

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

MONTHLY & SPECIAL JOINT SESSION MEETING of the VILLAGE OF FONTANA PLAN
COMMISSION with the JOINT EXTRATERRITORIAL ZONING COMMITTEE

Monday, March 30, 2009

Chairman Spadoni called the monthly meeting of the Village of Fontana Plan Commission to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: O'Connell, President Petersen, Chairman Spadoni, Poivey, McGreevy

Plan Commissioners late: D'Auria, Lobdell (arrived at 5:31 pm)

Also present: Daniel Baughman, Steve Beers, Amber Benson, Michael Hoey, Russ Hovde, Attorney Jim Howe, Rob Ireland, Robert Klockars, Laurie Larson, Robert Leibsle, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Joseph McHugh, Wes Milner, Jerry Mortier, Genie Murphy, Building Inspector Ron Nyman, Sharon O'Brien, Rick Pappas, Arlene Patek, Ted Peters, David Rasmussen, Bob Rauland, Lucy Sandy, Tim Swatek, Village Attorney Dale Thorpe, David Wall, Jill Wegner, Dennis West, Tom Whowell, Cindy Wilson, Director of Public Works Craig Workman, Robert Youngquist

Visitors Heard

None

Announcements

1. Village Board/Plan Commission Master Plan Update Meeting – **Monday, April 6, 2009, 5:00 pm**
2. Village Board Monthly Meeting – **Monday, April 6, 2009, 6:00 pm**
3. 2009 Spring Election – **Tuesday, April 7, 2009, polls open 7:00 am to 8:00 pm**
4. Toddler Time at the Fontana Public Library – **Thursdays, April 9, 16, 23 & 30, 2009, 10:30 am**
5. Village Hall/Library Closed for Easter Weekend – **Friday and Saturday, April 10 & 11, 2009**
6. Village Easter Egg Hunt at the Duck Pond Recreation Area – **Saturday, April 11, 2009, 10:00 am**
7. Library Board Meeting – **Wednesday, April 15, 2009, 10:00 am**
8. Park Commission Meeting – **Wednesday, April 15, 2009, 6:00 pm**
9. Volunteer Divers Cleaning Up Lakefront – **Saturday, April 18, 2009**
10. Protection Committee Meeting – **Monday, April 20, 2009, 5:00 pm**
11. Newly Elected Officials Terms Commence – **Tuesday, April 21, 2009**
12. Finance Committee Meeting – **Thursday, April 23, 2009, 5:00 pm**
13. Public Works Committee Meeting – **Saturday, April 25, 2009, 8:00 am**
14. Plan Commission Monthly Meeting – **Monday, April 27, 2009, 5:30 pm**
15. Lakefront and Harbor Committee Meeting – **Wednesday, April 29, 2009, 4:30 pm**

Approve Minutes

Commissioner O'Connell/President Petersen 2nd made a MOTION to approve the minutes for the meetings held January 26, 2009 & March 2, 2009, and the MOTION carried without negative vote.

Public Hearing

Application Filed by Stephen P. Beers, 454 N. Lakeshore Drive, Fontana, WI, to Authorize Density Shift Between Parcels (453, 454 and 457 N. Lakeshore Drive and Lot 2 CSM 1515 on Stearns Road) for a 4-Unit Condominium Association in the RS-1 Residential Zoning District

