

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

REGULAR MEETING of the VILLAGE OF FONTANA PLAN COMMISSION
Tuesday, May 30, 2006

President Whowell called the monthly meeting of the 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, Spadoni, Treptow, President Whowell, Larson, Poivey (arrived at 5:36 pm), McGreevy (arrived at 5:36 pm)

Also present: Daniel Baughman, Jeremy Bria, Stan Estes, Kathryn Galik, Administrator Kelly E. Hayden-Staggs, Village Clerk Dennis Martin, Ed and Valerie Lyon, CDA Executive Director Joseph McHugh, Peter Novak, Building Inspector Ron Nyman, John O'Neill, Trustee Ron Pollitt, Don Roberts, Rick Rosenow, Ed Snyder, Tim Swatek, Village Attorney Dale Thorpe, John Tracy, M. Bruce Wikinson

Visitors Heard

John O'Neill presented a modified preliminary concept for a six-lot residential subdivision located off Indian Hills Road. The concept initially was presented at the March 2006 Plan Commission meeting. O'Neill stated that in order to address the wetland areas on the site he revamped the proposal to include three points of access off Indian Hills Road and a retaining wall on the south side of the site. The initial concept also includes the cutting down of a large number of trees on the south side of the site. Spadoni stated that his initial opinion of the revamped proposal is completely negative because it calls for two more points of access off Indian Hills Road, a large retaining wall and the clear cutting of trees. The rest of the Plan Commission was in consensus that the preliminary concept is unacceptable as presented.

Announcements

Hayden-Staggs announced that the next Village Board monthly meeting will be held Monday, June 5, 2006, at 6:00 pm; a special Village Board meeting will be held Wednesday, June 7, 2006, at 5:30 pm; the CDA Board monthly meeting will be held Wednesday, June 7, 2006, at 6:00 pm; the Newsletter article deadline is Friday, June 9, 2006; Accurate Appraisal will hold office hours at the Village Hall on Friday, June 9, 2006, from 10 am to 4:00 pm; Open Book will be held Tuesday, June 13, 2006, from 4:00 to 6:00 pm; a special joint session workshop meeting of the Park Commission and Lakefront and Harbor Committee will be held Wednesday, June 14, 2006, at 5:00 pm; Board of Review will be held Thursday, June 29, 2006, at 2:00 pm; Accurate Appraisal will hold office hours at the Village Hall on Friday, August 4, 2006, from 10 am to 4:00 pm; and the Highway 67 construction schedule will dictate road closures during Phase I from May 1 to June 30 and during Phase II from August 21 to early November.

Approve Plan Commission Minutes

Spadoni/O'Connell 2nd made a MOTION to approve the minutes for meetings held April 20, 2006 and May 17, 2006, as presented, and the MOTION carried without negative vote.

Public Hearing

Petition to Amend Chapter 18-151 (a) and (b) of the Village of Fontana Municipal Code

President Whowell opened the public hearing at 5:40 pm. Hayden-Staggs stated that the proposed amendment corrects an inadvertent omission made during the recent amendment process to the nonconforming lots and buildings section of the Municipal Code. When Section 18-151 was

amended by Ordinance 040306-10, the section that addresses proposed building addition or enlargements to existing nonconforming structures was inadvertently omitted. President Whowell closed the public hearing at 5:42 pm.

Spadoni/Poivey 2nd made a MOTION to forward the proposed amendment to Chapter 18-151 (a) and (b) to the Village Board with a positive recommendation, and the MOTION carried without negative vote.

General Business

Meeting Schedule for Summer of 2006

President Whowell stated that he would like the Plan Commission to consider to setting the monthly meeting dates for the next three months on Mondays, June 26, July 31 and August 28.

Treptow/Spadoni 2nd made a MOTION to change the dates for the next three regular monthly meetings of the Plan Commission to June 26, July 31 and August 28, 2006, and the MOTION carried without negative vote.

