

**TOWN OF GENESEE PLAN COMMISSION MEETING MINUTES
OCTOBER 25th, 2023**

Present were Chairman Leair and Plan Commission members Engelking, Lightfoot, and Toole. Absent was Plan Commission members Turzynski and Christiansen and Town Board Supervisor Ross. Also in attendance was Administrator/Planner Herrmann and Deputy Clerk Workman. The meeting was called to order at 6:00 p.m.

1. **Discussion/Action- Rezone for property owned by FAM 828 LLC from A-2 Rural Home District to A-3 Suburban Estate District. The property is described as Outlot 5, Fields Crossing Subdivision, being a part of the SE ¼ of Section 34, T6N, R18E, Town of Genesee. More specifically, the property is located on the southwest corner of STH 83 and Fields Crossing Drive. (GNT 1576-021)** Planner Herrmann clarified that on the Plat there are two statements that talk about Outlot 5. He states that under the outlot statement number 3 which indicates that Outlots 4, 5, and 12 shall be owned by the developer and may be combined with abutting lands or reconfigured as buildable lots in the future. The difference between A-2 and A-3 is the offset from the property line. A-3 allows a twenty (20) foot offset. The uses permitted are the same. Engelking stated there are a couple things he looks at when considering rezoning. They are; does it meet the land use plan, Is it spot zoning, does the proposed use fit within said area. Based on those, Engelking believes it qualifies for a rezone. Engelking made a motion to recommend approval to the Town Board subject to the conditions in Planner Herrmann's Memo dated October 16th, 2023. The motion was seconded by Lightfoot. The motion was approved 4-0.

**TOWN OF GENESEE PLAN COMMISSION AND TOWN BOARD
PLANNER'S REPORT & RECOMMENDATION**

ZONING MAP AMENDMENT

PROJECT NAME: FAM 828 LLC

TAX KEY NUMBER: GNT 1576.021

DATE: October 16, 2023

NAME OF OWNER: FAM 828 LLC

S62 W30960 Road X

Mukwonago, WI 53149

LOCATION OF PROPERTY:

Outlot 5 Fields Crossing, being a part of the SE ¼ of Section 34, T6N, R18E, in the Town of Oconomowoc. More specifically, the property is located on the southwest corner of STH 83 and Fields Crossing Drive, containing approximately 2.57 acres.

PRESENT ZONING:

A-2 Rural Home District.

PROPOSED ZONING:

A-3 Suburban Estate District.

PRESENT LAND USE:

Vacant.

PROPOSED LAND USE:

Single-Family Residential Development.

PUBLIC HEARING DATE:

September 25, 2023

COMPLIANCE WITH THE TOWN OF GENESEE LAND USE PLAN - 2035:

The Town of Genesee Land Use Plan - 2035 designates this area in the Suburban II Density Residential category allowing development of 3.0 to 4.9 acres per dwelling unit. The Field's Crossing Development resulted in one (1) dwelling unit per 4.35 acres. Adding one (1) additional lot for a total of 18 lots on 74.08 acres, results in one (1) dwelling unit per 4.11 acres, therefore an additional dwelling unit complies with the overall density of the Town of Genesee Land Use Plan - 2035.

OTHER CONSIDERATIONS:

The subject property is known as Outlot 5, Fields Crossing subdivision in the Town of Genesee. A little history of this subdivision is when Fields Crossing was platted in 2007-2008, the Town of Genesee obtained a Letter of Credit and a Developer's Agreement from the Developer to complete the improvements (roads, ditches, etc.) within the subdivision. Shortly after the Final Plat was approved by the Town, County, and State of Wisconsin, and the first lot was sold, the developer went out of business and the bank took over the development. Then the Bank went out of business and the Town was strapped with finishing the development or hoping someone would step up and take over the development. FAM 828, acquired the development from the bank and finished the final lift on the roads and sold the remaining 16 of 17 lots. Outlot 5, the subject of this rezone, was originally a 4.627-acre lot within the development. When the State of Wisconsin re-constructed STH 83, they decided to fix the intersection of Highway 83 and CTH X. The State acquired additional land in order to put in a roundabout. This round about resulted in the final plat for Fields Crossing being modified because the entrance into the subdivision needed to be moved farther south per the State of Wisconsin. When the entrance was moved, Outlot 5 became an unbuildable lot, since it was only 2.58 acres and needed to be three (3) acres in order to comply with the local zoning. However, a note (Note 4) was placed on the Final Plat stating the following: The future assembly of Outlot 5 and unplatted lands to the south as a buildable lot shall comply with all requirements of the Town of Genesee Land Division and Development Ordinance and Chapter 236 of Wis. State Stats. said future buildable lot shall be subject to the recorded Declaration of Restrictions for Fields Crossing. Therefore, it was the intent of the Fields Crossing Subdivision that Outlot 5 may be developed in the future as a three (3) acre lot.

