

**VILLAGE OF FONTANA ON GENEVA LAKE**  
**WALWORTH COUNTY, WISCONSIN**  
(Official Minutes)

SPECIAL JOINT SESSION OF THE VILLAGE OF FONTANA PLAN COMMISSION  
with the BOARD OF TRUSTEES

**Tuesday, January 24, 2006**

President Whowell called the monthly meeting of the Plan Commission to order at 5:40 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Plan Commissioners present:** Roll call vote: Poivey, Larson, Eakright, O'Connell, Treptow, President Whowell

**Plan Commissioner absent:** Spadoni

**Also present:** Cheryl Bartz, Steve Compton, Village Administrator Kelly Hayden-Staggs, Sarah Lobdell, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Wayne Moran, Building Inspector Ron Nyman, Rick Rosenow, Village Planner Mike Slavney, Paul Sloth, Tim Swatek, John Tracy, Director of Public Works Craig Workman, Patricia Yeager

**Approval of Plan Commission Minutes**

Commissioner Eakright/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to approve the minutes for the December 20, 2005 meeting as presented, and the MOTION carried without negative vote.

**Public Hearings**

**Petition for Amendment of the Zoning Ordinance and Zoning Map of the Village of Fontana on Geneva Lake from C-2 to Planned Development, filed by Jamie and Wayne Moran, 5220 N. Route 31, Ringwood, IL, to convert the current hotel units into condominium units at the Fontana Village Inn property, 100 Dewey Avenue (STFV 00203), Fontana, WI**

President Whowell opened the public hearing at 5:48 pm. Because of staff concerns with the Petition for Amendment of the Zoning Ordinance, Attorney Swatek stated that his clients would be willing to alter their proposal and convert the current hotel units in condominium-hotel units, instead of residential condominium units. A switch from hotel units to condo-hotel units would not require a zoning change. Swatek stated that the Morans would like to have a condition in the condominium declaration documents that allows individual unit owners to opt out of a rental pool. If there is a switch to condo-hotel units, there would be an onsite manager. Poivey asked if the staff members would like to see the hotel switched to a condo-hotel, and Hayden-Staggs responded that it was the professional staff members who proposed the idea. Attorney Swatek stated that his clients are willing to withdraw the Petition for Amendment of the Zoning Ordinance, and file new condominium declarations under the current C-2 zoning.

Commissioner Treptow/Commissioner Larson 2<sup>nd</sup> made a MOTION to accept the withdrawal of the Petition for Amendment of the Zoning Ordinance, and the MOTION carried without negative vote.

**Conditional Use Permit Application filed by Marnie Atkinson, 433 N. Lakeshore Drive, Fontana, WI 53125 (Tax Parcel No. SS&G 00003), to renovate a wooden deck on the guesthouse into a three-season room for Addition to Guest House**

President Whowell opened the public hearing at 5:58 pm. An architect working for the Atkinsons stated that the proposal is to renovate the current guest house on the property. Renovations would

include converting the current open deck to a roofed, three-season room (unheated) and remodeling the kitchen. Staff had no concerns with the proposal; however, since the renovation plan is for a guest house, the municipal code requires a conditional use permit. The staff report states that the existing guest house is considered non-conforming because it does not meet the required setbacks; however, the proposed addition would be located in a position that would conform to all the current setback requirements. Impervious surface area would not be significantly affected, since the addition would replace an existing deck. McCarthy stated that since the proposal constitutes a minor addition, private covenants to restrict use would not be necessary; however, if at any time the applicant wishes to make a substantial change to the structure, restricting the use to a guest house and not a primary residence would be reasonable. Staff recommended approval of the CUP as submitted with the conditions that all appropriate building and zoning permits be applied for and issued prior to the commencement of construction, and that all outstanding fees be paid in full prior to the issuance of an occupancy permit. President Whowell closed the public hearing at 6:00 pm.

Commissioner Larson/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to approve the conditional use permit application as presented, with the conditions that all appropriate building and zoning permits be applied for and issued prior to the commencement of construction, and that all outstanding fees be paid in full prior to the issuance of an occupancy permit, and the MOTION carried without negative vote.