Chairman Spadoni opened the public hearing at 5:33 pm. Spadoni stated that since there are still required documents needed for staff to make a recommendation, the public hearing would be held, but no action would be taken by the Plan Commission that night. McCarthy stated that before a recommendation can be made on the proposal, Village professional staff members are still waiting for the submission of a storm water management plan, a site survey that delineates the primary environmental corridor, exact calculations on the land being proposed for the density shift and a required review from the Southeastern Wisconsin Regional Planning Commission (SEWRPC). McCarthy stated that the applicant is not seeking a rezone of the property, he is seeking approval of a density shift and a condominium plat and declarations that would incorporate four separate single-family residences on the three existing parcels. There are three residential structures currently located on the lots. Thorpe stated that the request for the density shift would enable the applicant to construct the fourth residence and to designate the new residence, the two existing residences and a razed and relocated garage/guest house on the lakeside lot as a condominium association. Thorpe stated that the primary environmental corridor on the property was recently staked by SEWRPC and the survey delineating the environmental corridor is the next required step. Thorpe stated that once the required documents are submitted, staff will be able to determine the permitted density for the three lots. Steve Beers stated that he has been working with Village staff for one and a half years on the proposal, and that time included the moratorium on development proposals in the RS-1 Zoning District while the lakefront zoning code was reviewed and amended. Beers stated that by creating a condominium association it will allow the four property owners to use the three existing boat slips on the lakefront. Beers stated that the current garage/guesthouse would be razed and a new single-family residence would be constructed back off the street. The current structure is located about 3 feet from the public right-of-way. Attorney David Rasmussen stated that he is representing the neighboring property owner, John Porter, and a proposal to authorize lake access for a parcel located on the west side of North Lakeshore Drive (across the street from the lake) is not allowed by the state statutes. Rasmussen stated that his client opposes approving additional access to the lake. Joseph McHugh, the executive director of the Geneva Lake Conservancy, stated that he submitted a letter to the Village that outlines the Conservancy's opposition to the proposal. McHugh stated that the Conservancy strongly opposes the use of condominium platting to approve lake access for property owners located across the road from the lake. McHugh stated that the Village zoning code and the state statutes do not allow the Village to approve the proposal. Bob Youngquist, 585 N. Lakeshore Drive, stated that he is concerned about the proposal because it will increase lake use and it will not provide any benefits to the tax base or provide tax relief. Youngquist stated that there are no specific benefits to the Village and a primary environmental corridor was placed on the land encompassing the site on purpose. Youngquist stated that SEWRPC initially ruled that only 2.8 units would be allowed on the entire site, and that number has to be rounded down to 2 units, not rounded up to 3 units. Youngquist stated that the environmental corridor and lakefront usage are big issues that can't be taken lightly and he agrees with the Geneva Lake Conservancy's position. Youngquist stated that Beers is a good neighbor and friend; however, the proposal should be denied. Sharon O'Brien, 465-I N. Lakeshore Drive, stated that she is concerned that if the proposal is permissible according to the Municipal Code, why then does it require Plan Commission approval. Thorpe stated that according to the Municipal Code, the proposal requires the Plan Commission to make a recommendation to the Village Board on requests to allocate density from one parcel to another and on condominium plats and declarations. Thorpe stated that the Plan Commission was not in a position to consider the matters at the meeting because the applicant still has to submit storm water management and density related documents. Genie Murphy, 292 White Oak Road, asked if the zoning code had been amended in the last 18 months to allow for the proposal. Thorpe

stated that someone could have filed similar condominium form of ownership proposals with the Village since the 1970s, and the zoning amendments that were adopted last year following the moratorium addressed other issues and did not create any new development opportunities in the RS-1 Zoning District. McHugh stated that the Lakeshore Overlay District prohibits the proposal and a condominium plat can't be used to gain access to Geneva Lake for properties located across the street. Rasmussen stated that state statutes dictate that the property on the west side of North Lakeshore Drive would have to be excluded from the condominium plat if lake access is proposed. Anne England stated that she resides on North Lakeshore Drive and she asked Beers questions about the proposal. Former Village of Fontana resident Laurie Larson stated that condominium association platting should not be used to govern the development proposal. Larson stated that the proposal is more closely related to a planned development and she does not understand how the zoning code would allow the proposal to be approved. Letters stating opposition to the proposal were submitted by Terry Reuland, 483 N. Lakeshore Drive; Larry and Phyllis Pierce, 465-V N. Lakeshore Drive; John and Debra Pierce, 465-R N. Lakeshore Drive; President Scott Anderson and Belvidere Park Association Board members Tim O'Brien, Mary Ann Wham, Kathleen Sharp, Kathy McKeever and Deb Pierce; Louis and Kathleen McKeever, 465-K N. Lakeshore Drive; Tim and Tara Clark, 465-N N. Lakeshore Drive; Gale and Jean Walker, 465-O N. Lakeshore Drive; Martha Vaughan Atkinson, 433 N. Lakeshore Drive; and the Geneva Lake Conservancy. Chairman Spadoni closed the public hearing at 6:03 pm. President Petersen/Commissioner McGreevy 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

General Business

Certified Survey Map Filed by Dave Stoppie, Estate of Tena Stoppie, Town of Linn & Town of Walworth – ETJ Review

Staff recommended approval of the proposed Certified Survey Map as submitted with the condition that all filing fees and cost recovery fees owed to the Village of Fontana shall be paid in full. The site is located within the Village's extraterritorial plat jurisdiction area.