Since the petitioner is unable to acquire land from the neighbor to the south, the petitioner has applied to rezone the property from A-2 Rural Home District (3-acre minimum lot size) to A-3 Suburban Estate District (2-acre minimum lot size). The existing lot is 2.58 acres in size and will comply with the minimum lot size of 2.0 acres. This will allow the Outlot to be developed with a single-family residential home, provided all other development and zoning requirements are complied with. The overall density of Fields Crossing will go from 4.35 acres per dwelling unit to 4.11 acres per dwelling unit and will still comply with the overall density of 3.0 to 4.9 acres per dwelling unit. It should be noted that several lots in close vicinity to this subdivision are less than the 3-acres. The subdivision developments across STH 83 vary in size from 1.0 acres to 2.8 acres. Two (2) of the subdivisions (Genesee Preserve and Aces Court) were platted less than 4 years ago, with most lot sizes between 1.0 acres and 2.8 acres in size.

Several neighbors and landowners in the area spoke against the zoning amendment. Many of the issues noted were about who owned the Outlots. Many neighbors assumed they owned Outlot 5 as a fractional ownership as some of the Outlots are a fractional ownership of all lot owners within the Fields Crossing Subdivision.

Unfortunately, Outlot 5 has always been owned by the developer. Neighbors also indicated that when they bought their lots, they were told that the Outlots could not be built on, even though the plat is quite clear that Outlot 5 could be a buildable lot if it acquired additional lands. Lastly, a neighbor indicated that the lot should meet the 3-acre minimum to be built on.

PLANNER'S RECOMMENDATION:

It is the opinion of the Town Planner that the Town Plan Commission recommend to the Town Board to **approve** this request subject to the following conditions:

1. Outlot 5 shall never be further divided absent the express written approval of the Town Board of the Town of Genesee. No new lots or outlots shall be created absent the express written approval of the Town Board of the Town of Genesee. No lot line or outlot line shall be adjusted or reconfigured in any way absent the express written approval of the Town Board of the Town of Genesee or unless otherwise expressly authorized by law.
2. Soil borings shall be conducted on Outlot 5 to ensure a suitable area is available for an on-site septic system approved by Waukesha County Environmental Health Division.
3. The owner of Outlot 5 shall have an undivided fractional ownership in all of the Outlots in Fields Crossing Subdivision, same as the other lot owners within the Fields Crossing Subdivision.
4. The proposed development of Outlot 5 shall comply with all requirements of the Declaration of Restrictions for Fields Crossing Subdivision.

Respectfully submitted,

Jeffrey C. Herrmann

Administrator-Planner

2. **Discussion/Action- Rezone for property owned by Crown Development & Advisors LLC from the B-2 Local Business District to B-3 General Business District. The property is described as Lot 2 CSM 9640, being a part of the NW ¼ of Section 27, T6N, R18E, Town of Genesee. More specifically, the property is located at the end of Commercial Drive on the south side of the road. The property is located between STH 59 and Commercial Drive. (GNT 1546-982-011)** Planner Herrmann states there are no conditions on this zoning change because there are adjacent lots zoned B-3 with no conditions. This will come back to Plan Commission for a Plan of Operation. Engelking stated there are a couple things he looks at when considering rezoning. They are; does it meet the land use plan, Is it spot zoning, does the proposed use fit within said area. Based on those, Engelking believes it qualifies for a rezone. Engelking made a motion to recommend approval to the Town Board based on Planner Herrman's report dated October 16th, 2023. The motion was seconded by Toole. The motion was approved 4-0.

TOWN OF GENESEE PLAN COMMISSION AND TOWN BOARD PLANNER'S REPORT & RECOMMENDATION

ZONING MAP AMENDMENT

PROJECT NAME: Crown Development & Advisors, LLC

TAX KEY NUMBER: GNT 1546.982.011

DATE: October 16, 2023

NAME OF OWNER: Crown Development & Advisors, LLC

PO Box 33

Brookfield, WI 53008

NAME OF PETITIONER: Ryan Bendler

100 N. Oakridge Drive

North Prairie, WI 53153

LOCATION OF PROPERTY:

Lot 2 Certified Survey Map No. 9640, being a part of the NW ¼ of Section 27, T6N, R18E, in the Town of Genesee. More specifically, the property is located at the end of Commercial Drive on the South side of the road, containing approximately 2.78 acres.

