

TOWN OF GENESEE PLAN COMMISSION MEETING

MAY 29, 2019

Chairman Leair called the meeting to order at 6:01 p.m.

Present were: Plan Commissioner Brett Engelking, Jeff Lightfoot, Mike Toole, Bob Christiansen and Joe Turzynski. Town Board Supervisor Charlie Ross. Also present: Planner Jeff Herrmann, Deputy Clerk Cindy Zignego.

NOTICE IS HEREBY GIVEN that a Public Hearing will be conducted by the Town of Genesee Plan Commission on Wednesday, May 29th, 2019, beginning at 6:00 p.m. at the Town of Genesee Town Hall, S43 W31391 Hwy 83, Genesee Depot, Wisconsin, to consider the Conditional Use request of John D. Yatzeck, S51 W 30791 Walnut Street, Mukwonago, Wisconsin for a Legal Non-Conforming Use per Section 40 (B)(23) Legal Nonconforming Uses of the Town of Genesee Zoning Code to allow two (2) residences on one (1) parcel of land. The property is described as part of the SW ¼ of Section 28, T6N, R18E, in the Town of Genesee, Waukesha County, Wisconsin. More specifically, the property is located on the north side of C.T.H. ZZ at S54 W31500-02 S.T.H. 59, containing approximately 95.10 acres of land.

Herrmann showed map of Yatzeck property and the 5-acre piece that has the two residences.

Jim and John Yatzeck approached the table. Their intention is to sell the 5 acres. Leair inquired about their plans for the other 90 acres. Yatzeck is considering options such as a park or future development. Herrmann discussed limited road access and suggested Yatzeck talk to Waukesha County. Leair would like a plan for future development. Herrmann mentioned that future development could be restricted due to limited road access.

Leair opened the floor for discussion at 6:09 p.m. There were no comments.

Discussion was brought back to table at 6:10 p.m. Engelking and Lightfoot said the Plan Commission could bring it back to the June 24, 2019 meeting for Discussion/Action. Leair asked if there were any other comments. John Datka of Genesee Aggregate and Robert Hanosh, S55W32075 Hwy ZZ, North Prairie, approached the map for further explanation from Herrmann.

Leair closed the hearing at 6:18 p.m.

Discussion/Action – Annual Report for Waukesha County Gravel Pit & Yard Waste Composting Operation, W339S1742 CTH C, Dousman, WI. (Tax Key GNT 1463-998)

Jim Rose from Waukesha County and Randy Johnson from Johnson Sand and Gravel were present to discuss the Annual Report for Waukesha County Gravel Pit and Yard Waste Composting Operation. There was a discussion about how much material is left to mine and if they will be able to meet the deadline next year. Johnson replied everything is on schedule and there is a significant drop in material remaining due to usage for Waukesha bypass. Rose commented that the Reclamation Plan will also be completed as planned.

Engelking made a motion to file the report, seconded by Ross. Motion carried unanimously.

Discussion/Action – Certified Survey Map for Wolf Paving Co., Inc., C/O LW Real Estate Holdings, LLC, P.O. Box 1818, Janesville, Wisconsin 53547. The property is located in the SW ¼ of Section 5 and part of the NW ¼, SW ¼, NE ¼, and SE ¼ of Section 6, in the Town of Genesee, Waukesha County, Wisconsin and at W329 S1757 Jones Road, W329 S1755 Jones Road, and S22 W33666 Morris Road. (Tax Keys GNT 1458-997-002, 1462-987-001, 1461-996, 1463-999, and 1464-999)

Jacob Mrugacz of Wolf Paving and attorney Kathy Gutenkunst talked about changing the CSM and removing Lot 3. Lot 3 will have a separate CSM. Wolf is working with Waukesha County to resolve conflict of issues.

Engelking made a motion to approve recommendation to Town Board on June 10, 2019 at 6:00 p.m. based on the Planner's Report dated May 20, 2019. Lightfoot seconded the motion. Motion carried unanimously.

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

PROJECT NAME: Wolf Construction Co. Inc.