Commissioner O'Connell/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the Certified Survey Map filed by Dave Stoppie for the Estate of Tena Stoppie, Town of Linn and Town of Walworth, with the condition that all filing fees and cost recovery fees owed to the Village of Fontana shall be paid in full. The MOTION carried without negative vote.

Tree Ordinance Amendments – Tabled 1/26/09

McCarthy stated that she distributed the most recent draft of the proposed amendments to the Tree Ordinance and there were no changes or concerns submitted. McCarthy stated that if inclined, the Plan Commission needs to schedule a public hearing to consider the amendments. Spadoni stated that he thought a joint meeting of the Park Commission and Plan Commission was going to be held to discuss the proposed amendments. Lobdell stated that the next meeting of the Park Commission is scheduled for Wednesday, April 15, 2009 beginning at 6:00 pm, and the Park Commission was planning to make its final recommendation on the proposed amendments at that meeting. President Petersen stated that the Village needs to get an ordinance in place that everybody is comfortable with, but it has to be done in the near future since the weather getting nicer and the demand for tree cutting permits will be increasing. Spadoni stated that the Plan Commission members should review the proposed amendments closely and attend the Park Commission meeting if they want to provide more input into the document that will be presented at the public hearing.

Commissioner O'Connell/Commissioner Poivey 2nd made a MOTION to table the proposed amendments to the Tree Ordinance, and the MOTION carried without negative vote.

Wind Energy System Ordinance Creation – Tabled 1/26/09

Thorpe stated that the proposed wind energy ordinance has been tweaked to address concerns stated at the last monthly meeting. Thorpe changed the section regarding the height regulations and a

section regulating noise.

Commissioner D'Auria/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the proposed Wind Energy Ordinance as presented, and the MOTION carried without negative vote.

Condominium Plat & CUP Filed by William Turner, 393 North Lakeshore Drive – Conceptual Presentation

Chairman Spadoni stated that there was nobody present to present the concept. McHugh stated that the Geneva Lake Conservancy is concerned about the overdevelopment of lakefront lots and density. President Petersen/Commissioner Poivey 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

PIP Amendment Filed by Abbey Springs for Boathouse Structure Modifications

Abbey Springs filed a proposed amendment to its Precise Implementation Plan to complete interior remodeling and to construct a new opening, dormer, wood deck, walkway and exterior stairs for the existing boathouse. The existing wood decking will be replaced with the composite, if approved. Thorpe stated that staff still needs to get a record of what's been approved in the recent amendments to the Abbey Springs PIP, what's been constructed and what is being withdrawn at this time. Thorpe stated that he is scheduled to meet with the attorney representing the Abbey Springs to make sure the record is straight. McCarthy stated that a building permit has been issued for the interim so that the interior renovation work can commence immediately. Thorpe stated that the village staff members and the Abbey Springs put a lot of time and effort into cleaning up the PIP records a few years ago, and time should be taken to make sure the current application is correct. O'Connell stated that she was concerned if some trees will have to be cut down in the area if the proposed renovation is approved. Abbey Springs General Manager Jerry Mortier stated that the trees are no longer being planned to be cut down. McCarthy stated that the landscaping plan is one of the items that have to be reconciled between all the recent amendments to the PIP.

