

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

SPECIAL JOINT SESSION OF THE VILLAGE OF FONTANA PLAN COMMISSION  
with the JOINT EXTRATERRITORIAL ZONING COMMITTEE

**Tuesday, March 28, 2006**

President Whowell called the monthly meeting of the Plan Commission to order at 5:34 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

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

**Plan Commissioner absent:** Spadoni

**Also present:** Cheryl Bartz, David Coates, Phil Harvey, Village Administrator Kelly Hayden-Staggs, Robert Leibsle, Sarah Lobdell, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, John O'Neill, Trustee Pete Petersen, Treasurer Peg Pollitt, Trustee Ron Pollitt, Robert Sandy, Village Planner Mike Slavney, Paul Sloth, Tim Swatek, John Tracy, Director of Public Works Craig Workman

**Approval of Plan Commission Minutes**

Commissioner Larson/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to approve the minutes as presented for the meetings held February 28, 2006 and March 7, 2006, and the MOTION carried without negative vote.

**Public Hearings**

**Conditional Use Permit Application filed by David and Joanne Prudden, 150 Lake Street, Unit 2F, Fontana, WI 53125, for Tax Parcel No. SA 334600001, to renovate the existing building at 211 Third Avenue with a first-floor contractor's office and a second-floor residential apartment**

President Whowell opened the public hearing at 5:37 pm. Attorney Swatek stated that his clients were seeking approval of their CUP application at this time, and a Building, Site and Operation Plan will be brought back. Any signage proposal, architectural changes and the parking plan will be included with the BSOP. The second-floor apartment unit also requires an emergency exit. Phil Harvey stated that he did not understand why a CUP was required because the building already is being used as a contractor's office and a second-level apartment. Harvey stated that he was concerned about what type of traffic the business will produce. Under the current VOF Code, the building is located in the Village Center Preservation District, and residential uses must be approved under the CUP process. President Whowell closed the public hearing at 5:44 pm.

Commissioner O'Connell/Commissioner Eakright 2<sup>nd</sup> made a MOTION to approve the CUP application as submitted with the conditions that architectural plans and specifications be provided for review and approval consideration; that the required fire wall separation, egress, and all other requirements with regard to commercial buildings be fully complied with, as required by all state and local codes and ordinances; that all proper building and zoning permits be applied for, reviewed, approved and issued prior to the commencement of any remodeling, renovations or alterations; that failure to secure proper permits will result in double fees being assessed, an order of removal of any unapproved construction, and citations; that all existing encroachments, including, but not limited to, the split rail fence, timbers and parking area be removed to relieve the property of existing non-conformities; that the first floor commercially zoned area remain unused until such time as a

Building, Site and Operational Plan has been received, reviewed and approved by the Plan Commission; that no signage be installed on the property until such time as approved through the BSOP process, and all required building and zoning permits have been approved and issued; and that no paving, or increasing of impervious surface area of any kind shall be installed until such time as a survey depicting all exiting impervious surface areas has been received, reviewed and approved through the BSOP process, and all required building and zoning permits have been approved and issued. The MOTION carried without negative vote.

**Petition to amend Section 17-7, Design Standards, of the Village of Fontana Municipal Code**

President Howell opened the public hearing at 5:44 pm. Hayden-Staggs stated that the ordinance amendment was being proposed to better address the many private roads in the village. The amendment proposal is to add “or private” to Section 17-7 (3) to read as follows: “*Access:* Every lot or parcel created shall have a minimum frontage of 50 feet on a public or private right-of-way.” There were no other comments made during the public hearing. President Howell closed the hearing at 5:46 pm.

Commissioner Poivey/Commissioner Treptow 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the Municipal Code amendment as presented, and the MOTION carried without negative vote.