**Petition to Amend the Village of Fontana Municipal Code Section 18-92 (c) to add item No. 14, Section 18-93 (c) to add item No. 8, and Section 18-94 (c) to add item No. 11 to allow second-floor residential uses under the Conditional Use Permit process**

President Whowell opened the public hearing at 6:01 pm. Hayden-Staggs stated that the proposal is to allow second-floor residential uses in the Village Center Preservation District under the Conditional Use Permit process. Staff was in consensus that the amendment was an appropriate measure. Attorney Swatek stated that if approved by the Plan Commission and Village Board, his client, David Prudden, will be seeking a CUP to develop the first floor of his building at 212 Third Avenue into a contractor's office, and the second floor into a single-family residential use (apartment). President Whowell closed the public hearing at 6:03 pm.

Commissioner Treptow/Commissioner Poivey 2<sup>nd</sup> made a MOTION to approve the Petition as presented, and the MOTION carried without negative vote.

**Petition to Repeal and Recreate Section 18-28, Natural Resource Conservation Ordinance (Tree Ordinance) of the Village of Fontana Municipal Code**

President Whowell opened the public hearing at 6:04 pm. McCarthy stated that the proposed amendments added some enforcement measures and clarified some language in the Tree Ordinance. Treptow and Larson stated that the amendments were endorsed by the Park Commission. Larson stated that the proposed ordinance amendments with regard to Tree Diameter definitions required a correction from stating "four feet above grade" to stating "four and a half feet above grade." President Whowell closed the public hearing at 6:06 pm.

Commissioner Poivey/Commissioner Eakright 2<sup>nd</sup> made a MOTION to approve the petition as presented, with one correction to the Tree Diameter definitions, and the MOTION carried without negative vote.

President Whowell called the meeting of the Village Board to order at 6:09 pm.

**Trustees present:** Roll call vote: O'Connell, Larson, President Whowell, Bromfield, Pollitt

**Trustees absent:** Petersen, Turner

**Village Board and/or Plan Commission General Business  
Ordinance Amendment Removing Annexation Fees**

Hayden-Staggs stated that the professional staff came up with the recommendation to remove annexation fees from the municipal code during a discussion on the Tracy Group Pre-Annexation Agreement. Slavney stated that the Village of Fontana is one of only a very few municipalities that still have the complex Annexation Fees, and he recommended the establishment of impact fees. Slavney stated that impact fees in other municipalities that he works for have been established to cover future expenses for development of water and sanitary sewer lines or other infrastructure developments, and the fees range from \$500 per unit up to \$20,000. The impact fees have to be used by the municipalities only for their pre-stated purpose. Thorpe stated that the Village of Fontana probably adopted the annexation fees prior to the state's establishment of impact fees. Thorpe stated that impact fees are a better defined tool than the annexation fees. Thorpe stated that is was his recommendation that the Village of Fontana follow the lead of the other area municipalities and replace the annexation fees with impact fees. If impact fees are approved in the Village of Fontana, the Plan Commission and Village Board could work with developers to negotiate projects on a case-by-case-basis. Having developers pay for the infrastructure costs or to develop new parks in lieu of paying impact fees is something that could be considered if the proposal to remove the annexation fees and replace them with impact fees is approved. Trustee Pollitt stated that if the Village does not have impact fees in place and the annexation fees are removed from the municipal code, the Village will not be in a position to account for the impact of the Tracy Group development on the municipality. Trustee Pollitt suggested tabling the proposal until Trustees Petersen and Turner can also provide input. Trustee Pollitt stated that he also wanted more time to study the difference between the current annexation fees and what could be derived from impact fees. Trustee Pollitt stated that he would like to review all the accounting figures on what the Village will pay toward the development of water and sanitary sewer lines, and a list of the items that Tracy will be providing to the village. Poivey asked what the annexation fee would be for Tracy under the current method. Thorpe stated that the annexation fees are determined by a very complicated equation that takes into account existing infrastructure in the municipality and divides it by what infrastructure the new development will require. Tracy stated that he is proposing to spend about \$400,000 to extend the municipal utilities to the Highlands development, and \$10,000 to construct another wing on the Duck Pond pavilion.

