

**TOWN OF GENESEE PLAN COMMISSION MEETING  
JUNE 24, 2019**

Chairman Leair called the meeting to order at 6:00 p.m.

Present were: Plan Commission members Brett Engelking, Jeff Lightfoot, Mike Toole, Bob Christiansen and Joe Turynski. Town Board Supervisors Charlie Ross, Jeff Schmittinger, James Morris and Buck Houston. Also present were Planner Jeff Herrmann, Clerk Meri Majeskie, and Deputy Clerk Cindy Zignego.

**NOTICE IS HEREBY GIVEN that a Joint Public Hearing will be conducted by the Town of Genesee Plan Commission and Town of Genesee Town Board on Monday, June 24<sup>th</sup>, 2019, beginning at 6:00 p.m. at the Town of Genesee Town Hall, S43 W31391 Hwy 83, Genesee Depot, Wisconsin, to consider an amendment to the Town of Genesee Zoning Map to rezone property owned by The Legend of Brandybrook Estates LLC, N8W22520-L Johnson Street, Waukesha, Wisconsin from the A-5 Mini-Farm District to R-1 Residential District in order to develop the property into single-family home sites utilizing a Residential Planned Unit Development. The property is described as Lot 2, Certified Survey Map No. 5162, being a part of the NE ¼ of Section 3, T6N, R18E, Town of Genesee. More specifically, the property is located at W304 S1806 Brandybrook Road.**

**Simultaneously a Public Hearing will be conducted by the Town of Genesee Plan Commission to consider the Conditional Use request of The Legend of Brandybrook Estates LLC, N8 W22520-L Johnson Street, Waukesha, Wisconsin for a Planned Unit Development pursuant to Section 40 (B)(30) Planned Unit Development of the Town of Genesee Zoning Code to allow a single-family residential development. The property is described as Lot 2, Certified Survey Map No. 5162, being a part of the NE ¼ of Section 3, T6N, R18E, Town of Genesee. More specifically, the property is located at W304 S1806 Brandybrook Road.**

Herrmann talked about the history and background of this property. He discussed the rezone from A-5 Mini-Farm District to R-1 Residential District. Explanation of Planned Unit Development was given. Leair stated there will be no action taken tonight and that will occur at the next Plan Commission meeting July 22, 2019. Petitioners Carl Tomich of Westridge Builders and Josh Pudelko of Trio Engineering gave a presentation of this development. It is called the Legend of Brandybrook Estates with 11 single family residences on 15 acres. There will be an association maintaining the road and open spaces.

Leair opened up the floor for comments at 6:17 p.m.

1. Matt Zorn, W309S2740 Imperial Court, in favor due to employment opportunities, tax base and schools.
2. Mark Tomchek, S56W29886 Glen Hollow, in favor due to tax base and funds for schools.
3. Tom Naumam, 411 Landmore Lane, in favor.
4. John Marx, W304S1765 Brandybrook Road, concerned about traffic, lights, and noise.
5. Tim Sullivan, W302S1638 Brandybrook Road, in favor of family community that Legend provides and tax base.
6. Kevin Scharnek, S53W29435 Ridgefield Road, in favor due to tax base, schools.
7. Tom Brun, W315S3164 Harvest View Dr., in favor due to Legend community and schools.
8. Dewain Purgill, W303S1752 Brandybrook Road, opposed due to septic system concerns.
9. John Marx, W304S1765 Brandybrook Road, inquired if entrance could be changed.
10. Jeff Berg, W303S1690 Brandybrook Road, opposed to changing rural community.
11. George Fuller, 368 Legend View, in favor due to tax base, school district and progressive community.
12. Shela Herbst, 412 Pebble Creek Pass, in favor due to increased property value.
13. Adam Martin, W318S3170 Squire Road, in favor due to employment and school district.
14. Jim Koble, W304S1645 Brandybrook Road, opposed due to timing, road use and future development. Can he subdivide his land? Herrmann responded probably not due to 5-acre density and require land use amendment.
15. Jack Gaudion, owner of The Legend of Brandybrook, spoke as a resident. Proud of the community and attract new members. Employ local residents. In favor of school district. Will work with neighbors in screening

landscape.

Tomich addressed the questions and concerns. There will be landscaping to screen the development and reduce lights and noise. The schedule depends on the approval process and would like to start this year. Regarding the wells and septic, there haven't been any problems and not in the same aquaphor as the Golf Club. They are proposing less lots with 11 new lots. Pudelko said it isn't possible to change the location of the entrance.

