are in the evening. Klink said basically if they have something else other than family events, they would need to come back before the Town or the County. Family events are permitted, so part of the conditional use permit will have special family events, and 30-day notice is preferable for special events.

Jensen clarified that one of the conditions that would be required is that the chickens need to be contained. Jackie said she was going to get one of those electric fences and that would contain them. Siepmann questioned if that needs to be a condition if it's already in the ordinance. Attorney Van Kleunen said it would be a general requirement that there's compliance with all Town ordinances. Steve said he was planning on putting a 6' wire fence up and questioned if that's high enough for a chicken fence and if they move the chicken coop way to the back, do they still need to contain the chickens. Klink said to keep the chickens contained as it is a safety issue and Haroldson stated, the ordinance says the chickens need to be penned or enclosed.

Griffin said they need to obtain all the permits for the kitchen and for the bathroom. There is some question as to whether that actually was permitted because that is a pretty elaborate kitchen. Jackie said it was cheaper than a regular one, and all the plumbing was all approved with the zoning. Griffin said the three-compartment sink would probably need a grease trap. Attorney Van Kleunen said if the Town says get all the building permits, the Town will want to make sure the Plan Commission is all okay with all the structures existing. Haroldson said on their site plan, it shows six accessory structures. Steve said behind the barn about 200' away they have a large greenhouse for growing vegetables, they have a 10' x 10' where there used to be a building, the garage, and the chicken coop. Haroldson said they would have to come back to the Plan Commission for approval for more than two accessory buildings. Haroldson told Steve the 10' x 20' temporary garage is considered an outbuilding.

Haroldson asked Jackie if at one point in time they were thinking about having public events in the barn because on their Facebook page, it showed they were advertising it for the public. Jackie said they had a wedding there, but that was enough. Steve said they played music until 11 at night and that's not their lifestyle. The Payne's said they're not going to rent it out, and Steve said there would be no public or private events, other than family.

Griffin asked if they will be allowed to continue doing what they're doing until their compliant or cease until they become compliant. Jackie said they've already ceased. Griffin questioned their selling. Attorney Van Kleunen said he would leave it up to the Plan Commission. Probably getting permits, getting an understanding of how the property will operate, perhaps limiting large family events, and if the Commission is okay with limiting them to minimum sale of products be acceptable in the meantime. The general observation would be to make sure it's not getting out of hand. Jackie said they are not using the octagon barn at all for anything. Attorney Van Kleunen said this is to mend the gap and get everyone on the same page. This would be an extension of the Town to work with them with the hopes that they would get everything done as has been requested. Jackie questioned if they could still sell their eggs and their produce. Klink answered yes, for now, with the understanding that they are going to start to comply and take care of the conditions. Haroldson asked if they could limit their hours. Jackie said they put down to dusk, and it's all self-serve, so they can just come in and buy their eggs and leave the money in the box.

Greenberg stated that a farm stand is a permitted use, so we know they have eggs, we know they have chickens, we know they have syrup, we know they have maple trees. Those things are clearly raised on the farm. When we get into reconditioning cast iron, that got this into the gift shop use. Some of the other items they have sold, the novelty items, that stuff needs this approval but as long as they're not using a building for a farm stand, he doesn't see any issues with a traditional farm stand. Steve questioned the verbiage of the gift shop. Greenberg said a farm stand is for farm raised products and the cast iron products don't fit in with a farm stand use. Griffin asked if one of the conditions be that it's just their stuff and not outside stuff their selling; what they're raising and producing. Attorney Van Kleunen responded with what is produced directly on the property.

Greenberg said it's an ordained requirement of the limited family business conditional use they would need to seek from the County for the barn is that it's non-transferable. They're may be some opportunity to keep it within the family, but those conditional uses are intentionally set to sunset when that user in no longer the owner or occupant of the property.

Klink stated they will draft conditions and then the conditions would be brought back to the Plan Commission for review and then it would go on to the Town Board. Klink said the Town would let them know when the conditions are ready. No action was taken.

Request for Increased Height for an Accessory Building from 18 ft to 24 ft in Height per 17.21(e) – Subject to the Approval of the Plan Commission – Requested by Joe Barke – W326N9422 Peradell Court – Tax Key MRTT 0306-999-013 – Haroldson stated the owner has adjusted the offset to 27' to match the increase requirement to take his accessory building to a 25' height. Haroldson said he did what he was supposed to do, he meets all of the requirements, and he meets the floor area ratio for his property.