Trustee Pollitt/Trustee O'Connell 2<sup>nd</sup> made a MOTION to table the proposal until the February 7, 2006 meeting of the Village Board, and the MOTION carried without negative vote.

#### **Tracy Group Pre-Annexation Agreement, Easement for The Highlands of Fontana**

Thorpe stated that he made a few amendments to the proposed Pre-Annexation agreement. If approved, the Village and Tracy will be agreeing on the proposed density and zoning of the development, and the placement of signage and sales trailers on the site. If the development fails to earn final approval by the Village, or the developer does not agree to the terms of approval, the land would revert back to the current status. Thorpe stated that if approved, the Village would be committing to install public improvements on the site. Trustee Pollitt asked what the proposal will cost the village for infrastructure costs. Workman stated that the village would be committing to spend \$49,000 for off-site improvements to extend the sanitary sewer line to the development, and Tracy would be committing to spend \$22,000 for off-site expenses to extend the village water line to the site. On-site improvements would cost the village \$246,000 to extend the sewer, and \$417,000 for Tracy to extend the water line. Thorpe stated that the Village Board and Plan Commission could consider approving the pre-annexation agreement subject to the resolution of the annexation fee issue.

Commissioner O'Connell/Commissioner Poivey 2<sup>nd</sup> made a MOTION for the Plan Commission to recommend Village Board approval of the Pre-Annexation Agreement as presented, with the condition that the annexation fees issue is resolved by the Village Board, and the MOTION carried without negative vote.

Trustee Pollitt/Trustee O'Connell 2<sup>nd</sup> made a MOTION to table the Pre-Annexation Agreement until the February 7, 2006 meeting of the Village Board, and the MOTION carried without negative vote.

**Par Development Precise Implementation Plan Submittal for The Cliffs of Fontana**

Following staff review of the submitted documents, Par Development will be making some more amendments and bringing the PIP back for consideration at a future meeting of the Plan Commission. Ryan Trottier stated that Par Development will be working on the final engineering plans and the developer's agreement, and the PIP will then be "squared away" and ready for consideration.

**Village Board Action on Liquor License Application for Contractors Corner Plus, LLC: Trade Name, Park Place, LLC, 268 Reid Street; Agent: Richard Rosenow, W1865 Huntington Drive, Lake Geneva, WI 53147**

Hayden-Staggs stated that the Village Board approved the granting of a Combination Class B Liquor License to the applicant in June 2005 with the conditions that the application process be completed and that the proposed serving premises be approved during final inspections by the Building Inspector, Chief of Police and Fire Department chief. Because the applicant is remodeling the upper floor to extend the bar service to both levels of the building, the connecting stairway and other building issues have to be resolved. Hayden-Staggs stated that at this time the inspections have been completed and the applicant was approved for service on the lower level only. The Protection Committee recommended Village Board approval for only the lower level at this time, and for the applicant to come back for approval of another amendment for the upper level after the building items have been addressed.

Trustee Bromfield/Trustee Pollitt 2<sup>nd</sup> made a MOTION to approve the issuance of the liquor license for Contractors Corner Plus, LLC: Trade Name, Park Place, LLC, 268 Reid Street; Agent: Richard Rosenow, W1865 Huntington Drive, Lake Geneva, WI 53147, for the lower level only with the condition the Park Place Building, Site and Operational Plan (BSOP) receives Plan Commission approval and an Occupancy Permit is granted. The MOTION carried on a 4-0 vote, with Trustee Larson abstaining and Trustees Petersen and Turner absent.