Wilkinson Lot Separation Proposal - Create Two Lots

M. Bruce Wilkinson stated that he and Kathryn Galik filed the proposed certified survey map to create two separate tax parcels from the plated Lots 24 and 49 of Country Club Estates Subdivision. The two plated lots currently comprise one residential lot zoned R-3. Wilkinson stated that they would like to receive two separate tax bills for the lots. Hayden-Staggs stated that the staff review of the proposal found that the lots meet the minimum lot size standards of the Municipal Code; however, the staff has concerns with regard to development proposals for the lots because of storm water issues. The staff report states that the natural slope of the property creates a kettle that collects storm water run-off from several area properties. The staff report states that Line Item "I" of the Village of Fontana Environmental Checklist filed by the applicants, "A drainage way for five or more acres of land," should be changed to "yes" based on the review by Village Engineer Mike Bridwell. Thorpe stated that Chapter 18.30 of the Municipal Code will impact any development proposal for the lots, and those provisions will be outlined in a letter the Village will send to the applicants. Thorpe stated that the required grading plan for a residential proposal will have to ensure it is a reasonable plan that will not cause adverse affects on adjacent properties. Wilkinson stated that he is aware of the drainage problems associated with the lots and it is his opinion that there are adjacent "lots that drain onto our lots." Wilkinson stated that two adjacent properties have drainage tiling that leads to their lots and he may pursue a legal action through the provisions of Chapter 18.30 of the Municipal Code. Wilkinson stated that the drainage onto their lots caused the natural depression. Thorpe stated that he just wanted to make sure that the applicants were aware that they will have to deal with Chapter 18.30 if they seek approval for development plans. Wilkinson stated that they were only seeking approval of the CSM at this time to create two separate tax parcels. Thorpe stated that tax key issues are easy to resolve at the Walworth County level. Spadoni stated that how the applicants want to be taxed for their property does not have any impact on a development proposal for the site.

Spadoni/Poivey 2nd made a MOTION to recommend Village Board approval of the CSM as submitted to create two tax parcels, and the MOTION carried without negative vote.

Big Foot Street Vacation Proposal – Village Board Public Hearing July 10, 2006

The Village Board approved a motion to hold a public hearing on Monday, July 10, 2006, beginning at 6:15 pm for the proposal to vacate the small portion of Big Foot Street adjacent to Pioneer Park and an apartment building on Third Avenue owned by Jamie Carol Whowell. The public hearing notice will be published in three editions of the Lake Geneva Regional News prior to the hearing date. Hayden-Staggs stated that state statutes require the Plan Commission to make a recommendation on the proposal prior to the holding of the public hearing. Larson stated that she has some concerns with the proposal concerning its proximity to Pioneer Park and future plans for Third Avenue. Larson stated that she would also like to address other issues connected to properties

owned by Jamie and Carol Whowell as a condition for approval of the Big Foot Street vacation proposal. The matter will be on the agenda for consideration by the Plan Commission at its meeting on Monday, June 26, 2006, beginning at 5:30 pm.

Architectural Review of Prairie Crossing Elevations - The Tracy Group

John Tracy presented proposed building elevations, architectural plans and examples of the building materials for the Prairie Crossing condominium subdivision of his recently approved Highlands of Fontana development. As part of the conditions for approval of the precise implementation plan for the Planned Development zoning petition, Tracy was required to submit an architectural review to the Plan Commission for the Prairie Crossing portion of the subdivision. Tracy stated that there will be no vinyl or aluminum siding in the subdivision. Hayden-Staggs stated that the professional staff members did not have any concerns with regard to the architectural review as submitted. Larson stated that she has concerns that the garage doors on the units do not include windows. Tracy stated that he will install any type of garage door that the Plan Commission orders. Following discussion it was determined that a condition regarding the garage doors was not required, and the garage door styles are an item that Tracy and the individual home buyers can determine.

O'Connell/Treptow 2nd made a MOTION to approve the architectural review as presented, and the MOTION carried without negative vote.

BSOP Sign Proposal Filed by Fontana Family Chiropractic

Dr. Jeremy Bria, owner of Fontana Family Chiropractic, 450 Mill Street, Suite 102, stated that he was seeking approval of the Building, Site and Operation Plan he submitted July 26, 2005, and approval to erect a temporary sign along Highway 67 that he previously was ordered to take down. Staff recommended approval of the BSOP as submitted with two conditions; however, if a signage plan amendment for the FairWyn Ltd. Professional Building is to be approved, an application to amend the approved Conditional Use Permit must be filed by the owner of the building, Brian Pollard. The FairWyn Ltd. building and its business operations were approved under a CUP application filed by Pollard. Dr. Bria erected the temporary sign on the FairWyn Ltd. Mill Street condominium site, which received approval under a separate Planned Development and subsequent amendments. Hayden-Staggs stated that Dr. Bria has been informed that he can apply for and receive approval from the Building and Zoning Department for a temporary sign to be placed along Highway 67 during the construction project; however, the proposed sign must adhere to the standards of the Municipal Code. Dr. Bria stated he wanted approval to erect the expensive sign he had made to match the 32-square-foot construction signs Pollard had placed on the Mill Street site. During the lengthy discussion it was explained by Hayden-Staggs, Thorpe and President Whowell that the Municipal Code only allows a maximum of 24 square feet for temporary signs and the Plan Commission cannot approve variances to the zoning code. President Whowell stated that the Plan Commission has had to vote against sign proposals from adjacent property owners who were seeking authorization to erect signs that exceeded the maximum size standards of the Municipal Code. Dr. Bria was directed to file an application with the Building and Zoning Department for a temporary sign that does not exceed the maximum size standards of the Municipal Code.

