

ENROLLED ORDINANCE 178-87

APPROVE TOWN OF GENESEE ORDINANCE NO. 23-5 WHICH AMENDS THE
DISTRICT ZONING MAP OF THE TOWN OF GENESEE
ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN
PART OF THE SE ¼ OF SECTION 34, T6N, R18E, TOWN OF GENESEE, WAUKESHA
COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO THE
A-3 SUBURBAN ESTATE DISTRICT
(RZ136)

WHEREAS, after proper notice was given, a public hearing was held and the subject matter of this Ordinance was approved by the Genesee Town Board on November 13, 2023; and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 60.62, Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that Town of Genesee Ordinance No. 23-5 which amends the District Zoning Map for the Town of Genesee Zoning Code, adopted by the Town of Genesee on June 13, 2022, to conditionally rezone from the A-2 Rural Home District to the A-3 Suburban Estate District, certain lands located in part of the SE ¼ of Section 34, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin, and more specifically described in the “Staff Report and Recommendation” and map on file in the office of the Waukesha County Department of Parks and Land Use and made a part of this Ordinance by reference RZ136, is hereby approved, subject to the following conditions:

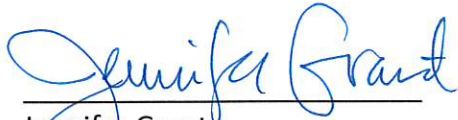
1. Outlot 5 shall never be further divided absent the express written approval of the Town Board of the Town of Genesee. No new lots or outlots shall be created absent the express written approval of the Town Board of the Town of Genesee. No lot line or outlot line shall be adjusted or reconfigured in 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.

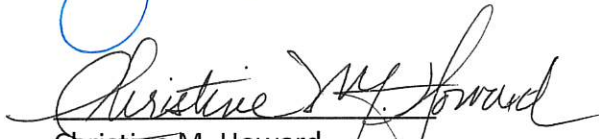
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town Clerk of Genesee.

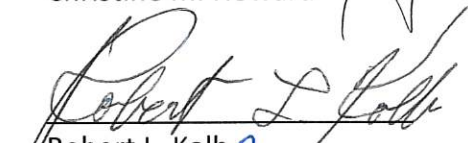
APPROVE TOWN OF GENESEE ORDINANCE NO. 23-5 WHICH AMENDS THE DISTRICT ZONING MAP OF THE TOWN OF GENESEE ZONING CODE BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SE ¼ OF SECTION 34, T6N, R18E, TOWN OF GENESEE, WAUKESHA COUNTY, WISCONSIN, FROM THE A-2 RURAL HOME DISTRICT TO THE A-3 SUBURBAN ESTATE DISTRICT (RZ136)

Presented by:
Land Use, Parks, and Environment Committee


Tyler J. Foti, Chair

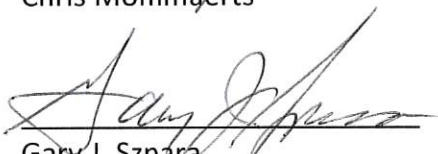

Jennifer Grant


Christine M. Howard

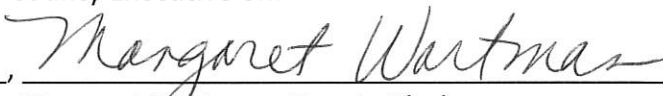

Robert L. Kolb


Brian Meier


Chris Mommaerts


Gary J. Szpara

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 3/1/2024, 
Margaret Wartman, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____

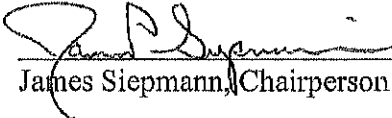
Date: 3/4/2024, 
Paul Farrow, County Executive

COMMISSION ACTION

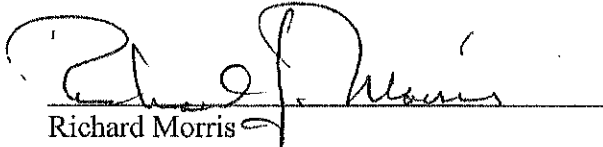
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Town of Genesee Zoning Code, hereby recommends **approval** of **RZ136 (FAM 828, LLC)** in accordance with the attached "Staff Report and Recommendation".