**Petition to amend Chapter 18, Sections 18-17, 18-84, 18-86, 18-150 and 18-151, Regarding the Nonconforming Lots Ordinance of the Village of Fontana Municipal Code**

President Howell opened the public hearing at 5:46 pm. Assistant Zoning Administrator McCarthy presented the proposed amendments, which addressed comments made at the special workshop meeting and at meetings during the last several months. President Howell called for a break in the public hearing and a short recess for the ETZ Committee members to take their seats at 6:00 pm. Following the joint portion of the meeting, President Howell reopened the public hearing at 6:50 pm. McCarthy used a marker board to illustrate the amendments to the other portions of the ordinance. Slavney stated that the proposed ordinance amendments still allow more flexibility with regard to nonconforming lots than are allowed in the other communities where he serves as planner. President Howell closed the public hearing at 7:13 pm. After Commissioner O’Connell made a motion to recommend Village Board approval of the amendments as presented, and the motion was seconded by Eakright, Larson stated that she had some concerns with the height provisions that allow for expansion in the conforming envelope of existing structures. Hayden-Staggs stated that if any amendments were made to document as published, another public hearing would have to be held. Hayden-Staggs stated that the amendments proposed that night reflected the comments made at the special workshop meeting and subsequent Plan Commission meetings.

Commissioner O’Connell/Commissioner Eakright 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the amendments as presented, and the MOTION carried with one negative vote cast by Larson.

Joint ETZ Committee Chairman Poivey called the committee meeting to order at 6:04 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Joint ETZ Committee Members present:** Roll call vote: Chairman Poivey, Village of Fontana representative Treptow, Linn Township representative Grunow, Linn Township representative O’Hare, Walworth Township representative van Dreser, Walworth Township representative Jordan

**Joint ETZ Committee Members absent:** Village of Fontana representative Spadoni, Linn Township representative Larry Aasen, Walworth Township representative Ken Magowan

**Public Hearing**

**Petition for Amendment of the Zoning Ordinance and Zoning Map of the Village of Fontana**

on Geneva Lake, filed by Anthony E. and Diane K. Urlakis, 392 Lakewood Drive, Williams Bay, WI 53191, from C-2 to C-2 and C-3, for an approximate 10-acre parcel located in part of the NW 1/4 of the SW 1/4 of Section 17, Town 1 North, Range 17 East, Walworth County, WI (South Lakeshore Drive, Linn Township), to create two lots for single-family residences

Chairman Poivey opened the public hearing at 6:04 pm. Attorney Swatek stated that the zoning classification change was necessitated by a statutory change with regard to right of ways. The change in zoning will allow the applicant to create a second lot for one single-family residence. Tom Connon stated that he owns property in the neighborhood and he is opposed to the proposal. Steven Lyon asked why the zoning change was necessary and was concerned that the applicant not be allowed to further subdivide the property. One of the conditions for approval suggested by staff is to require a notation on the Certified Survey Map that states the lot cannot be further subdivided. Jim van Dreser stated that the condition could be further solidified with a deed restriction that states that lots can not be further subdivided. Swatek stated that his clients do not have a problem with the deed restriction or with the notation requirement for the CSM. Chairman Poivey closed the public hearing at 6:15 pm.

Linn Township ETZ Committee representative Linda O'Hare/Village of Fontana representative Rick Treptow 2<sup>nd</sup> made a MOTION to recommend approval of the Petition to Amend the Zoning Ordinance and Zoning Map of the Village of Fontana as presented, with the conditions that a notation shall be placed on the face of the CSM that states the restriction that either parcel cannot be further subdivided and that a deed restriction also be entered into that states either parcel cannot be further subdivided, and the Roll Call Vote followed:

Village of Fontana representative Poivey – Yes

Village of Fontana representative Treptow – Yes

Linn Township representative Grunow – Yes

Linn Township representative O'Hare – Yes

The MOTION carried on a 4-0 vote, with Village of Fontana representative Spadoni and Linn Township representative Aasen absent.