Spadoni/Poivey 2nd made a MOTION to approve the Building, Site and Operational Plan as submitted, with the conditions that any modifications to the approved BSOP (i.e. business use) must be brought forward to the Plan Commission as an amendment to the BSOP for further review and approval, and that any proposed exterior modifications (i.e. signage, lighting, parking) must be submitted and approved through an amendment to the Conditional Use Permit submitted by the property owner. The MOTION carried without negative vote.

Pre-Condo Plat Amendment Concept Review for the Abbey Ridge

Ed Snyder stated that he was representing the Abbey Ridge Association with regard to its proposal to amend the condominium plat to authorize the construction of patio decks. When the proposal was presented last year, the applicants were advised to seek approval from the Wisconsin Department of

Natural Resources and the Army Corps of Engineers because the site is in a delineated wetland area. Snyder stated that since the DNR and the Army Corps of Engineers have approved the proposal, the Abbey Ridge Association was seeking input from the Plan Commission prior to filing the Condominium Plat Amendment. Snyder stated that none of the 48 units that would potentially have the decks added are located in the wetland areas. Snyder stated that of the 48 unit owners, 32 or 33 have indicated they will construct the decks if they are approved. Snyder stated that owners of the units do not have to construct the decks if they are approved. Snyder stated that the applicants have addressed the questions raised by the Plan Commission last year, and they will move forward with the approval process and pay the filing fee if the Plan Commission favors the proposal. Larson stated that she is concerned that the letter submitted by the DNR is not correct and she is not comfortable with the proposal. The other Plan Commissioners indicated that they favored the proposal as presented.

CSM for 2-Lot Proposal Filed by Robert Hehr

Attorney Tony Calletti, representing Robert Hehr, stated his client was seeking approval of a CSM filed to create two residential lots from one existing residential lot located between Shabbona Drive and Jenkins Drive in the RS-3 District. The parcel is the site of the former Strawberry Hill Bed and Breakfast. The staff report states that the required total area for lots in a RS-3 district is 7,000 square feet, and the average lot width minimum is 75 feet. Both proposed lots conform to the total area requirements of the RS-3 District, and both lots have the minimum of 50 feet on a public or private right-of-way. The staff report recommends approval of the CSM as submitted with the conditions that a notation be placed on the face of the CSM that states that Lot 1 shall be accessed off Jenkins Drive and Lot 2 shall be accessed off Shabbona Drive, and that an accessory structure which exists on Lot 1 shall be completely removed and the site restored within one year of this approval. Calletti stated that his client has no problem adhering with both of the staff suggested conditions. After Spadoni made a motion that was seconded by Treptow to recommend Village Board approval of the CSM as submitted with the two staff conditions, McGreevy stated that he thinks the Country Club Estates Association Board of Directors should be approached prior to final approval. Thorpe stated that private covenants between association members cannot be enforced by the Village, and the Plan Commission can only act on matters as they pertain to the Municipal Code. Thorpe stated that the Country Club Estates Association may be in a position to add a layer of approval to the proposal; however, that issue is up to the association and the proposal conforms with the Municipal Code. Nyman stated that the applicants were made aware that the Country Club Estates Association has a set of land covenants that may or may not impact the proposal. Larson stated that the minimum lot size requirements in the Municipal Code are not large enough. Larson stated she owns property in Country Club Estates and she is working to place some of the wooded area into a conservancy with the Geneva Lake Conservancy. Larson stated that the undeveloped portions of the subdivision should not be subdivided and developed. President Whowell stated that the subdivision associations in the Village have to be proactive and purchase vacant platted lots before they are purchased for development. Thorpe stated that the Plan Commission may want to consider proposing an amendment to the Municipal Code that increases the minimum lot sizes according to the characteristics of the individual subdivisions. President Whowell stated that an item to discuss minimum lot size requirements will be placed on the agenda of the next Plan Commission meeting on Monday, June 26, 2006, beginning at 5:30 pm.

Spadoni/Treptow 2nd made a MOTION to recommend Village Board approval of the CSM as submitted with the conditions that a notation be placed on the face of the CSM that states that Lot 1 will be accessed off Jenkins Drive and Lot 2 will be accessed off Shabbona Drive, and that an existing accessory structure on Lot 1 shall be completely removed and the site restored within one year of the approval. The MOTION was approved with two negative votes, cast by O'Connell and Larson.