**CSM Filed by Fontana Holding Company and Craig and Tigrr Workman**

Workman stated that the proposed certified survey map is part of a previously approved planned development concept. The CSM states "Willow Bend Road;" however, it should state "Stearns Road" because it has changed since the CSM was initially prepared for the PD concept. The initial concept was for 7 lots on 25 acres and it was approved in 1999. The current proposal is for the creation of 4 lots, which would be accessed by the existing driveway. This driveway is plotted as "Outlot 1" and has a width of 50 feet and is approximately 750 feet long. All four proposed lots meet the required standards for minimum lot area of 30,000 square feet, minimum lot width of 100 feet, and minimum density factor of 40,000 square feet per dwelling unit. The application states that the goal is to eventually connect to village water and sewer services. The staff report states that Outlot 1 is proposed for the existing driveway and future development of a private cul-de-sac road. Per Section 17-7(4)(j) of the Municipal Code, "All cul-de-sac streets shall not be longer than 500 feet and shall terminate in a circular turnaround having a minimum 100-foot diameter right-of-way and a 70-foot paved surface." Per Section 17-7(3) of the Municipal Code, "every lot or parcel created shall have a minimum frontage of 50 feet on a public right-of-way." Lot 1 and Lot 2 both abut Stearns Road; however, Lot 4 (which is undeveloped) would be accessed off proposed Outlot 1. The staff report states that a subdivision or land variance would be required to alleviate the cul-de-sac maximum length requirement and public right-of-way frontage requirement. A subdivision or land variance may be granted by the Plan Commission. This is different than a zoning variance which is granted through the Zoning Board of Appeals. The professional staff members suggested that an

ordinance amendment should be proposed for approval at a future date since many roads in the village are privately owned, and historically applicants have created lots along private roadways through the use of recorded deeds, subdivision variances, etc. The staff recommended approval of the proposed Certified Survey Map as submitted, with the conditions that the Plan Commission and Village Board grant a subdivision variance to waive the public street frontage requirement, that the Plan Commission and Village Board grant a subdivision variance to waive the cul-de-sac maximum length requirement, that Outlot 1 shall be labeled as "Private Road," and that a notation be made on the face of the CSM that states Lot 4 shall remain unbuildable until such time as Outlot 1 becomes improved as a private road which meets the requirements of the village.

Commissioner Poivey/Commissioner Treptow 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the CSM as submitted, with the conditions that the Plan Commission and Village Board grant a subdivision variance to waive the public street frontage requirement, that the Plan Commission and Village Board grant a subdivision variance to waive the cul-de-sac maximum length requirement, that Outlot 1 be labeled as "Private Road," and that a notation be made on the face of the CSM that states Lot 4 shall remain unbuildable until such time as Outlot 1 becomes improved as a private road which meets the requirements of the village. The MOTION carried without negative vote. President Whowell abstained.

Trustee Bromfield/Trustee O'Connell 2<sup>nd</sup> made a MOTION to approve the CSM as submitted, with the conditions that a subdivision variance is granted to waive the public street frontage requirement, that a subdivision variance is granted to waive the cul-de-sac maximum length requirement, that Outlot 1 be labeled as "Private Road," and that a notation be made on the face of the CSM that states Lot 4 shall remain unbuildable until such time as Outlot 1 becomes improved as a private road which meets the requirements of the village.

Prior to the vote, Trustee Pollitt asked Workman if Village Board approval could wait until the next meeting on February 7, 2006, in order to allow for more time to review the proposal. Workman responded that it would not be a problem. Trustee Bromfield then left the meeting.

Trustee Pollitt/Trustee O'Connell 2<sup>nd</sup> made a MOTION to table the matter until the February 7, 2006 meeting of the Village Board, and the MOTION carried without negative vote.

#### **Village Board Adjournment**

Trustee O'Connell/Trustee Larson 2<sup>nd</sup> made a MOTION to adjourn the meeting of the Village Board at 7:12 pm, and the MOTION carried without negative vote.

#### **Plan Commission General Business**

##### **CSM Filed by David and Ann Madison for Parcel Located in Extraterritorial Plat Review Jurisdiction**

McCarthy stated that since the parcel is not located within the Extraterritorial Zoning District, and the Village only has plat review jurisdiction, the staff did not take a position on the proposal.