Commissioner Poivey/Commission Larson 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the CSM and the Petition to Amend the Zoning Ordinance and Zoning Map of the Village of Fontana as presented, with the conditions that a notation shall be placed on the face of the CSM that states the restriction that either parcel cannot be further subdivided and that a deed restriction be entered into that states either parcel cannot be further subdivided, and the MOTION carried without negative vote.

### **Plan Commission-ETZ General Business**

#### **Ordinance Amendment to Chapter 18 to Include PRD (Planned Residential Development)**

Hayden-Staggs stated that when the zoning designations were created for the ETZ District, the planned residential development district was left out. The PRD is a Walworth County zoning district. There are two pending planned residential development proposals in the ETZ District being considered by Steven Lyon and William Grunow. McCarthy used the Walworth County zoning district as a starting point and tweaked it to match the existing standards in other ETZ residential districts. If favored by the ETZ Committee and Plan Commission, a public hearing will have to be held prior to adoption. Grunow stated that he was opposed to limiting total building height to 35 feet, instead of the 45 feet that is allowed in the county PRD zoning district. Slavney stated that the 35 foot limit is the same limit in all the other ETZ and Village of Fontana residential zoning districts.

Village of Fontana ETZ Committee representative Treptow/Walworth Township representative van Dreser 2<sup>nd</sup> made a MOTION to set a public hearing to consider the addition of the ETZ PRD District on Tuesday, April 25, 2006, beginning at 6:00 pm, and the Roll Call vote followed:

Walworth Township representative Jordan – No

Walworth Township representative van Dreser – Yes

Linn Township representative Grunow – No

Linn Township representative O'Hare – Yes

Chairman Poivey – Yes

Village of Fontana representative Treptow – Yes

The MOTION carried on a 4-2 vote, with Walworth Township representative Magowan, Village of Fontana representative Spadoni and Linn Township representative Aasen absent.

Commissioner Larson/Commissioner Poivey 2<sup>nd</sup> made a MOTION to set a public hearing to consider the addition of the ETZ PRD District on Tuesday, April 25, 2006, beginning at 6:00 pm, and the MOTION carried without negative vote.

### **Letter Received From Town of Walworth Regarding High Crest Estates Lot Owned by Carl Bergeson**

Nyman explained the situation with regard to the High Crest Estates lot being used for temporary storage during the almost-complete Village of Walworth-Village of Fontana emergency water connection project. Nyman was contacted by Town of Walworth Chairperson Diane Voss on November 30, 2005 and after inspecting the site and talking with Carl Bergeson on December 2, 2005, he left a message for Voss that explained the situation and site remediation schedule. After the Town of Walworth met on January 10, 2006, a letter was submitted to the ETZ Committee by the Walworth Town Board that requested to have the matter put on the agenda of the next meeting of the ETZ Committee. At the ETZ meeting, Nyman presented a letter from Ship Shape Marine, Inc., with regard to the lots in the High Crest Estates subdivisions. The letter, dated March 24, 2006, states that the berms will be shaped, water diversion will not be an issue, and any unclean fill will be removed from the site when work resumes on the Walworth-Fontana water main project. In response to a question from Jordan on when the rest of the restoration work will be completed, Workman responded that the project contract has a penalty clause that calls for the work to be completed prior to the end of May 2006.

After the agenda item was completed, Jordan read a story about an ETZ committee that was published in a newspaper. Jordan asked Chairman Poivey if a two-thirds majority vote of the Plan Commission was required to override a recommendation from the Joint ETZ Committee rather than simply a majority vote. Poivey asked Attorney Thorpe to answer the question; however, Thorpe stated the matter was not on the posted agenda and he was not even sure what Jordan was asking. Thorpe stated that he would be willing to talk to Jordan after the meeting.

### **Joint ETZ Committee Adjournment**

Town of Linn ETZ Committee representative Grunow/Walworth Township representative Jordan 2<sup>nd</sup> made a MOTION to adjourn the ETZ Committee meeting at 6:42 pm, and the MOTION carried without negative vote.