PRESENT ZONING:

B-2 Local Business District.

PROPOSED ZONING:

B-3 General Business District.

PRESENT LAND USE:

Vacant.

PROPOSED LAND USE:

Automotive Sales and Service Repair.

PUBLIC HEARING DATE:

September 25, 2023

COMPLIANCE WITH THE TOWN OF GENESEE LAND USE PLAN - 2035:

The Town of Genesee Land Use Plan - 2035 designates this area in the Commercial category. The proposed use complies with the Town of Genesee Land Use Plan - 2023. Waukesha County Development Plan, also has the property located in the Commercial & Office Park Category.

OTHER CONSIDERATIONS:

The parcel of land contains approximately 2.78 acre of land and has about 204 feet of frontage on Commercial Drive. The property is currently vacant and is located in the Genesee Depot business area. The petitioner is proposing to rezone the 2.78 acres from B-2 Local Business District to B-3 General Business District under the Town of Genesee Zoning Code. The purpose of the rezone is to allow the parcel to be developed into an Automotive Sales and Repair business as a permitted use rather than as a conditional use and to allow limited car/auto sales, which is not allowed under the B-2. The main operation is auto (diesel) repair and service with the sales of approximately ten (10) cars/trucks per year. The Current B-2 Local Business District. It is important to note that a new auto repair business was approve for the property across the street and the adjacent property to the west is currently zoned B-3 General Business District. The proposed development will need to comply with all erosion control and stormwater management requirements. No wetlands or environmental corridors are

located on the subject property. The property will be served by a private on-site waste disposal system and a private well.

No one spoke against the proposed zoning change, however one resident was concerned about the noise.

PLANNER'S RECOMMENDATION:

It is the opinion of the Town Planner that the Town Plan Commission recommend to the Town Board to **approve** this request as proposed. The adjacent property is currently zoned B-3 General Business District and a similar type of business is located across Commercial Drive. The proposed use is in compliance with the Town of Genesee Comprehensive Land Use Plan – 2035. In addition, the proposed zoning amendment continues to promote the health, safety, morals, comfort, prosperity and general welfare of the Town. It complies with the purpose and intent of the zoning code which is promote the general character of the district and its peculiar suitability for particular uses, and encouraging the most appropriate use of land throughout the Town.

Respectfully submitted,

Jeffrey C. Herrmann

Administrator-Planner

3. **Discussion/Action- Site Plan/Plan of Operation Amendment for Knuth Cement and Masonry. The property is described as being Lot 2 CSM 5170 being a part of the SW ¼ of Section 14, T6N R18E, Town of Genesee. More specifically, the property is located at W297S3507 Boettcher Rd. (GNT 1495-997-003)** Brittany Knuth present for Knuth Cement and Masonry. Planner Herrmann reported that this will be an identical building as the current one being used for cold storage/rental for storage. Engelking made a motion to approve the Site Plan /Plan of Operation Amendment for Knuth Cement and Masonry subject to Planner Herrmann's report dated October 11th, 2023. The motion was seconded by Lightfoot. The motion was approved 4-0

TOWN OF GENESEE PLAN COMMISSION

PLANNER'S REPORT & RECOMMENDATION

SITE PLAN/PLAN OF OPERATION

NAME: Knuth Cement & Masonry

DATE: **October 11, 2023**

TAX KEY NO.: GNT 1495.997.003

OWNER: Knuth Masonry LLC

S44 W32719 Rhapsody Lane
Waukesha, WI 53189-9445

LOCATION OF PROPERTY: Lot 2 Certified Survey Map No. 5170, being a part of the SW ¼ of Section 14, T6N, R17E, in the Town of Genesee, Waukesha County, Wisconsin. More specifically, the property is located at W297 S3507 Boettcher Road.

ZONING CLASSIFICATION: M-1 Limited Industrial District.

PROPOSED REQUEST:

The property encompasses approximately 2.0 acres and contains a 60 ft. x 64 ft. pole building with 16-foot side walls and an overall height of approximately 27 feet. The building is constructed with premium pro-rib metal side walls in a brite red color and white trim. The roof is constructed with premium pro-rib metal in a lite gray color. The front elevation (facing east) contains two (2), sixteen (16) foot overhead doors and two (2) service doors. The rear elevation contains one (1), fourteen (14) foot overhead door. The side elevations contain no doors or windows. The interior space is divided into two (2) separate storage spaces. The owner uses half of the building for storage of his own masonry equipment, while the other half of the building is utilized by a separate tenant for storage purposes only.