Commissioner Poivey/Commissioner Larson 2<sup>nd</sup> made a MOTION to direct staff to submit a letter to Walworth County that states the village feels there is no compelling reason to hold a position regarding this division of land, and the MOTION carried without negative vote.

##### **CSM and Rezone Petition Filed by Anthony and Diane Urlakis, Schedule Public Hearing before Plan Commission and Joint ETZ Committee**

Attorney Swatek stated that Anthony and Diane Urlakis are seeking approval for a zoning designation change to C-3 on the back lot in order to construct a single-family residence. Swatek stated that if approved, the applicants would agree to a stipulation that the back lot cannot be further subdivided.

Commissioner Treptow/Commissioner Poivey 2<sup>nd</sup> made a MOTION to hold a public hearing on the Petition to Amend the Zoning Ordinance at the February 28, 2006 Plan Commission meeting, and the MOTION carried without negative vote.

### **Building, Site and Operational Plan Filed for Park Place, LLC**

McCarthy stated that staff recommended Plan Commission approval of the BSOP for the lower level of the business, with conditions. When the upper level is ready for consideration, an amended BSOP will be submitted. The property was previously used as bar/tavern on the lower level, office space and a coffee shop on the main level, and a residential apartment on the second level. The applicant would like to continue to use the lower level for a bar/tavern, develop a portion of the main level into a bar/tavern with continued office space use, and continue to use the second level for a residential apartment. The staff report states there are concerns with regard to the proposed change of use for the main level. Specifically, there is no internal “connection” between the two tavern areas, which would be under the same ownership and liquor license. A stairway exists; however, its use is blocked. Patrons and employees would need to exit one area and walk outdoor to enter the other area. Possible open intoxicant violations may arise. The staff report states that from a building safety standpoint, there is no reason why a bar/tavern area could not exit in both areas – provided the currently blocked internal stairs remain closed off and secure. Once the stairway is exposed, the building would then be in violation of fire separation issues, and the building would need to be brought completely up to code before occupancy could take place. If it is the desire of the applicant to provide an internal means of access between the two areas, plans will have to be submitted for review and permit approval. The staff report states that the plan for the proposed signage has not been submitted and cannot be approved at this time. Although the applicant may wish to use an existing sign face, the change of copy requires a change in signage and is subject compliance with the Municipal Code. A site plan with the proposed lighting also has not been submitted and cannot be approved at this time. Although only new or an alteration to existing lighting requires permit issuance, lighting review and approval is a requirement of the BSOP approval. The applicant notes on the submitted BSOP that the main level bar/tavern would also be used as a cafe/lounge serving bakery goods. A deviation from “bakery goods,” hours of operation, signage, lighting, parking, and any other described portions of the submitted BSOP will require a BSOP amendment and subsequent approval. The staff report suggested 11 conditions for approval; however; after discussion it was determined that the condition that “only one business related truck shall be allowed to be parked overnight in parking area” was not appropriate. Commissioner Larson stated that too many of the required items for the BSOP were not submitted and the matter should be tabled until all of the required plans are submitted. President Whowell stated that with the suggested conditions, the building and zoning staff could make sure the BSOP was properly completed, and that the signage and lighting are in adherence with the Municipal Code. Commissioner Poivey stated that he agreed with President Whowell, but he objected to a statement made by Yeager that the Plan Commission “was dragging its feet” with regard to approving the BSOP. Larson stated that the village should require that all of the necessary information is submitted prior to action by the Plan Commission on all BSOPs and conditional use permit applications.