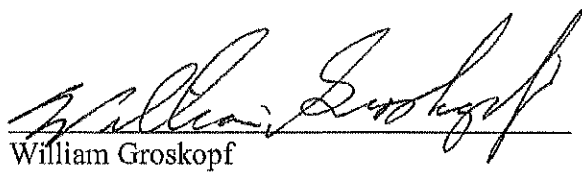
PARK AND PLANNING COMMISSION

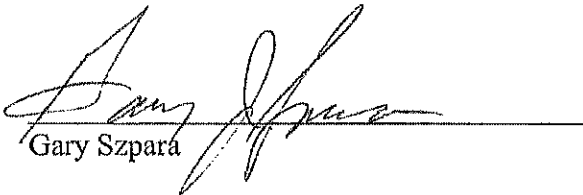
January 18, 2024


James Siepmann, Chairperson

Absent
Robert Peregrine


Richard Morris


William Groskopf


Gary Szpara

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AMENDMENT

DATE: January 18, 2024

FILE NO.: RZ136

TAX KEY NO.: GNT 1576.021

OWNER: FAM 828, LLC
S62 W30960 Road X
Mukwonago, WI 53149-8764

LOCATION:
Outlot 5, Fields Crossing, part of the NE ¼ 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 containing approximately 2.58 acres.

EXISTING ZONING:
A-2 Rural Home District (Town).

PROPOSED ZONING:
A-3 Suburban Estate District (Town).

EXISTING LAND USE:
Vacant

PROPOSED LAND USE:
Single family residential development.

PUBLIC HEARING DATE:
September 25, 2023

PUBLIC REACTION:
Don Murn spoke on the reasons for rezone so they can sell it for a single-family home. He states that it doesn't sit in an area that would affect any roads or stormwater management.

Chad Bartkowki, S60W30157 Fields Crossing Dr, stated that when they bought their parcel of land, it was stated that Outlot number 5 would remain an Outlot and green space. That this was one of the reasons that they bought the lot they did.

Don Murn then rebutted stating that he is not sure what the broker for the land told people, but that per the Plat of Subdivision, Outlot 5 is owned by the developer and that it can be developed further per developer rights. He feels for the residents if it was misrepresented but that they were never told that by himself or his father.

Gabe Winzeried, S60W30110 Fields Crossing Dr, stated that the Kings Way broker misrepresented the outlot saying it would remain an Outlot.

Diane Gue1Tero, S59W30128 Jumpers Circle states that this outlot is not dividable and that she has a deeded fractional ownership of this lot.

Lani Bartkowki, S60W30157 Fields Crossing Dr, stated that they were told by the Kings Way broker that it would remain an Outlot. She also questioned when an HOA would take power in the subdivision and not the developer.

Joel Anders, S59W30287 Fields Crossing stated that they were also told that this would remain an Outlot and that he believes it should remain greenspace.

Connie Kukuwich, S60W30201 Fields Crossing Dr, stated that she was also told it would remain an Outlot. She states she has a deed which grants her fractional ownership of said lot.

Katie Graf, W303S6074 Bridle Lane, stated that she was also told that at the time of purchase of her lot, she was told that this would remain an Outlot.

Don Murn stated that again, in the Plat of Subdivision, this Outlot is not a part of the deeded fractional ownership.

Diane GueITero, S59W30128 Jumpers Circle, proceeded to read a portion of her deeded fractional ownership and it was determined that Outlot 5 is not one of these with deeded partial ownership.

TOWN PLAN COMMISSION:

On October 25, 2023, the Town Plan Commission unanimously recommended approval of the rezoning request to the Town Board subject to conditions.

TOWN BOARD ACTION:

On November 13, 2023, the Town Board unanimously approved the rezoning request subject to conditions.

COMPLIANCE WITH THE WAUKESHA COUNTY DEVELOPMENT PLAN (CDP) AND THE TOWN OF GENESEE LAND USE PLAN (LUP):

The Town and County CDP's designate the subject parcel as Rural Density and Other Agricultural Land (5 acres/dwelling unit). The land use plan categories for the subdivision are Rural Density and Other Agricultural Land and Primary Environmental Corridor, both of which are 5 acres per dwelling unit. The subdivision contains 121.4 acres of land, yielding a maximum density of 24 dwelling units. Only 17 residential lots have been platted. Therefore, the rezone complies with both plans.

STAFF ANALYSIS:

Fields Crossing subdivision was platted in 2009, prior to the reconstruction of State Highway 83. The subject property, Outlot 5 of Fields Crossing, is 2.58 acres and is located south of Fields Crossing Drive at the entrance to the subdivision. The property abuts a roundabout that intersects S.T.H. 83, C.T.H. X and Fields Crossing Drive. The subdivision has 17 platted lots that are zoned A-2 Rural Home District, requiring a minimum 3-acre lot size. The lands to the north and south of the subdivision are also zoned A-2 District. There are smaller lots east of S.T.H. 83 zoned R-1 Residential District.

Fields Crossing is unique in that the plat planned for the reconstruction of S.T.H. 83 by the Wisconsin Department of Transportation. The subdivision entrance was to be relocated south to connect to the roundabout constructed by the State. The plat contains numerous notes that dictate the future road dedications, possible lot combinations and easements necessary to complete the project. A temporary limited easement granted to the Wisconsin Department of Transportation encompassed much of Outlot 5 to allow the DOT the ability to reconstruct and restore Fields Crossing Drive where it intersects S.T.H. 83. The need for this easement would have prohibited the lot's development as a residential lot at the time.