Lair brought discussion back to the table at 6:44 p.m. Herrmann had several questions regarding setbacks, change in building height, and are out lots owned by Home Owners Association. There will be a plat for setbacks. No change in building height. Home owners will have fractional ownership of outlots. The Town Engineer will look at access to Brandybrook Road. Development will need to apply for waiver for lot size from Town of Genesee Land Division and Development Ordinance. Will access be gated? Developer is debating gated access. Has Village of Wales approved cart path? The cart path connects with existing cart path. Will sheds, outbuildings or pools be allowed within this development? No sheds and unsure about pools. Schmittinger questioned the number of gallons of water will be used. Pudelko said usage would be low. Schmittinger inquired about lighting concern and Gaudion said they will review and work with concerned neighbor.

Lair said no action will be taken at this time. It will be on the Plan Commission July 22, 2019 Agenda. Lair submitted a letter for file from John and Eileen Schieble opposed to the development. The hearing was closed at 6:53 p.m.

Motion to adjourn the Town Board was made by Morris, seconded by Houston and carried unanimously.

**Discussion/Action - 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. (Tax Key GNT 1551-999)**

Herrmann reviewed request and that it is subject to four conditions. Yatzeck had no questions or concerns. Yatzeck contacted Waukesha County regarding road access. Discussion of cul de sac length. Engelking made a motion to approve subject to Planner's Memo dated June 17, 2019. Seconded by Ross. Motion carried. Christiansen abstained.

## MEMORANDUM

**To:** Town of Genesee Plan Commission  
**From:** Jeffrey C. Herrmann, Administrator-Planner  
**Date:** 06/17/19  
**Re:** Yatzeck – Conditional Use (Legal Nonconforming Use)

---

On May 29<sup>th</sup>, 2019, the Town of Genesee Plan Commission held a public hearing to consider a Conditional Use Request of John D. Yatzeck, S51 W30791 Walnut Street, Mukwonago, Wisconsin for a Legal Non-Conforming Use Permit per Section 40 (B)(23) Legal Non-Conforming Uses of the Town of Genesee Zoning Code to allow two (2) residences on one parcel of land. The property is described as part of the SW ¼ of Section 28, in the Town of Genesee. More specifically, the property is located on the north side of C.T.H. ZZ at S54 W315-00-02 S.T.H. 59, containing 95.10 acres. The petitioner is proposing to create a five (5) acre parcel containing two (2) residential buildings. One building is a duplex home and the second building is a single-family home. Both structures have been on the property for over 60 years.

According to the Zoning Code, a Nonconforming Use of Structures and Lands is a lawful use which existed at the time of the adoption or amendment of this Code and may be continued as a legal non-conforming use, although the use of the structure and land does not conform with the provisions of this Code, however; no such use shall be expanded or enlarged; Upon petition to and approval of the Town Plan Commission, such use may be changed to another use provided the Town Plan Commission determines that the new use would not result in a greater degree of non-conformity than the current use; When any such use is discontinued for a period of twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period, any future use of the land or structure shall conform to the use regulations of the applicable district. Seasonable uses shall be excluded from this provision. When a structure which houses such non-conforming use is damaged beyond 50 percent of its present equalized assessed value, it may be restored for any use in conformity with the applicable district regulations, and Total structural repairs or alterations to a structure housing a non-conforming use shall not exceed, on an accumulative percentage basis, 50 percent of the present equalized assessed value of the structure.

Therefore, the petitioner is proposing to reduce the size of the lot upon which the non-conforming structure is located. In order to accomplish this, the petitioner is applying for legal nonconforming Conditional Use status, which may be granted to existing legal non-conforming uses, structures or lots upon petition of the owner and where such use, structure or lot is determined by the Town Plan Commission to be: not adverse to the public health, safety, or welfare; not in conflict with the spirit or intent of the Code; and not otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the Town Plan Commission following a public hearing in the manner provided in Section 102.

Based on the information submitted with the application, the presentation made at the Public Hearing, comments from the public, review of the Town of Genesee Comprehensive Land Use Plan and the Town of Genesee Zoning Code, the Town Planner recommends that the Town Plan Commission **approve** the proposed request subject to the following conditions:

1. The subject use is restricted to one single-family home, one duplex, accessory structures on a five-acre parcel of land. No new structures or uses are allowed unless approved by the Town of Genesee Town Plan Commission.
2. No such use shall be expanded or enlarged without authorization by the Town Plan Commission.
3. The Conditional Use Status shall automatically terminate upon evidence that the above use is discontinued for a period of twelve (12) consecutive months or eighteen (18) cumulative months during a three-year period or as described in Section 40 (A)(7) of the Town of Genesee Zoning Code.
4. All other uses on the property shall conform to the use regulations of the applicable Zoning District.

It has been determined that the proposed use is not adverse to the public health, safety, or welfare; not in conflict with the spirit or intent of the Code; and not otherwise detrimental to the community and particularly the surrounding neighborhood and therefore the conditional use status shall be granted as conditioned above.