Commissioner Poivey/Commissioner Eakright 2<sup>nd</sup> made a MOTION to approve the BSOP for the lower level only with the conditions that the approval applies to the lower level area only (bar/tavern use), and does not apply for the proposed future use of the main level as a bar or tavern area; that the applicant shall submit a detailed BSOP for approval of a bar/tavern area on the main level; that any proposed signage shall be submitted for approval prior to the issuance of an occupancy permit and that the signage must meet all current codes and ordinances; that the proposed lighting shall be submitted for approval prior to the issuance of an occupancy permit and must meet all current codes and ordinances; that any outside storage of garbage dumpsters or other types of garbage containers shall be submitted for approval and must meet all current codes and ordinances; that all existing dumpsters and garbage containers must be appropriately screened in compliance with current codes and ordinances prior to the issuance of an occupancy permit; that all exterior storage of junk, debris and miscellaneous items must be removed, or stored in an enclosed area concealed from public view, prior to the issuance of an occupancy permit; that the existing internal stairway, which is currently permanently blocked from access and use, shall continue to be so blocked and shall not be opened, exposed, or otherwise altered; that the physical separation between uses shall remain; that it shall be

clearly understood that any alterations, remodeling, improvements, or any deviation of any kind from any described portion of the BSOP approval (including conditions set forth), shall not be allowed without the applicant first submitting an amendment to this BSOP for review and the appropriate approvals and permits being issued; that it shall be clearly understood that the approval of the BSOP shall not in any way be interpreted as liquor license approval, which is granted by the Village Board; that the liquor license approval and conditions set within shall be determined by the Village Board separately and apart from the approval of the BSOP submittal; and that all outstanding fees, permits, cost recovery and re-inspection fees shall be paid in full prior to issuance of an occupancy permit. The MOTION carried on a 4-1 vote, with Commissioner Larson opposed, President Whowell abstaining, and Commissioner Spadoni absent.

### **Harris Property Raze or Repair Order**

McCarthy stated that the Village has been receiving complaints with regard to the Harris property for several years. The garage is falling down and the building and zoning staff has been unable to inspect the interior.

Commissioner Poivey/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to proceed with the Raze or Repair Order process, and the MOTION carried without negative vote.

### **Schmidt Land Division Update**

Attorney Compton presented an update on the proposal to develop five lots, which are about 5 acres each. Since the proposal is for the new homes to be serviced by septic systems and wells, a percolation test was required. Compton stated that he was seeking the Plan Commission's blessing to move forward with the approval process, and possibly vote on the issue at next month's meeting. Since the proposal is for septic systems and wells in exchange for 5-acre lots, Walworth County permits will be required as well as Village of Fontana approval. In response to a question from Commissioner Eakright, Compton stated that the Walworth County approval process will include the determination of and adherence to setback requirements. Slavney stated that since the Plan Commission was considering a very unique parcel of land, approval of septic systems and wells within the Village is justified. Slavney stated that if the Plan Commission does vote to approve the proposal, there should be a "Findings of Fact" document adopted as well to create a record of the unique situation.

### **Pending Plan Commission Items for Future Agendas**

1. **Annexation Ordinance for Pheasant Ridge Parcel**
2. **Grunow ETZ Development**
3. **Rollette Oil BSOP Amendment**
4. **Rosenwald Family Trust Property Covenants**
5. **Lyon's Woods Development – ETZ Ordinance Amendment to Include PRD**

President Whowell allowed Keefe Real Estate, Inc., Realtor Associate Louise Sheyker and Bob Schorsch briefly present their proposal to have restrictive covenants removed from the Rosenwald Family Trust Property. The covenants were placed on the property in August 2003 at the request of the family. Schorsch wants to purchase the property, have some of the covenants removed by the Village, and construct a single-family residence on one of the lots. The proposal also calls for remodeling the existing log cabin home on the site to be used as a guest house, remodeling the existing garage; and constructing a 1,200-square-foot building to store personal recreational vehicles. Staff is not in favor of the proposal; however, the Plan Commission directed Schorsch to work with the building and zoning staff to prepare a submittal for the next Plan Commission meeting on Tuesday, February 28, 2006.

### **Plan Commission Adjournment**

Commissioner Poivey/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to adjourn the Plan Commission meeting at 8:28 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, Village Clerk

Note: These minutes are subject to further editing. Once approved by the Plan Commission and Village Board, the official minutes will be on file at the Village Hall.

APPROVED: VB – 02/07/06

PC – 02/28/06