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

Presentation/Discussion on the Gehl Development Proposal on 40 Acres – Hwy K & Hwy E – N56W30020 Hwy K – Requested by Andy Gehl – Tax Keys MRTT 0396-999-006 & MRTT 0396-999-002 – Gehl stated there are now officially two parcels; one 32 acres and one 8 acres and they are currently zoned P-1 and the request is to change the larger parcel to A-1 and the smaller parcel to B-3. His intention is to utilize the property as a farm to fork wellness community education space. They are trying to establish a sustainable connection between food and source, create a learning environment surrounding farming, healthy eating, and wellness, and eliminate some of the barriers that go along with providing locally sourced food, and encourage entrepreneurial growth and opportunities within the local food economy. There are business entities that may be involved – farm greenhouses, micro-dairy, butcher shop. These are suggestions that have come up both internally and externally through the community to him – the bakery, the farm outlet store, coffee shop, custard shop, sandwich shop. There's been a request for a higher end restaurant and barn utilizing farm to fork ingredients, entrepreneurial food space, as well as community meeting space, and the potential for outdoor activity retailer. They have discussed having living opportunities on site, specifically for them, because they have cattle there.

Gehl referenced the design for the 8-acre parcel. This is a long-term project for them that they would build out over an 8-to-10-year period. Their expectation is to start with a café or coffee shop. Assuming the coffee shop goes well, they would slowly build out. The purpose for asking for the B-3 is because the B-3 encompasses a micro-dairy. It allows them to do farm to fork and bring in processed raw milk. One thing that's happened is the loss of opportunities for school children to come and see food and food

manufacturing. The requirements now for bringing any type of non-employee into a dairy are extremely stringent. Having the grade school and the high school nearby drives the desire to get the micro-dairy in and utilize the output from the micro-dairy on site whenever possible. On the design they show future greenhouses and the main barn, with the barn designed to be turned into a restaurant long term. There is still a lot of questions about how that barn will turn into a restaurant and a lot of engineering type issues that go into that. Gehl said none of this is possible without getting the zoning done. B-3 concept is inclusive of the whole 40 acres, meaning the purpose of the B-3, the purpose of the restaurant, the purpose of the farm to fork doesn't exist without the farm. Even though there would be two different zones, they work hand in hand with each other. Haroldson questioned if a structural report was done on the barn to find out if it is able to be renovated. Gehl said the barn remains intact and structurally sound. In order to turn it into any space where you could bring people into it, brings it into a whole different set of code. The strategy for doing that is it needs to have an entirely new foundation, so essentially it would end up building a new barn either inside or outside of the existing barn. To bring people in, it needs to have insulated walls. The barn would need an inside wall and an outside wall to insulate.

Haroldson questioned if the café on the site plan would be the coffee shop. Gehl indicated it would. Haroldson asked if he could put the café and ice cream shop together. Gehl said two different companies would run the shops, the hours would be significantly different and the targeted market would be very different. It is their intent to use a singular restroom space between the two.

Jensen clarified if there was a path connecting the subdivision so kids can ride their bikes to the ice cream shop. Gehl said that would be the intent. He said he's had a lot of contact with the HOA for Four Winds West and they have given him feedback on the drawings as well as residents in Four Winds West and the little 4 or 5 house subdivision to the south.

Klink asked if he had conversations with Waukesha County Highway and if they have designated where an entrance and an exit can or can't go. Gehl said the entrances that are shown on the map are per the County. The one off of Highway K has already been staked out and there's a good chance that will be dug in a couple of weeks. The one to the east entrance will take another year or so. He's had a number of discussions with County already as far as location and ingress/egress. Gehl said that there's no way to get from the northeast corner via car and exit out the south. They did not want it to become a shortcut. The County had very specific requirements with location, as well as width and flow, and turn lanes.

Haroldson asked Gehl if he would consider any mixed-use opportunity with some living quarters and some working quarters. Gehl said absolutely, the person who would like to run the ice cream shop has expressed interest in having a place upstairs for their manager. Haroldson questioned if beyond the shops, would he consider other opportunities like condos or something. Gehl said in the future retail space, that is probably the least defined of anything on his drawing, that would be the place to put potential condos.

Jensen clarified that he's interested in some sort of education component with kids and asked if he has thought of partnering in the future with kids at Arrowhead for classes and activities at the farm. Gehl indicated he has met with both the former Swallow School Superintendent and has met with Arrowhead. He is trying to find an educator who would be willing to say, yes.