Commissioner McGreevy/Commissioner Poivey 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Raze or Repair Order for Daniel Baughman Garage at 479 N. Lower Gardens

McCarthy stated that the agenda item was for informational purposes only at this time. McCarthy stated that Baughman obtained a building permit in October 2006 to construct a detached garage. Building permits are valid for two years. McCarthy stated that a blue tarp has been covering the garage for several years and very little of the construction work has been completed. McCarthy stated that several attempts have been made to work with Baughman to bring the property into compliance. On March 13, 2009, Baughman entered into an agreement with the Building and Zoning Department to apply for a permit to complete the exterior requirements of a partially completed structure within 45 days. If the conditions of the agreement are not met within the timeframe, citations against the property owner shall be issued in accordance to the Municipal Code and the Department of Building & Zoning will seek authorization to issue a raze or repair order against the property.

Raze or Repair Order for Universal Mortgage Property at 848 Geneva Lane

McCarthy stated that the Building and Zoning Department would like authorization to issue the Order for Repair of the principal and accessory structures located at 848 Geneva Lane. McCarthy stated that an inspection of the interior of the principal structure has not been completed, but the exterior of the structure is in bad shape.

Commissioner O'Connell/Commissioner D'Auria 2nd made a MOTION to recommend Village Board approval of the Order for Repair of the principal and accessory structures located at 848 Geneva Lane as presented, and the MOTION carried without negative vote.

Pending Items for Future Plan Commission Agendas

1. Brick Church Hotel and Spa BSOP Proposal
2. Conditional Use Permit Application Filed by US Cellular

Joint ETZ Committee Chairman Derek D'Auria called the Joint ETZ Committee meeting to order at 6:06 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

ETZ Committee Members present: Roll Call vote: Village of Fontana representatives Derek D'Auria, Mike Poivey, Sarah Lobdell; Town of Linn representatives Larry Aasen, Jerry Polek; Town of Walworth representatives Ken Magowan, Jim van Dreser

ETZ Committee Members absent: Town of Walworth representative Dennis Jordan, Town of Linn representative John Zils

ETZ-Plan Commission Public Hearing

Petition for Amendment of the ETZ Zoning Ordinance & CSM Filed by Jean Black Barton Trust, Linn Township

Chairmen Spadoni and D'Auria opened the joint public hearing at 6:07 pm. McCarthy stated that the applicant is requesting the rezoning of a portion of the property to C-3, ETZ, from the existing C-2, ETZ, in order to allow for minimum size requirements to be met for two separate parcels for single-family residences. Lot 1 is a proposed to be rezoned to C-3, ETZ with a proposed lot size of 206,887 square feet (4.75 acres), with an approximate 330.22-foot average lot width. The minimum required lot size in a C-3, ETZ district is 100,000 square feet (2.83 acres), with a 200-foot minimum average lot width. Lot 2 is proposed to remain C-2, ETZ with a proposed lot size of 218,330 square feet (5.01 acres), with an approximate 330.9-foot average lot width. The minimum required lot size in a C-2, ETZ district is 5 acres, with a 300-foot minimum average lot width. McCarthy stated that the applicant will not be allowed to further subdivide the parcels in the future. Attorney Jim Howe stated that the proposal allows his clients to develop the lots in the manner in which they were initially platted, and an identical proposal was approved in April 2006 for the neighboring parcels owned by Anthony and Diane Urlakis. Howe stated that the situation was created when the property owners lost 33 feet of right-of-way frontage from their lots along Lakeshore Drive. In response to a question, Howe stated that the proposed CSM has been favorably reviewed by the Southeastern Wisconsin Regional Planning Commission. Linn representative Larry Aasen stated that he is concerned that the driveway location should be located along the western edge of the parcel as initially proposed. Aasen stated that a motorist's view of Lakeshore Drive would be better from the western side of the parcel. Howe stated that the driveway location was changed to the east side of the parcel from the west after the Village received a letter from Town of Linn Highway Superintendent Jim Wolfram. Linn representative Jerry Polek asked if the driveway could be switched back as initially proposed because he does not want to lock the developers into a driveway location that is not as safe as the west side of the lot. Spadoni stated that the driveway location could be worked out between the applicant and the Linn Town Board prior to the commencement of construction. Howe asked that the decision be finalized prior to the recording of the CSM. Thorpe stated that the Linn Town Board can make the driveway decision and then the CSM can be finalized. McCarthy stated that staff recommended approval of the proposal with the conditions that all review comments from the Wisconsin DOA and the Village engineering firm are satisfied, that all filing fees and cost recovery fees owed to the Village are paid in full within 15 days, that the applicant shall be responsible for recording the CSM with Walworth County within one year from the approval date, and that the applicant shall provide the Village with one recorded copy of the CSM within 30 days of recording such document, which will constitute final village approval of the proposed Certified Survey Map. Ruekert-Mielke Registered Land Surveyor Bruce Cross indicated in a February 11, 2009 letter to the Village that all the previous review comments have been satisfied. SEWRPC Chief Land Use Planner William J. Stauber indicated in a February 16, 2009 letter that the commission recommends approval. Spadoni and D'Auria closed the public hearing at 6:16 pm.