Concept Review for Proposed Minor Amendment to CUP Issued November 22, 2004 to Daniel Baughman, 479 N. Lower Gardens Road

Daniel Baughman stated that he is seeking approval to add one more layer of shake shingles to the garage he is building at his residence. When the CUP was approved November 22, 2004, there was no provision in the code to allow for the extended shingles. A recent amendment to the zoning code allows for the extended shingles; however, the originally approved garage plan for the CUP does not include the extended shingles. Baughman stated that the extended shingles for the garage will match the shingles and gutters on the residence. The Plan Commission stated that Baughman is doing a great job on the project and his property is one of the best maintained in the entire village. Spadoni then made a motion that was seconded by Larson to approve the proposed amendment as presented; however, Hayden-Staggs stated the proposal constituted an amendment to the approved CUP and it would have to be presented at a public hearing next month before it can be approved. Hayden-Staggs stated that Baughman will have to file an amended CUP application and the public hearing will have to be posted.

Spadoni/Larson 2nd made a MOTION to set a public hearing for the June 26, 2006 meeting on the amended Conditional Use Permit application to be filed by Daniel Baughman, and the MOTION carried without negative vote.

Concept Review for CUP Application Filed by Edward S. Lyon, VEL Ltd. Family Partnership

Ed Lyon and his planner presented the conceptual plan to raze an existing caretaker's house and construct a larger residence on the same property. Lyon stated that he has a large extended family and the larger residence would be used for family guests use only. Upon completion, the applicant would like to reside in the reconstructed caretaker's residence while the main residence on the property is reconstructed. The planner stated that the main residence would be larger than the new caretaker's residence. Nyman stated that staff was not able to provide an opinion on the conceptual plan because there were not enough details submitted. Nyman stated that an accurate survey of the parcel, a tree plan and a driveway plan would be required to provide an opinion on the concept. The planner stated that he understood what the Building and Zoning Department will require to provide an opinion for the concept review and he will meet with the Village staff prior to the next Plan Commission meeting on June 26, 2006.

Spadoni/Larson 2nd made a MOTION to table the concept review for the CUP application filed by Edward S. Lyon, VEL Ltd. Family Partnership, and the MOTION carried without negative vote.

Update on Lot Violation at Novaks', 158 Fontana Boulevard

Nyman stated that Assistant Zoning Administrator Bridget McCarthy sent a letter to Mr. and Mrs. Peter Novak, owners of Novaks' Deli, 158 Fontana Boulevard, regarding possible citations related to BSOP violations and unauthorized excavation work on the parking lot. The letter dated May 9, 2006 states that the correspondence serves as confirmation of Peter Novak's stated intention to contract with Stewart Excavating to restore the graveled portion of the lot. The professional staff recommended that the gravel be removed, fill placed and grass seeded on the site by the first week of May. In response to a question from the Plan Commission, Peter Novak stated that Stewart has been unable to do the work because of the recent weather. Nyman stated that the extension granted by the Plan Commission at its April 20, 2006 meeting was scheduled to expire May 31, 2006. Nyman stated that staff was recommending an extension of 15 more days for Novak to have the site fully restored, including removing the illegally laid gravel layer, putting down a layer of black dirt and planting grass seed. Novak stated that Nyman had previously indicated that it would be acceptable to compact the gravel layer, put down black dirt and place grass seed. Nyman stated that he did not tell Novak that the proposal to compact the gravel layer was approved by the Plan Commission, and following staff review it was determined that it would cause drainage problems. President Whowell stated that the Plan Commission was in consensus that it wanted the site restored to the exact condition that it was in prior to the commencement of the unapproved parking lot project on February 28, 2006. Larson

stated that the Plan Commission has been trying to work with the Novaks for months to rectify the violation without the issuance of fines. President Whowell asked Peter Novak how much time he needed to restore the lot to its pre-violation condition, and Novak responded 30 to 60 days because he will have to get a back-hoe on the site to remove the gravel.

Spadoni/Poivey 2nd made a MOTION to extend the deadline by 30 days for Novaks' Deli to have the illegally laid gravel removed and the site restored to the shape it was in prior to February 28, 2006, or fines will be issued by the Building and Zoning Department, and the MOTION carried without negative vote.

Easement Agreement for CUP Issued to John O'Neill on March 1, 2005 & Amended October 24, 2005 (Tabled 4-20-06)

Thorpe stated that he reviewed the document submitted by O'Neill to fulfill a condition of the CUP issued March 1, 2005 and amended October 24, 2005. The easement was added as a condition for approval to protect the public right-of-way. Thorpe stated that the easement agreement was drafted by O'Neill's attorney in the opposite manner than was directed by the Village – the Grantor should be the Village of Fontana and the Grantees should be John M. and Maureen T. O'Neill.