**Discussion/Action – Accessory Building exceeding 1,600 square feet for Bryan Baltz, W289 S4736 Rockwood Trail, Waukesha, WI 53189. (Tax Key GNT 1538-974)**

Herrmann stated that the building cannot be used for commercial purposes. Baltz stated he is removing existing garage and using the new building for storage of vehicles. Town Attorney raised question if these buildings should be requiring deed restrictions. Plan Commission discussed and decided to add deed restrictions to accessory buildings exceeding 1,600 square feet and for all the future requests.

Engelking made a motion to approve request with condition of a deed restriction and seconded by Ross. Motion carried unanimously.

**Discussion/Action – Accessory Building exceeding 1,600 square feet for Margaret Jimenez and Debra Mayer, S56 W29415 Saylesville Road, Waukesha, WI 53189. (Tax Key GNT 1577-987)**

Brent Ryan of Morton Buildings said the request for this building was to store Air Stream and other vehicles.

Engelking made a motion to approve the plan as presented with the condition to add the deed restriction. Lightfoot seconded the motion and it carried unanimously.

**Discussion/Action – Accessory Building exceeding 1,600 square feet for Robert Kolb, S47 W33743 Fox Hollow Drive, Dousman, WI 53118. (Tax Key GNT 1558-991)**

Building will not be used for business and Kolb agreed to deed restriction.

Engelking made a motion to approve with condition to add deed restriction. Ross seconded the motion and it carried unanimously.

**Discussion/Action – Conditional Use and Site Plan/Plan of Operation for Hoovers Hause All Dog Rescue, S47 W30760 Hwy. 59, North Prairie, WI 53153. (Tax Key GNT 1546-966)**

This item was brought back from the February 25, 2019 meeting. Stephanie Seitz, owner, requested increasing the number of dogs from 10 to 20. There was concern about barking before allowing the additional dogs. There have been no complaints since the February 25, 2019 meeting. Christiansen stated the barking had improved but he could still hear dogs barking less than half an hour on certain days. Seitz changed the traffic flow to decrease barking and installed privacy fence by kennels. Seitz requested the additional 10 dogs to allow an indoor room for puppies. There would not be any more dogs outside in kennels.

Christiansen made a motion not to approve the additional 10 dogs and wait one year for barking to decrease. Ross seconded the motion. Engelking opposed the motion. Motion carried.

**Discussion – Conceptual Land Division, Donald Murn, S51 W28637 Saylesville Road, Waukesha, WI 53189. (Tax Key GNT 1540-997-001)**

Discussion. Murn has reviewed Herrmann's report.

**MEMORANDUM**

**To:** Donald Murn  
**From:** Jeffrey Herrmann, Administrator-Planner  
**Date:** 06/17/19  
**Re:** Murn – Land Development Proposal

---

The purpose of this memo is to provide the Town of Genesee Plan Commission with information regarding the proposed development for Donald Murn, S107 W34870 S. Shore Drive, Mukwonago, Wisconsin. The property is described as part of the S ½ of Section 25 T6N, R18E, Town of Genesee and is located on the southeast corner of Saylesville Road (C.T.H X) and Point Drive. The parcel contains about 100 acres and has approximately 983 feet of frontage on Saylesville Road and about 2,100 feet of frontage on Point Drive. The parcel is currently vacant. The property is zoned A-1 Agricultural, C-1 Conservancy and A-E Exclusive Agricultural Conservancy District under the Town of Genesee Zoning Code. Under the Waukesha County Shoreland and Floodland Protection Ordinance, the property is zoned A-1 Agricultural, HG High Groundwater, C-1 Conservancy and Floodplain Overlay District. The petitioner is proposing to develop a total of three (3) units. This proposal will be completed using private wells and septic systems.

The owner is presenting this conceptual land division to the Planning Commission to get any comments or suggestions to help them decide on the feasibility and layout prior to making a formal submittal. The following are comments to be considered when reviewing the revised concept plan:

- The proposed Comprehensive Land Use Plan 2035 for the Town of Genesee identifies this property in the Suburban II Density Residential allowing development at 3.0 to 4.9 acres of lot area per dwelling unit, primary environmental corridor category (density equal to 5.0 acres per dwelling unit) and other open lands to be preserved. The Comprehensive Land Use Plan 2035 for the Town of Genesee seeks to preserve and protect primary environmental corridors to the greatest extent possible. Under the plan, development within these corridors would be limited to that needed to accommodate required transportation and utility facilities, compatible outdoor recreation facilities, and, on a limited basis, carefully sited rural density residential use. The Developer has provided a layout whereby the environmental corridors and conservancy lands are protected.
- Soil tests have not been provided for different areas of the proposed development. According to the soils classification, the soils are adequate for conventional and/or mound type septic systems. The soils classification for the buildable areas consists of the following soil types: Fox Sandy Loam (FmB), Hebron Loam (HeB), and Hochheim Loam Eroded (HmC2). These soil types tend to be well drained and not hydric. Other soils on the site are not well drained and are considered hydric or have hydric inclusions.
- Approximately half of the parcel is considered wetland and primary environmental corridor (PEC). The wetlands and the PEC area shall be identified in the field, surveyed and a written report sent to the Wisconsin Department of Natural Resources (DNR). The DNR will need to review and approve the location of the wetlands. The Primary Environmental Corridor delineation will need to be submitted to the Southeastern Wisconsin Regional Planning Commission (SEWRPC) for review and approval. The Town Plan Commission may waive this requirement if deemed appropriate. A restriction shall be placed on the Certified Survey Map prohibiting uses in the PEC.
- The property does not abut a navigable waterway of the state, but a tributary of the Genesee Creek is located in close proximity to the south property line.
- A portion of Lot 3 contains floodplain along the frontage of Point Drive. It is important that this floodplain issue get resolved with Waukesha County to insure access on to Point Drive.
- A large portion of the property is located within the Waukesha County Shoreland and Floodland Jurisdictional limits, therefore, the developer should contact Waukesha County to confirm what jurisdiction they have regarding the proposed land division and future development of the property.
- The property drops in elevation from the northwest to the southeast. The elevation at the high point near C.T.H. X is 825 msl with the lowest elevation near the southeastern property line 784 msl. The concept plan does not delineate slopes greater than 12 percent. All parcels which contain environmental corridor with slopes greater than 12 percent will need to be preserved in open space uses and it appears that this is the case with Lot 3. Lots 1 and 2 may need to delineate slopes greater than 20 percent if no environmental corridor is present on the proposed lots. The code indicates that lots in excess of two (2) acres, with no environmental corridor, preserve slopes in excess of 20 percent. A detailed analysis of the slopes and corridor will be more than likely be required.
- Based on the concept plan submitted, all lots appear to contain buildable areas large enough to accommodate normal residential development. In addition, all requirements of the Town of Genesee Zoning Code and Waukesha County Shoreland and Floodland Protection Ordinance in regards to offsets, setbacks, floor area ratio, etc. will need to be reviewed and approved.
- No storm water management facilities are shown on the concept plan. The petitioner's engineer should review the Waukesha County's Stormwater Ordinance. The Town requires all stormwater facilities to be shown on outlots. Waukesha County will need to review the proposed stormwater management facilities when the proposed concept plan is implemented (if applicable).
- The area of the property where the potential home sites are to be developed is currently zoned A-1 Agricultural, requiring a minimum lot size of three (3) acres. For lots which lie partially within and partially outside of the environmental corridor district, any land altering activity and/or building envelopes shall be located outside of the environmental corridor district and appropriately restricted as such on the face of the certified survey map, subdivision plat or other document approved by the Town Plan Commission or the zoning administrator and recorded in the office of the register of deeds. The overall

goal of this requirement is to obtain a maximum density of building activity within the environmental corridor of not more than one dwelling unit for each five acres of environmental corridor land.

- The proposed land division shall comply in all respects to the Town of Genesee Land Division and Development Ordinance.
- Any waivers or variances granted by the Town of Genesee and/or Waukesha County shall be placed on the face of the final CSM.
- Access to C.T.H. X will need to be approved by the Waukesha County Department of Public Works. If only one access is approved, it may need to be a shared access easement 60 feet wide by 60 feet deep or the existing driveway will need to be relocated. The property line should be the center of the easement. Documentation regarding the above will need to be submitted to the Town Planner for review and approval prior to acting on the Certified Survey Map.
- The petitioner will not need to amend the zoning on the property.

**Discussion/Action – Approval to build residence outside building envelope, Brad Unholz and Laci Pogue, S32 W33846 County Road G, Dousman, WI 53118. (Tax Key GNT 1510-994-008)**

This item was pulled from meeting due to property partially in Shoreland.

**Discussion/Action – Approval of May 29, 2019 and June 10, 2019 Plan Commission Minutes.**

Engelking made a motion to approve the May 29, 2019 minutes, seconded by Ross. Motion carried unanimously. Turzynski made a motion to approve the June 10, 2019 minutes, seconded by Lightfoot. Motion carried unanimously.

**Review Pending**

Herrmann is working on car complaints on Walnut Street.

**Correspondence**

None.

Engelking made a motion to adjourn, Ross seconded. Meeting adjourned at 7:38 p.m.

Cindy Zignego  
Deputy Clerk  
June 26, 2019