TAX KEY NO.: GNT 1458.997.002
GNT 1461.996
GNT 1462.987.001
GNT 1463.999
GNT 1464.999

DATE: May 20, 2019

OWNERS: LW Real Estate Holdings, LLC
612 N. Sawyer Road
Oconomowoc, WI 53066

Wolf Construction Co. Inc.
612 N. Sawyer Road
Oconomowoc, WI 53066

LOCATION: The property is located in the SW ¼ of Section 5 and part of the NW ¼, SW ¼, NE ¼, and SE ¼ of Section 6, in the Town of Genesee, Waukesha County, Wisconsin and at W329 S1757 Jones Road, W329 S1755 Jones Road, and S22 W33666 Morris Road.

TOWN ZONING: M-2 General Industrial District.
EC Environmental Corridor District.
A-5 Mini-Farm District.
C-1 Conservancy District.

SHORELAND ZONING: M-2 General Industrial District.
A-5 Mini-Farm District.
HG High Groundwater District.
C-1 Conservancy District.
EC Environmental Corridor District.

LOT SIZE: Approximately 439.31 acres.

REQUESTED USES: A Four (4) Lot Certified Survey Map (CSM).

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

The Town of Genesee Comprehensive Land Use Plan – 2035 designates the northern portion of this property in the Industrial category, which does not give a minimum density requirement. The middle portion of the property is designated as Extractive and the southern portion of the property, which includes the Wales Creek, is designated as Primary Environmental Corridor. There is a small portion of the property near Morris Road designated as 5-Acre Density. The proposed parcels comply with the intent of the Town of Genesee Comprehensive Land Use Plan – 2035.

STAFF ANALYSIS:

The property, known as Wolf Construction Company, is located in the northwest quadrant of the Town of Genesee

and on the south side of USH 18, west of Jones Road. The Wolf business has been operating in this location for over 30 years. In 2009, the Town of Genesee Plan Commission approved a Conditional Use request of Wolf Paving, Inc. to update the existing Conditional Use Permit for the quarry operation located on five (5) properties and to allow several amendments, including two (2) new asphalt storage tanks, an asphalt testing laboratory, recycling of salvaged asphalt shingles, removal of aggregate from below the water level using dredging equipment, and a future relocation of the office to the subject site. Subsequent to that approval, the Town of Genesee also approved a Conditional Use amendment so Badger Materials could recycle construction debris and used tires. The Town of Genesee Plan Commission and Town Board voted unanimously to approve the request subject to review and approval of conditions drafted by the Town Planner.

The property has recently been sold to Rock Road Companies, but is still being operated as Wolf Construction Company. The new owners are proposing to reconfigure five (5) Lots into four (4) Lots with the intention of selling proposed Lot 3 to a potential buyer. Lot 1 will contain approximately 59.10 acres and is proposed for the storage of concrete pipe and other concrete products with the long-range plan to construct a 150,000 to 200,000 square foot concrete pipe batch plant. Lot 1 will have access to Wolf Road. Lot 2 will consist of about 43.34 acres and contains the existing cellular tower and the scale house and scale. Lot 2 has 618 feet of frontage on Jones Road and approximately 2,800 lineal feet of frontage on the Glacial Drumlin Trail. Lot 3 consists of approximately 245.11 acres and contains the Wolf Construction Company equipment, including the asphalt batch plant, two (2) asphalt storage tanks, the recycling of salvaged asphalt shingles, quarrying activities, and the recycling of construction debris and used tires. Lot 3 has access via Jones Road and Morris Road. Lot 4 consists of about 91.53 acres of land and contains an existing residence that is in the process of being razed. Lot 4 has about 1,325 feet of frontage on Morris Road.

Jones Drive (Also referred to as Jones Road) is considered a public road as it was accepted in 1976; however, the right-of-way was never dedicated at that time. In 1977, the Town of Genesee established a 25 mph speed limit on Jones Drive from its intersection with Highway 18 southerly and westerly to its termination. In 1975, the Town of Genesee and Lawrence & Lucille Wolf entered into an agreement, whereby both parties entered into an agreement that Jones Drive was a Town Road, but Wolf Construction would take over responsibility for the maintenance and repair of said

Jones Drive, extending from its intersection of STH 18 to the point where it dead ends so long as the Wolf Construction Company carries on its gravel mining operation of said premises and has a permit therefore. A portion of Jones Drive will be dedicated to the Town of Genesee for Public Road purposes. However, the westerly portion of Jones Drive has yet to be determined. If Jones Drive is a Town Road, Wolf Construction and the Town of Genesee Town Board should determine to what extent it is a Public Road and what improvements are necessary (if any).