Klink said this is a nice proposal, but some things will need to be addressed. They would probably require a traffic study because obviously that intersection is very busy. For sewer and water, Klink thinks

a conventional sewer and water system would be doable for all of the working parts that he has. That would be an issue coming down the line from the Town and probably the County. Klink wants him to take a look at those concerns and how he would address them. Gehl said he was able to find experts with regards to septic and water, for everything that is on this site. The tipping point comes back to fire suppression and water pressure, specifically as it relates to the barn and the size of the barn, and having enough water pressure. Gehl said there are a number of similar type setups in the Madison area where they have been able to make these work without city sewer and water.

Klink said as far as rezoning the parcels, there has been discussions on this, and stated Gehl could do what he wants to do with a conditional use permit without rezoning. Haroldson said the Town's P-1 allows pretty much everything. Gehl questioned why they would not rezone. Klink said the Plan Commission would look at what surrounds the property and what the zoning is around it. If a property is going to be rezoned, it needs to be in line with what's already there. The Town needs to look at zoning not just from his proposal, but look at the whole picture and what makes sense to zone it for the future.

Haroldson asked about Gehl's timeline. Gehl said he doesn't want to build something the community doesn't want there, so part of the value of going through the rezone is having the public meeting. Haroldson said if he had a five-year plan, what would he build first. Gehl said the coffee shop would get built in year one and the ice cream shop would follow second. The lawn is key to the entire layout of the property. The entire layout is such that when someone is standing on the lawn, that they are sheltered from the road and can sit and enjoy the farm environment. The barn would be third and would be a 2-to-3-year project, so he would be in year 5 by the time the barn would be done. His personal goal is to get the micro-dairy running, but that is also a 2-to-3-year project and will require a USDA Certification. The micro-dairy would be the single building on the site that he would manage himself. The future retail is last. Haroldson said that there is extensive parking. Gehl said there are four different parking lots, and he would phase in parking as it's needed and as the uses are added. Good questioned the name of the site. Gehl said it is currently owned as Gideon Farms and they are hoping to name the coffee shop Sarabelle's.

Morris stated if he was looking for a quiet, surreal, ag environment, he picked the worst intersection in Town of Merton, and questioned if he knew how many cars go through there in a day. Gehl responded yes, the County gave the numbers to him. He stated it's a catch 22. How do you get people who aren't used to a farm, don't know what a farm is, don't know how to interact with a farm; you end up putting a farm in the city.

Gehl questioned what the next steps are for him. Klink stated work with the Planner. The Town wants to know what he wants to do and the progression. Klink believes the traffic study will be mandatory for the Town, and it would be mandatory for the County. Klink said the Town needs to know if whatever he puts on the site can handle the traffic flow and the traffic. Morris said part of the problem is County has already designated areas for him to put driveways in, and Morris questioned what a traffic study would do when he already has County approved driveway entrances. Griffin asked if they are forcing turn lanes and decel lanes.

Klink stated Gehl needed a traffic study, a breakdown of the current site as far as the phasing, the paving, the progression of things for year one, year two, year three, year four, and year five, and the interior traffic flow of the parking lot. Klink informed Gehl there are some things he has to do to get the ball rolling and as he gets rolling, he should keep the Planner informed. Klink said the sewer is another thing the Town needs to look at. No action taken.

Discussion on the Consideration of Adding a Recreational Chicken Use Ordinance to the Zoning Code –
Haroldson stated the current ordinance states that 3 acres are needed to have chickens and they have to be penned or enclosed. The County allows chickens on 1 acre and she wants the Plan Commissioners to think about a recreational chicken ordinance to allow chickens on one-acre parcels. Klink said if the Town allows it on one acre, a coop is considered an outbuilding and they would have to comply with the ordinance. Haroldson said chicken coops have increased offsets of 50'. Most of the Town's half-acre lots are in shoreland jurisdiction and they have a 1-acre requirement in order to have chickens. Initially they would have to get a permit, and then renew it every year. Free range chickens would not be allowed. No action taken.

Planner Report/Update

Klink stated at the last Town Board Meeting they talked about how they could distribute AARP Funds in the parks that are always in need of monies. There are some parameters that they would have to work with to qualify for the funds, but it would give them an opportunity to do some things that they haven't had the money to do.

Griffin stated the DPW received a \$1.8 million grant for the Stone Bank Bridge.

County Board Supervisor Update: Morris stated he had a Park & Planning meeting on Thursday.

A motion to adjourn was made by Morris/Griffin. Motion carried. Meeting adjourned at 7:00 p.m.

Respectfully submitted,

Holly R Claas
Deputy Clerk