### **Plan Commission General Business**

#### **Par Development Cliffs of Fontana Developer's Agreement, PIP Approval, Condo Plat and Declarations**

Par Development submitted the precise implementation plan, condominium plat and declarations and developer's agreement for the Cliffs of Fontana project. The general development plan was approved October 24, 2005, and the developers have been working with the planning staff and engineers to finalize the documents presented. In order to meet the required slope grading ratio of 3-to-1 feet, the final site engineering proposal calls for 1,600 linear feet of landscaped retaining walls. Following lengthy discussion, the Plan Commissioners were in consensus that they were not comfortable voting on the PIP without viewing elevation plans that depict the proposed retaining walls. The commissioners also stated that prior to voting they need to see plans of the entire development that depict the landscaping and the visual effect of the proposed retaining walls. The proposed slit-rail fences along the top edges of the retaining walls also drew concern because of safety issues. A metal, picket fence, similar to the fence selected by the Park Commission for the

Fontana Beach, was suggested as an alternative to the split-rail fence. The staff report also suggested that the developer submit an artist's rendering of the proposed retaining walls, depicting landscaping, and that they use mixed colors for the retaining wall bricks. Hayden-Staggs asked the commissioners if they had any comments with regard to the submitted condominium plat and declarations or the developer's agreement, and none were made. Prior to voting to table the items until the April 25, 2006 Plan Commission meeting, the developers were directed to provide front elevations of the retaining wall areas, to address aesthetic and safety issues with the proposed fence along the top edge of the retaining walls, to select a more visually appealing and wider color variation for the retaining wall bricks, and to receive further engineering verification that the retaining walls will be stable as proposed. The developers were directed to meet with the village staff prior to next month's meeting in order to address the concerns. President Howell stated that the commissioners should take a field trip to the quarry site so the retaining wall and landscaping issues can be better understood. Commissioner Poivey/Commissioner Larson 2<sup>nd</sup> made a MOTION to table the items, and the MOTION carried without negative vote.

### **Tracy Group – Highlands of Fontana Plat and Related Condo Plats, Rezone, & Annexation Petition Approval**

Attorney Swatek and Tracy presented the plats, zoning proposal and annexation petition for the Highlands of Fontana development. Hayden-Staggs stated that staff was recommending approval on the submitted documents and moving forward with a public hearing to consider and act on the general development and precise implementation plans for the Planned Development zoning. If favorably received, the votes to recommend approval also would be subject to the April 25, 2006 public hearing. Thorpe stated that recent amendments to the developer's agreement have addressed staff concerns. The Plan Commissioners indicated that they all were comfortable with the GDP and PIP as presented. Hayden-Staggs reminded the Plan Commission that the motions to be considered on the annexation, zoning and plats all would be subject to the holding of the public hearing. Commissioner Larson/Commissioner Poivey 2<sup>nd</sup> made a MOTION to recommend approval of the annexation petition as presented, and the MOTION carried without negative vote. Commissioner Poivey/Commissioner Larson 2<sup>nd</sup> made a MOTION to recommend in favor of the proposed rezone to Planned Development and the General Development Plan as presented, and the MOTION carried without negative vote. Commissioner Poivey/Commissioner Larson 2<sup>nd</sup> made a MOTION to approve the plat for the Highlands of Fontana development as presented, subject to entry into an acceptable developer's agreement, and the MOTION carried without negative vote. Commissioner Eakright/Commissioner Poivey 2<sup>nd</sup> made a MOTION to approve the condominium plats as presented, subject to entering into an acceptable developer's agreement, and the MOTION carried without negative vote. Commissioner Poivey/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to recommend approval of the developer's agreement as presented, subject to the holding of the April 25, 2006 public hearing and approval of the precise implementation plan, and the MOTION carried without negative vote.