The Town of Genesee is in the process of working with the developer and Waukesha County on a revised Reclamation Plan. Since this property is regulated by NR 135 of the Wisconsin Administrative Code, sound planning principles would indicate that a CSM should not be approved unless it is consistent with an approved Reclamation Plan. However, if an acceptable Reclamation Plan is submitted to the Town of Genesee Town Planner, the CSM, if approved, could be signed prior to the Town Board approving the final Reclamation Plan.

This submittal is a Certified Survey Map, which gives the Town Plan Commission 75 days and the Town Board 90 days to take action. The Certified Survey Map was filed with the Town of Genesee on May 15, 2019, giving the Town Plan Commission until July 29, 2019 and the Town Board until August 13, 2019, to take action, unless the developer grants an extension in writing.

In performing a detailed review of the CSM dated May 15, 2019, I have found the following items must be added to the map or waived by the Town of Genesee Plan Commission and Town Board in order to comply with the Town's Land Division Ordinance:

- Section 375-8 (C) The Wisconsin Department of Transportation (DOT) shall review and comment on the proposed CSM. Any requirements imposed by the DOT shall be complied with prior to the Town signing the final CSM.
- Section 375-8 (J) The CSM shall comply with all requirements of the Waukesha County Construction Site Erosion Control and Stormwater Management Ordinance.
- Section 375-9 (A) Additional right of way shall be provided for Morris Road so it complies with the 66-foot requirement.
- Section 375-10 Before final approval of any land division (CSM) or development located within the jurisdictional limits of this chapter, the Town of Genesee and the owner of the property shall update the agreement for the maintenance of the west portion of Jones Road. The exact length of road and maintenance requirements shall be included in the agreement. Jones Road is considered a public road for a certain length and shall be noted on the CSM. The Town may require the owner to install all improvements to the west portion of Jones Road as hereinafter provided, including updates to Jones Road and construction of the new road, subject to the following exception: if the developer chooses to provide a letter of credit as a financial guarantee for the installation of the public improvements on a form approved by the Town Attorney and in an amount approved by the Town Engineer, the final CSM may be approved prior to installation of the improvements. The owner shall, before commencing with any improvements, enter into a developer's agreement with the Town of Genesee agreeing to install the required improvements and shall file with said agreement cash or a letter of credit meeting the approval of the Town Attorney in an amount equal to the estimated construction cost of the improvements plus 20% of said cost and the fees, said estimate to be made by the Town of Genesee Engineer, as a guarantee that such improvements will be completed by the owner or its subcontractors not later than the date or dates provided in the developer's agreement and as a further guarantee that all obligations for work on the development are satisfied.
- Section 375-12 This section was waived by the Town Plan Commission.
- Section 375-22 (F) Entire area contiguous to the proposed CSM owned or controlled by the subdivider and/or owner shall be included on the CSM even though only a portion of said area is proposed for immediate development. The Plan Commission may waive this requirement where it is unnecessary to fulfill the purposes and intent of this chapter and severe hardship would result from strict application thereof.
- Section 375-23 (U) Surveyor's Certificate signed, dated and sealed, and revision dates on all sheets.
- Section 375-29 (E) All Utility and/or Drainage Easements shall be shown on the final CSM.
- Section 375-44 Duplicate CSM to be Filed: An identical reproducible copy (on stable drafting film at least 4 mils thick) along with the recording data shall be placed on file with the Town Clerk.
- Section 375-45 The Town Clerk or his/her designee shall place upon a copy of the map on each lot shown on said map the correct legal house numbers assigned to that lot in conformity with the grid system in effect in Waukesha County and any local ordinances, at the expense of the developer.

- Section 375-46 The developer upon approval of the Town Engineer shall state on the identical reproducible copy of the final certified survey map the culvert sizes for each lot for future driveways (if applicable).
- Section 375-48 (A) Since Morris Road is classified as a Collector Street, a planting strip at least 30 feet in depth shall be provided adjacent to Morris Road. This strip shall be a part of the CSM lot, but shall have the following restriction lettered on the face of the CSM: "This strip reserved for the planting of trees and shrubs, the building of structures hereon is prohibited." In addition, a note shall be added to the final CSM indicating that truck traffic from Lots 2 and 3 onto Morris Road shall be prohibited unless specifically approved by the Town of Genesee Town Board.
- Section 375-52 (E) Depth to width Ratio shall not exceed 2.5 to 1 ratio. The Town Plan Commission approved a waiver for this requirement.