Spadoni/McGreevy 2nd made a MOTION to direct Thorpe to revise the easement agreement submitted by John O'Neill and to forward the revised agreement with a positive recommendation to the Village Board. The MOTION carried with one negative vote, cast by Larson.

Geneva Project LLC Condo Plat Amendment - South Shore Club

Hayden-Staggs stated that following the initial approval of the South Shore Club development at the former Northwestern Military and Naval Academy site, the developer brought in each individual home for approval of the exact lot dimensions and unit numbers. Hayden-Staggs stated that Walworth County has requested that the developer file amendments for the condo plat for multiple units. Staff recommended approval of the plat amendment as submitted.

Spadoni/Poivey 2nd made a MOTION to approve the condo plat amendment as presented, and the MOTION carried without negative vote.

Park Place BSOP Follow Up

Hayden-Staggs stated that the agenda item was added to provide an update on the unresolved BSOP and signage issues. The initial violation notice issued by the Building and Zoning Department stated the issue had to be resolved by May 31, 2006 or fines would be issued. Nyman stated that Richard Rosenow submitted a new plan, but he did not yet have a chance to review the plan; and the sign that was mounted on the north end of the building that was in violation of the approved BSOP has been removed. Nyman stated that the unapproved sign has been removed, and following his review of the signage plan submitted by Rosenow, the issue should be resolved within 30 days.

Spadoni/O'Connell 2nd made a MOTION to table the matter for one month, and the MOTION carried without negative vote.

Harris Property Inspection and Possible Raze Order/Repair Order

Nyman stated that he and Assistant Zoning Administrator McCarthy inspected the Harris property and determined that the residence requires maintenance and repair work and the yard requires maintenance work; however, the repair work is not to a degree that would warrant a raze order. Nyman stated that the inspection did warrant a recommendation for the garage to be razed.

Liquor License Outdoor Service Recommendation

Nyman stated that copies of a report prepared by McCarthy that outlines recommendations compiled in recent months by the Building and Zoning Department and Police Chief Steve Olson were distributed to the Plan Commissioners for their review. Nyman stated that some Plan Commissioners have provided feedback to the Building and Zoning Department that they do not favor outdoor liquor service. Spadoni asked what residents and village officials who favor outdoor liquor service

should do to show their support of the adoption of some sort of outdoor liquor service and consumption guidelines. Larson and O'Connell stated they do not favor outdoor liquor service. Spadoni stated that it is allowed at some establishments in the village and provisions should be made to allow the Village Board to consider proposals for outdoor liquor service at the other establishments, if appropriate. Spadoni stated that the Village should catch up with modern times and allow for outdoor liquor service at appropriate premises. Treptow stated that he favored outdoor liquor service, but not in proximity to parks. McGreevy stated that he favors outdoor liquor service at restaurants, if appropriately controlled. Peter Novak stated that he has copies of petitions signed by his customers who favor outdoor liquor service. Spadoni/Larson 2nd made a MOTION to table the matter for one month, and the MOTION carried without negative vote.

Pending Items for Future Agendas

1. Review Conditions for FairWyn Ltd. Professional Building CUP Approved October 25, 2004
2. Pollard Commercial/Retail PD
3. Indian Hills Road Amended Residential Subdivision Concept – John O'Neill
4. Ed Lyon ETZ Proposal
5. Grunow ETZ Proposal
6. ETZ Ordinance Amendment
7. Rollette Oil BSOP
8. Abbey Harbor Condo Plat
9. Par Development PD for Audino Quarry
10. Fontana Village Inn BSOP

Prior to acting on a motion to adjourn, Larson asked why there was not an item under Pending Items for Future Agendas with regard to the proposal for the construction of boat turnaround lanes in Pioneer Park. The Plan Commission voted to table their recommendation on the proposal at a special joint meeting held September 6, 2005. The item has never been included on the Plan Commission's monthly meeting agendas under Pending Items for Future Agendas since the special joint meeting was held on September 6, 2005. Plan Commission agendas are posted the Friday prior to the date of regular monthly meetings and can be amended up to 24 hours prior to the starting time of the meeting. President Whowell stated that the item will be on the agenda for the June 26, 2006 Plan Commission meeting.

Adjournment

Treptow/Spadoni 2nd made a MOTION to adjourn the meeting, and the MOTION carried without negative vote at 8:08 pm.

Minutes prepared by: Dennis L. Martin, Village Clerk

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

APPROVED: 06/26/06