The subdivision plat notes that the developer was to retain Outlot 5 along with two other outlots. It states, "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." Portions of Outlots 4 and 12 were necessary for the road realignment. In 2014, following completion of the project, the remnants of those outlots were combined with Lot 16 and replatted as two residential lots. Outlot 5, however, does not have the ability to be reconfigured or combined with abutting lands to achieve the A-2 District's minimum lot size requirement of three acres. Two single family residential

homes exist directly south and west of the property and roadways abut the property to the north and east. Therefore, the developer is seeking to rezone the property to the A-3 Suburban Estate District, which only requires a 2-acre minimum lot size, so that the property may be utilized for single family residential development.

The proposed zoning change to a different residential zoning district does not afford a change in the use of the property. The use of the property will still be residential with similar setbacks and offsets as the adjacent properties. The outlot was not used for open space calculations when developing the subdivision and does not contain stormwater management practices or natural resources. Finally, the zoning being proposed is consistent with the Town of Genesee and Waukesha County Land Use Plans.

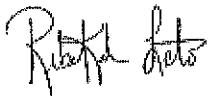
STAFF RECOMMENDATION:

Based on the above analysis, the Planning and Zoning Division Staff recommends **approval** of the rezone request, subject to the following conditions imposed by the Town:

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.

The proposal is consistent with Town and County plan recommendations. The notes on the plat indicate Outlot 5 may be developed as a residential lot in the future. The rezone will place the property in a zone that is more compatible with its size and allow the developer to market the property for single family residential purposes, consistent with the surrounding area.

Respectfully submitted,



Rebekah Leto
Senior Planner

Attachments: Town Ordinance No. 23-5
Map

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STATE OF WISCONSIN

TOWN OF GENESEE

WAUKESHA COUNTY

ORDINANCE 23-5

**An Ordinance to amend the Zoning Map of the Town of Genesee
from A-2 Rural Home District to A-3 Suburban Estate District on lands located in the
SE ¼ of Section 34, T6N, R18E, Town of Genesee,
Waukesha County Wisconsin**

The Town Board of Genesee, Waukesha County, Wisconsin, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1:

The Town of Genesee Zoning Map is hereby amended to change the zoning classification from A-2 Rural Home District A-3 Suburban Estate District on the following described parcel of land:

Outlot 5 Fields Crossing, being a part of the SE ¼ of Section 34, T6N, R18E, Town of Genesee. More specifically, the property is also known as Tax Key No. GNT 1576.021.

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 (Outlots 6, 9, 10 & 11) 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.

Section 2: Severability.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

RECEIVED

NOV 27 2023

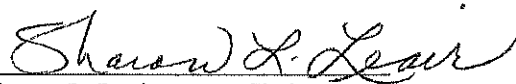
DEPT OF PARKS & LAND USE

Section 3: Effective Date.

This ordinance shall take effect immediately upon passage by Waukesha County and posting or publication as provided by law.