PLANNER'S RECOMMENDATION:

Based on the above information, the Town Planner recommends that the Town Plan Commission recommend to the Town Board to **approve** the CSM subject to the aforementioned conditions being satisfied prior to Town signing the final CSM and subject to the following:

1. Subject to the Owner satisfying all comments, conditions and concerns of the Town Engineer, the Town Planner and all reviewing, objecting and approving bodies, including but not limited to the Wisconsin State Statute's per Chapter 236; Comm. 85, Wisconsin Administrative Code; Waukesha County Department of Parks and Land Use and the Village of Wales in regard to the CSM, prior to the Town signing the final CSM.
2. The Village of Wales shall review, approve and sign the CSM prior to the Town of Genesee signing the final CSM. All conditions imposed by the Village of Wales shall be incorporated herein.
3. Waukesha County shall review, approve and sign the CSM prior to the Town of Genesee signing the final CSM. All conditions imposed by Waukesha County shall be incorporated herein.
4. The exact location of Jones Drive shall be determined by the Town Board and Wolf Construction. Once the location of the road has been determined, an amended agreement between Wolf Construction and the Town of Genesee over responsibility for the maintenance and repair of said Jones Drive, unless Wolf Construction decides to dedicate Jones Drive to the Town of Genesee and bring said road up to standards acceptable to the Town of Genesee. If Jones Drive is required to be updated and dedicated to the Town of Genesee, detailed road construction drawings shall be reviewed and approved by the Town Planner and Town Engineer prior to signing the final CSM.
5. An updated Reclamation Plan for Wolf Properties and Waukesha County shall be submitted to the Town Planner for review and his approval as for general compliance with the Town of Genesee Non-Metallic Mining Code. Once the updated Reclamation Plan has been submitted to the Town Planner and accepted by him and the public hearing scheduled on both the County and Wolf Reclamation Plans, the CSM may be signed. As part of the updated Reclamation Plan for Wolf Properties, resolution of the extension of Industrial Lane to the south to the lands owned by Waukesha County must be addressed. At a minimum, the Town anticipates that at such time as a petition is filed for removal of Lot 3 of CSM 8642 and Lot 1 of the proposed CSM from the existing Conditional Use Permit for Wolf Properties, full restoration of those sites will have been completed, including the construction of the road extension of Industrial Lane.
6. Any and all waivers reviewed and approved by the Town Plan Commission and Town Board shall be noted on the final CSM. The Town Planner shall approve the language of the notes.

7. A copy of the Stormwater Management plans shall be submitted to the Town Planner and Town Engineer for review and approval prior to signing the final CSM.
8. On Sheet 1 of 18, A typo in the word "ratio" on the bottom of the page shall be corrected.
9. On Sheet 1 of 18, The "Village of Wales Fire Service" shall be changed to the "Wales-Genesee Fire Department".
10. On Sheet 1 of 18, it refers to "Jones Road" and "Jones Drive". The Jones Road and Jones Drive issue will need to be worked out by the Town Board and the applicant.
11. On Sheet 7 of 7, the Chairman of the Town Plan Commission is Sharon Leair and the Secretary is Cindy Zignego.
12. All existing and proposed easements shall be shown.
13. Subject to the Developer satisfying all of the aforementioned conditions within one year of the Town Board granting conditional final CSM approval.
14. Professional fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this development, 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.
15. 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 C. Herrmann, AICP
Administrator-Planner

cc: Town of Genesee Clerk
Town of Genesee Building Inspector
Waukesha County Department of Parks and Land Use
Chief James Moon
Mark Mickelson
Perry Lindquist
Jacob Mrugacz
Ryan Spies
Attorney Kathy Gutenkunst
Attorney John Macy

John Casussi
Steven Kennedy

Discussion/Action – Motion to reconsider Conditional Use/Plan of Operation Amendment request of Wolf Paving Co., Inc., C/O LW Real Estate Holdings, LLC, P.O. Box 1818, Janesville, Wisconsin 53547, to amend their existing Conditional Use to expand the uses allowed on the property to include the storage of concrete pipe and other concrete finished products. (Tax Keys GNT 1462-990, 1462-987-001, 1461-996, 1463-999, and 1464-999)

Engelking made a motion to reconsider the Conditional Use/Plan of Operation Amendment request, seconded by Christiansen. Leair abstained. Motion carried.