### **Moran Condominium Declaration for Conversion of Units at Fontana Village Inn and Condo Plat**

Attorney Swatek presented the proposed condominium declaration and plat for the conversion of the current hotel units at the Fontana Village Inn into privately owned condo units. The units can only be used for short-term stays; the maximum is 29 consecutive days. The staff report states that a building, site and operational plan will have to be submitted and approved for the proposal. There also was concern with regard to language in the condo declaration that establishes commercial units that could be renovated into business operations. Swatek stated that the language was necessary to accommodate the mechanical and utility connections for the building, and any proposed business use would be subject to the conditional use permit approval process. The Plan Commission decided to

forward the proposed condominium plat and declaration to the Village Board for approval, contingent on the staff report conditions.

Commissioner Poivey/Commissioner Eakright 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the condominium declaration and plat as presented, with the conditions that a conditional use permit is required for hotel/motel use (a previous conditional use permit may be on file and could possibly be amended instead of seeking a new CUP); a building, site and operational plan shall be submitted for approval and must meet the requirements described in Article IV, Performance Standards, of the Village of Fontana Municipal Code; any proposed signage changes shall be submitted for approval through the BSOP process; any proposed lighting changes shall be submitted for approval through the BSOP process; the existing Dumpster shall be screened to comply with current performance standards within 30 days; any change in the location of the Dumpster must be approved; any proposed outdoor grilling areas shall be clearly defined in the BSOP, and subject to approval; clarification of commercial units is required; a condition defining the process of converting units into commercially-defined units should be created; and any proposed new business/commercial use, signage, remodeling, other than what is depicted on the applicant's current submittal shall be amended through the conditional use permit approval/amendment and BSOP approval/amendment process. The MOTION carried without negative vote.

#### **Fontana Shores Condominiums BSOP Amendment**

David Coates presented the building, site and operational plan amendment proposal to replace the railings on the balconies of the Fontana Shores Condominiums building, 150 Lake Avenue, because the current railings are falling apart and the connections need to be replaced. Coates stated that the color of the railings, sierra tan, is as close to the current color that is available. Coates stated that the balconies on the parking lot side of the building will be replaced immediately upon approval, and the lake side of the building will be completed in 2007 if funding is approved by the condominium association. The plan also includes the removal of storage units on the balconies, to increase the available floor space.

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

#### **Preliminary Plat Presentation - John O'Neill Indian Hills Road Six-Lot Residential Proposal**

O'Neill presented photographs of the 4.09-acre parcel and described his preliminary concept for a six-lot subdivision. Following discussion, O'Neill was directed to revamp the preliminary proposal so that one road would access the site from Indian Hills Road, for that road to lead to a cul-de-sac, and for the proposed lots to be accessed from the cul-de-sac. O'Neill stated the he would revamp the preliminary concept and submit it for staff review prior to the next Plan Commission meeting. The staff report also states that the applicant should submit for review and consideration a floodplain and wetland delineation survey; a site, private road and utility engineering plan; a concise plan regarding any modification to elevations or grade, specifically that of Lot 4, which is low-lying, thus creating water collection areas; and a construction site management plan. The staff report states that O'Neill must obtain Indian Hills First Addition approval for emergency access off Mesita Road, and submit a certified tree survey and Tree Preservation Plan (both conducted by a certified arborist).

#### **Amendments to VOF Municipal Code Section 18-27 (Accessory Uses and Structures)**

McCarthy stated that the amendments are being proposed to correct "oddities" in the municipal code. The amendments are minor language corrections.

Commissioner O'Connell/Commissioner Larson 2<sup>nd</sup> made a MOTION to hold a public hearing on April 25, 2006 to consider the proposed amendments to Section 18-27 (Accessory Uses and Structures), and the MOTION carried without negative vote.

#### **Bear Trap Ridge Subdivision Final Plat, Declaration of Restrictions, Article of Incorporation Approval**

Thorpe stated that there were road layout amendments made to address concerns from Fire Chief Jon Kemmett and comments in the staff report. Thorpe stated that the applicants requested that the existing driveway that serves the existing residence on the site be allowed to remain in its current state, without having to widen it to meet the minimum standards of a private road. The new portion of the road would be developed to the minimum standards as proposed. Following discussion, the Plan Commissioners agreed that the existing driveway should be improved to match the standards of the new road.