Joint Session General Business

Joint ETZ Committee and Plan Commission Recommendations on Petition for Amendment of the ETZ Zoning Ordinance & CSM Filed by Jean Black Barton Trust, Linn Township

Village of Fontana representative Poivey/Village of Fontana representative Lobdell 2nd made a MOTION for the Joint ETZ Committee to recommend approval of the Petition for Amendment of the ETZ Zoning Ordinance and the Certified Survey Map filed by the Jean Black Barton Trust with the conditions that all review comments from the Wisconsin Department of Administration and the Village engineering firm, Ruckert-Mielke, are satisfied; that all filing fees and cost recovery fees owed to the Village of Fontana are paid in full within 15 days; that the applicant shall be responsible for recording the Certified Survey Map with Walworth County within one year from the approval date; that the applicant shall provide the Village of Fontana with one recorded copy of the Certified Survey Map within 30 days of recording such document; and that the Linn Town Board shall determine the location of the driveway. The MOTION carried without negative vote, with Linn Township representative John Zils and Walworth Township representative Dennis Jordan absent.

Commissioner O'Connell/President Petersen 2nd made a MOTION for the Plan Commission to recommend Village Board approval of the Petition for Amendment of the ETZ Zoning Ordinance and the Certified Survey Map filed by the Jean Black Barton Trust with the conditions that all review comments from the Wisconsin Department of Administration and the Village engineering firm, Ruckert-Mielke, are satisfied; that all filing fees and cost recovery fees owed to the Village of Fontana are paid in full within 15 days; that the applicant shall be responsible for recording the Certified Survey Map with Walworth County within one year from the approval date; that the applicant shall provide the Village of Fontana with one recorded copy of the Certified Survey Map within 30 days of recording such document; and that the Linn Town Board shall determine the location of the driveway. The MOTION carried without negative vote.

Proposal to Amend A-4 ETZ Zoning Ordinance Filed by Jamie Whowell for Addition of Boat Service to A-4 District Allowable Uses by CUP – Set Public Hearing

At the January 26, 2009 joint meeting, Jamie Whowell stated that he would like to add boat service operations at his at his boat storage business on Willow Bend Road in Walworth Township. The Walworth Town Board favorably reviewed the proposal at its February 18, 2009 meeting. The ETZ Ordinance has to be amended and then the CUP amended to authorize the proposal. None of the Plan Commission or ETZ Committee members stated that they had concerns with the proposal. Chairman Spadoni/Commissioner D'Auria 2nd made a MOTION to schedule a public hearing for Monday, April 27, 2009 beginning at 6:00 pm to consider the proposal to amend the A-4 ETZ Zoning Ordinance to add boat services to the allowable uses by Conditional Use Permit. The MOTION carried without negative vote.

Walworth Township representative van Dreser/Walworth Township representative Magowan 2nd made a MOTION to schedule a public hearing for Monday, April 27, 2009 beginning at 6:00 pm to consider the proposal to amend the A-4 ETZ Zoning Ordinance to add boat services to the allowable uses by Conditional Use Permit. The MOTION carried without negative vote.

Adjourn Joint ETZ Committee

Chairman D'Auria/Village of Fontana representative Lobdell 2nd made a MOTION to adjourn the meeting of the Joint ETZ Committee at 6:20 pm, and the MOTION carried without negative vote.

Adjourn Plan Commission

Commissioner McGreevy/Commissioner Poivey 2nd made a MOTION to adjourn the meeting at 6:43 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 Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 4/27/09 – PC & ETZ Committee