Discussion/Action - Conditional Use/Plan of Operation Amendment request of Wolf Paving Co., Inc., C/O LW Real Estate Holdings, LLC, P.O. Box 1818, Janesville, Wisconsin 53547, to amend their existing Conditional Use to expand the uses allowed on the property to include the storage of concrete pipe and other concrete finished products. (Tax Keys GNT 1462-990, 1462-987-001, 1461-996, 1463-999, and 1464-999)

Herrmann handed out revised list of conditions. The change is condition no. 8 modifying days and hours of operation that may include the months of December, January and February at the discretion of the Town Chair or designee.

Engelking made a motion to adopt the conditions as amended, seconded by Ross. Motion carried unanimously.

**WOLF/COUNTY MATERIALS CU/PO
CONCRETE PIPE/PRODUCTS STORAGE
MAY 2019 APPROVED CONDITIONS**

1. All previous conditions, as set forth in Waukesha County File No. CU-94G and noted in the declaration of Restrictions recorded in the register of Deeds on May 12, 2011, as Document Number 3833445, all conditions as set forth in Badger Materials recycling of construction materials operation and all conditions as set forth in Badger Materials recycling of tires operation shall remain in effect unless specifically modified by the Town of Genesee Plan Commission or as modified herein.
2. Condition No. 1 of the above approval (Document Number 3833445) shall be modified to include; Storage of Concrete Pipe/Products.
3. Subject to a New Declaration of Restrictions being filed in the office of the Register of Deeds to indicate that the storage of Concrete Pipe/Products is a permitted use.
4. Subject to written documentation from the Waukesha County Land Resources division indicating that all necessary erosion control (Silt Fence) and stormwater management permits have been approved (if applicable).
5. All trucks and trailers shall be licensed and operable. No junk vehicles, parts or debris shall be stored on the property, unless within a completely enclosed structure.
6. If a concrete pipe plant is proposed in the future, an amendment to the Conditional Use Permit shall be required, following all rules and regulations in place at that time.
7. The proposed operation is limited to March through November, with the operation being closed from December to March each year.

8. The days and hours of operation for the concrete pipe/products business shall be allowed twenty-four (24) hours a day, seven (7) days a week. During a period of a national or unusual emergency as determined by the Town Chair, the months of operation days and hours may be amended or altered for particular dates and times specified in writing, at the discretion of the Town Chair or designee.
9. Written documentation from the Waukesha County Environmental Health Division that the Proposed Portable Chemical Toilet is allowed and permitted as the main restroom facility for this operation.
10. An up to date Plan of Operation must be on file, at all times, with the Town of Genesee Plan Commission. Any Plan Modification shall be submitted to the Town Planner for review and action prior to implementation.
11. The Fire Chief shall inspect said premises to ensure that the proposed operation complies with all fire codes. All compliance violations shall be corrected to the Fire Chief's satisfaction.
12. The Town reserves the right to review any condition imposed as part of this Conditional Use/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 ensure it does not become detrimental to the surrounding area without the necessity of having a public hearing. Any major change, as determined by the Town Plan Commission shall follow the Conditional Use procedure of the Town of Genesee Zoning Code.
13. Subject to the property being in compliance with all Federal, State, County and local laws, ordinances, codes, rules and regulations.
14. Subject to the applicant allowing the premises to be available for inspection by the Town of Genesee officials at any reasonable time and upon reasonable notice.
15. Subject to 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.
16. 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.
17. 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.

Discussion/Action – Accessory Building for Bryan Baltz, W289 S4736 Rockwood Trail, Waukesha, WI 53189. (Tax Key GNT 1538-974)

Bryan Baltz was not present. Baltz has a woodworking business and cannot use the building for commercial use. Since he was not present, Christiansen requested to table approval until the June 24, 2019 meeting with Baltz in attendance.

Ross made a motion to table until June 24, 2019 meeting, seconded by Christiansen. Motion carried unanimously.

Discussion/Action – Approval of April 22, 2019 Plan Commission Minutes.

Christiansen made a motion to approve, seconded by Engelking. Lear abstained. Motion carried.

Review Pending

Herrmann said the Sheel violation was cleaned up. He has other violations he will be looking into.

Correspondence

None.

Adjourn

Engelking made a motion to adjourn, seconded by Ross. Meeting adjourned at 6:34 p.m.

Cindy Zignego
Deputy Clerk
May 30, 2019