Commissioner Larson/Commissioner Eakright 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the subdivision final plat, declaration of restrictions and articles of incorporation as presented with the conditions that Outlot 1 shall remain a non-buildable lot and shall be so noted on the face of the Certified Survey Map; that Outlot 1 shall be used only for the improvement of a private roadway; that a subdivision variance be granted by the Plan Commission to waive the cul-de-sac maximum length requirement; that the private roadway be designed to fully comply with private road standards to ensure the safe use and passage of emergency and safety equipment and vehicles; that the private roadway be designed to ensure all angles are 90 degrees or more, and eliminate any angles 90 degrees or less, to ensure the safe use and passage of emergency and safety equipment and vehicles; that building and/or zoning permits for development shall not be issued until such time as the private roadway (labeled in Outlot 1) has been improved and fully complies with all private roadway standards, and any other private roadway conditions described herein; that a 10-foot access easement along the southern most portion of the property, adjacent to Whitetail Ridge Subdivision and parallel to Highway 67, shall be received; that the submitted final survey shall reflect the proper ownership name/title; and that the existing portion of the access road be brought up to meet private road standards of the Municipal Code. The MOTION carried without negative vote.

### **Concept Reviews**

#### **Geneva Lake Conservancy (CUP Application/Set Public Hearing)**

Hayden-Staggs stated that the GLC is seeking approval for a general informational sign board and pamphlet holder at its office, 398 Mill Street. The sign is for informational use only and will incorporate the existing sign on the property.

Commissioner Treptow/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to hold a public hearing on April 25, 2006 to consider the CUP application filed by the Geneva Lake Conservancy, and the MOTION carried without negative vote.

#### **Jamie and Carol Whowell (Attorney Robert Leibsle) Proposal to Vacate Big Foot Street**

Attorney Leibsle stated that Jamie and Carol Whowell are proposing to have the Village vacate the remaining portion of Big Foot Street that was not previously vacated. The small remaining portion of the street currently is used for parking. The Whowells would be willing to purchase the Village's portion of the vacated street in the future. Hayden-Staggs stated that the Village wants to maintain ownership of its portion of the road until the pending lakefront improvement projects are planned and approved. The portion of Big Foot Street abutting the Whowells property will be used in part to help accommodate a renovation plan for their apartment building. The Whowells would like to renovate one of the bedrooms. Leibsle stated that he was at the Plan Commission meeting to initiate the approval process. A public hearing will be required before the Village Board in order to approve the vacation of the street. Leibsle stated that a 40-day notice is required to schedule the required public hearing. Following the public hearing before the Village Board, the matter will have to come back to the Plan Commission for one more vote.

Commissioner O'Connell/Commissioner Treptow 2<sup>nd</sup> made a MOTION forward the request to the Village Board for appropriate approval action and a public hearing, and the MOTION carried without negative vote.

#### **Outdoor Liquor Consumption Model Ordinance Discussion**

Nyman presented a report on outdoor liquor sales and consumption. The report is based on

ordinances from Mosinee, Antigo, Sun Prairie, La Crosse, Milwaukee, Madison, the Village of Waunakee and the League of Wisconsin Municipalities. The report outlines definitions, the approval process, and requirements and restrictions for establishments. The Plan Commission will review the report and make a recommendation at its next meeting.

**Pending Items for Future Agendas**

1. Rosenwald Family Trust Covenant Removal Proposal
2. Lyon's Woods ETZ Development Proposal
3. Grunow ETZ Development Proposal
4. Amendments to the Dockominium Plat and Condominium Declarations filed by the Abbey Harbor Condominium (Tabled March 7, 2006)

**Plan Commission Adjournment**

Commissioner Treptow/Commissioner O'Connell 2<sup>nd</sup> made a MOTION to adjourn the Plan Commission meeting at 10:00 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 the Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 04/20/06