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To: Carol Dimitroff, Chair, Plan Commission

From: Peter K. Wilson Jr.

Date: October 18, 2023

Re: Special uses and Goats

At the Village Board meeting on October 17, 2023 we discussed the concept of special uses and whether it might apply to the directive to the Plan Commission to consider whether the keeping of goats should be a permitted use in the Village and, if so, under what conditions.

As a side note, typically a resident would petition the Board for a zoning change, such as permitting the keeping of goats, and the matter would then be referred to the Plan Commission for processing with the petitioner paying the costs. It is my understanding that, in this situation, there is not petitioner and the requested consideration has come from the Village Board.

In our discussion you inquired as to whether the keeping of goats could be classified as a special use. The short answer to that question is yes. Uses in any zoning district are (i) permitted uses, (ii) permitted as a special use, or (iii) prohibited. When permitted the use is considered as a “matter of right.” A special use generally allows for certain land uses in a given zoning district that generally require a more in-depth study and additional site design or use restrictions than uses permitted “by right”. The Wayne zoning code addresses special uses in §10-4-7 as follows:

10-4-7: SPECIAL USES:

A. Purpose: The development and execution of this title is based upon the division of the village into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring lands and upon public need for the particular use of the particular location. Such special uses fall into five (5) categories: (Ord. 89-13, 5-16-1989; amd. Ord. 97-19, 6-3-1997)

1. Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest; except that any modifications to an existing wireless tower or

base station that do not substantially change the physical dimensions of such tower or base station shall be approved without a special use, and may not be denied. (Ord. 12-13, 7-17-2012)

2. Uses entirely private in character, but of such a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

3. Planned developments meeting the objectives and requirements defined in chapter 11 of this title.

4. Commercial equestrian and commercial stables meeting the requirements defined in section [10-12-1](#) of this title. (Ord. 89-13, 5-16-1989)

5. Private equestrian facilities meeting the requirements defined in section [10-12-2](#) of this title. (Ord. 97-19, 6-3-1997)

B. Authority: Special uses shall be authorized or denied by the village board in accordance with the statutes of the state applicable to amendments of this title, and the regulations and conditions set forth in this title for special uses.

No application for a special use shall be acted upon by the village board until after a public hearing has been held by the plan commission, after due notice by publication as provided by the applicable statutes of the state for amendments, and the findings and recommendations of the plan commission have been reported to the village board.

C. Initiation: An application for a special use may be made by any person or by any office, department, board, bureau or commission, requesting or intending to request a zoning certificate.

D. Processing: An application for a special use, in such form and accompanied by such information as shall be established from time to time by the plan commission, shall be filed with the village clerk and thereafter processed in the manner prescribed heretofore for applications and amendments. The village clerk shall also forward a copy of every application for a special use within a historic district to the historic sites commission for review and recommendation to the plan commission and to the village board.

E. Decisions: The village board, upon report and recommendation of the plan commission without further hearing, may authorize or deny an application for a special use in accordance with the statutes of the state applicable to amendments or may refer it back to the plan commission further consideration.

No special use shall be authorized by the village board unless the special use meets the following criteria, where applicable, for the proposed special use:

1. Is deemed necessary for the public convenience at that location;
2. Is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
3. Would not cause substantial injury to the value of other property in the neighborhood in which it is located;

4. Satisfies the standards and conditions required elsewhere in this title applicable to the proposed special use. (Ord. 89-13, 5-16-1989)

5. For property located in a historic preservation district set forth in subsection [9-3-4B](#) of this code, is compatible with and promotes the purposes of title 9, chapter 3, "Historic Preservation Districts", of this code. (Ord. 05-30, 9-6-2005)

F. Conditions: The plan commission may recommend, and the village board provide, such conditions and restrictions upon the construction, location and operation of a special use, including, but not limited to, provisions for off street parking or loading as may be deemed necessary to promote the general objectives of this title and to minimize injury to the value of the property in the neighborhood. (Ord. 89-13, 5-16-1989)

When addressing the keeping of chickens the Board provided for a new section, being §10-7-5, for a permitted accessory use in the residential zoning classifications. You might consider the same for goats by adding a new section 10-7-6. Whether done as a new permitted use, or as a special use, you would normally include the restrictions or conditions for keeping them. In my short research it appears that there are a number of standard conditions, including a minimum of two goats as being appropriate, and often a restriction on the type of goat that can be kept. You could also consider a maximum number based on lot size. Below is a sample of what the section could look like:

10-7-6: GOATS AS A PERMITTED ACCESSORY USE:

Permitted Accessory Uses: The keeping of miniature goats is a permitted accessory use on a residential lot of _____ thousand (____000) square feet or more in Residential Zoning Districts W-1 through W-5 consistent with the following requirements:

- (A) Miniature goats are those goats commonly known as Pygmy, Dwarf, and Miniature Goats.
- (B) All miniature goats shall be dehorned.
- (C) Male miniature goats shall be neutered.
- (D) No more than, and no less than, two miniature goats shall be kept on the premises, except that offspring may be kept onsite for up to twelve weeks from birth.
- (E) Miniature goats shall be housed in a shed designed to be:
 - (i) Predator proof;
 - (ii) Thoroughly ventilated;
 - (iii) Easily accessed and cleaned;
 - (iv) Watertight and draft free;
 - (v) A minimum of ten square feet of interior space; and
 - (vi) Located outside of all required setbacks as established by the Village Code.

(F) Direct access from the shed to an outdoor enclosure shall be provided with the outdoor enclosure designed to be:

- (i) Secured with a minimum five-foot tall fence;
- (ii) A minimum area of 400 square feet;
- (iii) Secured from the outside in a manner that prevents the miniature goats from escaping;
- (iv) Free of objects that would enable the goats to climb out of the enclosure; and
- (v) Easily accessed and cleaned.

(G) Goat's milk, goat's cheese, and other goat-related food products shall be for personal consumption only; sale of such products is prohibited.

(H) Property owners shall remove and properly dispose of droppings from goats as needed to prevent accumulation, to avoid a health or sanitation problem, or the breeding of flies.