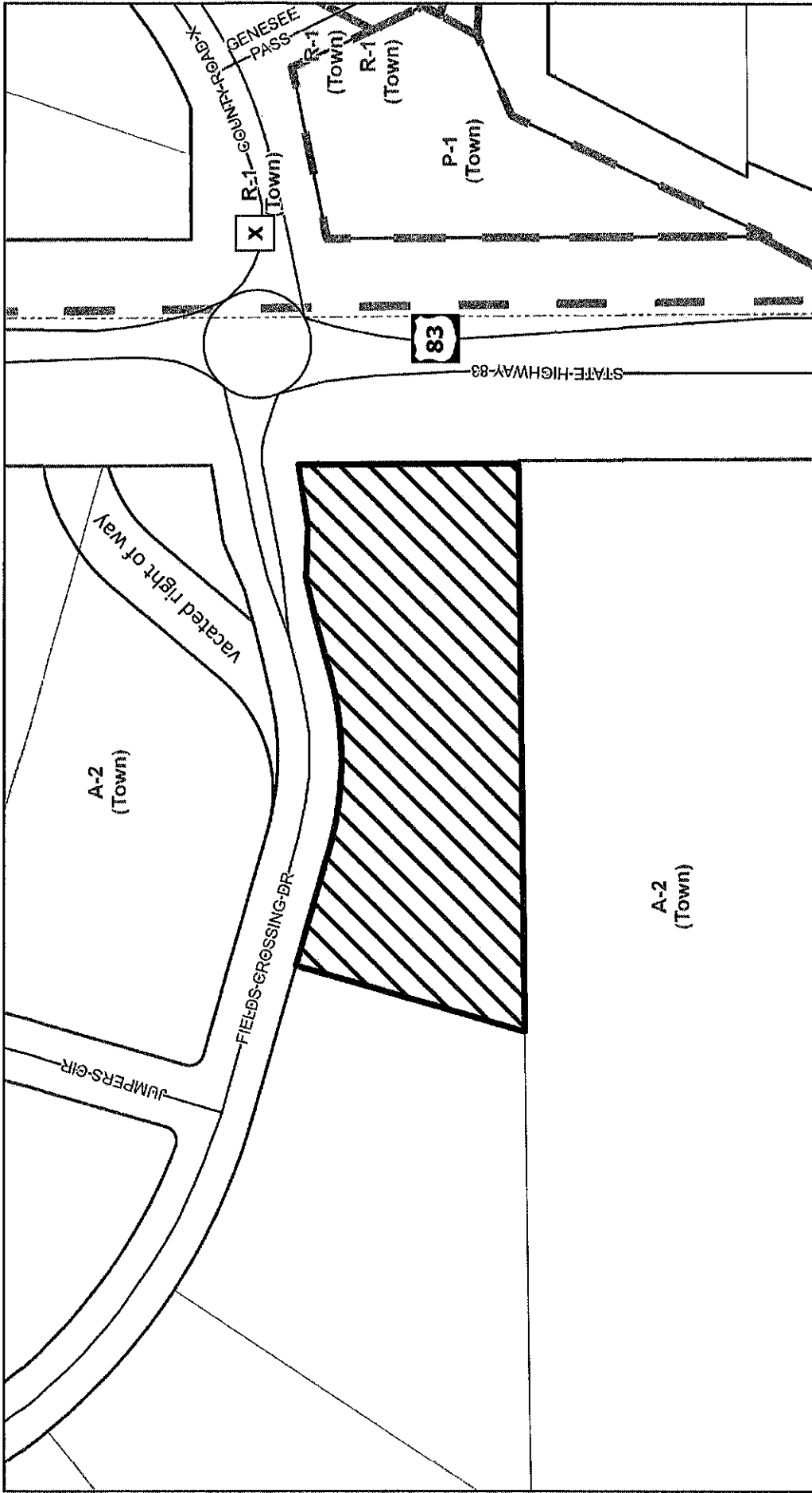
This ordinance passed this 13 day of November, 2023.

BY THE TOWN BOARD OF THE
TOWN OF GENESEE:


Sharon L. Leair, Town Chairman

ATTEST:

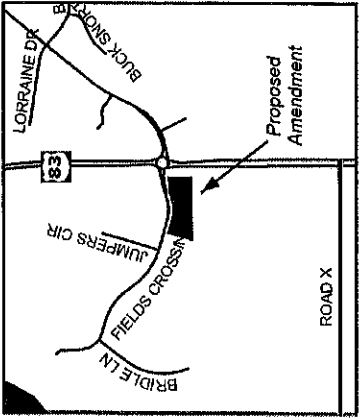

Meri Majeskie, Town Clerk



ZONING AMENDMENT
 PART OF THE W 1/2 AND SE 1/4
 OF SECTION 34,
 TOWN OF GENESEE

CONDITIONAL TOWN ZONING CHANGE FROM A-2 RURAL HOME DISTRICT TO A-3 SUBURBAN ESTATE DISTRICT

FILE.....RZ136
 DATE OF PLAN COMMISSION.....01/18/24
 AREA OF CHANGE.....2.5ACRES
 TAX KEY NUMBER.....GNT 1576.021



VOTE RESULTS >

22 YES

0 NO

0 ABSTAIN

3 ABSENT

Ordinance 178-O-087

Ordinance 178-O-087: Approve Town of Genesee Ordinance 23-5 Which Amends the District Zoning Map of 1 Conditionally Rezoning Certain Lands Located in Part of the SE 1/4 of Section 34, T6N, R18E, Town of Genesee, Waukesha County, Wisconsin, from the A-2 Rural Home District to the A-3 Suburban Estate District (RZ136)

 **Passed By Majority Vote**

D1 - Foti	M	AVE	D10 - Thieme	ABSENT	D19 - Enriquez	AVE
D2 - Weil		AVE	D11 - Howard	AVE	D20 - Schellinger	AVE
D3 - Morris		AVE	D12 - Wolf	AVE	D21 - Gaughan	AVE
D4 - Batzko		AVE	D13 - Decker	AVE	D22 - Szpara	AVE
D5 - Grant		ABSENT	D14 - Mommaerts	AVE	D23 - Hammitt	ABSENT
D6 - Walz		AVE	D15 - Kolb	AVE	D24 - Bangs	AVE
D7 - LaFontain		AVE	D16 - Crowley	AVE	D25 - Johnson	AVE
D8 - Koremenos		AVE	D17 - Meier	S		
D9 - Heinrich		AVE	D18 - Nelson	AVE		