The owner is now proposing to construct another 60 ft. x 64 ft. pole building next to the existing building. This building will be an exact replica of the existing building with the same colors. Therefore, the buildings will match. This building will be rented as two (2) separate rentals the north half and the south half. Rental is for interior storage purposes only and no offices or bathrooms will be provided. There will be no employees at this location. No landscaping, lighting, or parking plans have been provided. No outside storage is being proposed at this time.

PLANNER'S RECOMMENDATIONS:

Based on the information provided, the Town Planner recommends **approval** of this request subject to the following conditions:

1. All previously imposed conditions by the Town of Genesee for the construction of the original 60 ft. x 64 ft. building and operations shall be adhered to and complied with, unless specifically modified by the Town Plan Commission.
2. The new building shall be used for storage only. Any other use shall require the owner or applicant to apply for a new Site Plan/Plan of Operation to be reviewed and approved by the Town of Genesee Plan Commission.
3. No outside storage shall be allowed unless specifically approved by the Town of Genesee Plan Commission.
4. The Fire Chief shall review the building plans to ensure that all fire codes are being complied with and that a Knox Box has been installed in conformance with the Town of Genesee Knox Box Ordinance.
5. The Town of Genesee Building Inspector shall inspect the entire building to determine compliance with all applicable building codes. All compliance violations shall be corrected to the Building Inspector's satisfaction.
6. Documentation shall be submitted to the Town Planner that all required local, county, state and federal licenses and permits have been obtained.
7. Absolutely no disposal of hazardous materials on site. All waste (hazardous or otherwise) shall be disposed of properly.
8. Any proposed exterior lighting shall include a detailed lighting plan, including cut sheets, showing location and number of lights. Said Plan shall be submitted to the Town Planner for review and approval prior to installation of the exterior lights.
9. Documentation shall be submitted to the Town Planner that the Land Resources Division of Waukesha County has approved a Stormwater Management Plan and an Erosion Control Plan for the proposed use (if applicable).
10. The Town reserves the right to review any condition imposed as part of this Plan of Operation, if said use becomes a problem in the area. The Town Plan Commission may modify, change, delete, add, etc. any conditions, which they feel may be reasonable in order to allow this use, and to ensure that it does not become detrimental to the surrounding area.
11. Subject to the property being in compliance with all Federal, State, County and local laws, ordinances, codes, rules and regulations.
12. An up-to-date Plan of Operation must be on file at all times with the Town of Genesee Plan Commission.

13. The applicant shall allow the premises to be available for inspection by the Town of Genesee officials at any reasonable time and upon reasonable notice.
14. All activities on the subject property herein may not in any way become a nuisance by reason of appearance, noise, dust, smoke, illumination, odor or any other similar factor.
15. Professional fees. Applicant shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this Plan of Operation, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
16. Payment of Charges. Any unpaid bills owed to the Town by the subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the subject property if not paid within thirty (30) days of the billing by the Town, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of the conditional approval.

Respectfully submitted,

Jeffrey Herrmann, AICP

Administrator-Planner

4. **Discussion/Action- on an accessory building in excess of 1,600 square feet for Chris and Terese Byhre. The property is described as being a part of the SW ¼ and NW ¼ of Section 5. More specifically, the property is located at S17W32597 Mickle Rd. (GNT 1459-990-001)** Chris Byhre present for his accessory building request. Planner Herrmann stated that this building will be 2,800 square feet on 50 acres. Engelking made a motion to approve an accessory building in excess of 1,600 square feet with the condition that a deed restriction that there will be no commercial use from the building filed with the county. The motion was seconded by Toole. The motion was approved 4-0.
5. **Discussion/Action - Approval of the September 25th, 2023 Joint Town Board and Plan Commission Public Hearing Minutes and approval of the September 25th, 2023 Plan Commission Meeting Minutes.** Lightfoot made a motion to approved both sets of minutes. The motion was seconded by Engelking. The motion was approved 4-0.
6. **Update on Pending Enforcement Matters** Bruce Fleischman's property has been a matter of discussion. Planner Herrmann presented an ariel photo of said property and the storage of materials out front of the property. Mr. Fleischman does have approval to store behind building. Engelking states that a letter should be sent with a deadline for clean-up.
7. **Correspondence** None
8. **Adjourn** Engelking made a motion to adjourn. The motion was seconded by Toole. The motion was approved 4-0. The meeting was adjourned at 6:16 p.m.

Rachel Workman

Deputy Clerk

November 1, 2023

Notice - It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by

any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Please note that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact the Town Office at 968-3656.