

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, June 29, 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: Sharon O'Brien, Micki O'Connell, Chairman George Spadoni, Derek D'Auria, Mike Poivey, President Petersen (arrived at 5:31 pm), Sarah Lobdell (arrived at 5:32 pm)

Also present: Steve Beers, Amber Benson, Administrator/Treasurer Kelly Hayden, Eric Hurkman, Rob Ireland, Library Director Nancy Krei, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Joseph McHugh, Building Inspector Ron Nyman, Margaret Reuland, Jerry Shoberg, Tim Swatek, Village Attorney Dale Thorpe, Jill Wegner, Public Works Director Craig Workman

Visitors Heard

None

Announcements

1. Fontana Public Library Children's Events at Duck Pond Pavilion – **Wednesday, July 1, 15 & 29, 2009 at 10:00 am**
2. CDA Board Monthly Meeting – **Wednesday, July 1, 2009, 6:00 pm**
3. Village of Fontana Music in the Park Program – **Saturday, July 4, 2009 at 4:00 pm**
4. Village of Fontana Fireworks Display – **Saturday, July 4, 2009 at Dusk**
5. Village Board Monthly Meeting – **Monday, July 6, 2009, 6:00 pm**
6. Fontana Public Library Children's Event at Fontana Fen – **Tuesday, July 7, 2009 at 10:00 am**
7. Blue Ribbon Lakefront Building Committee Meeting – **Thursday, July 9, 2009, 5:00 pm**
8. Summer Story Wagon Program at Village Hall – **Tuesday, July 14, 21 & 28, 2009 at 10:00 am**
9. Park Commission Monthly Meeting – **Wednesday, July 15, 2009 at 6:00 pm**
10. VOF Assessor Village Hall Office Hours – **Friday, July 17, 2009, 10:00 am to 2:00 pm**
11. Fontana Public Library Summer Reading Program Workshop – **Wednesday, July 22, 2009, 9:30 am**
12. Library Board Monthly Meeting – **Wednesday, July 22, 2009 at 10:00 am**
13. Open Book at the Fontana Village Hall – **Thursday, July 23, 2009, 3:00 to 5:00 pm**
14. Open Book at the Fontana Village Hall – **Saturday, July 25, 2009, 10:00 am to Noon**
15. Big Foot Lions Club Lobster Boil and Steak Fry – **Saturday, July 25, 2009**
16. Plan Commission Monthly Meeting – **Monday, July 27, 2009, 5:30 pm**

Approve Minutes

Commissioner O'Connell/Commissioner D'Auria 2nd made a MOTION to approve the minutes for the meeting held May 26, 2009, and the MOTION carried without negative vote.

Public Hearing

Petition to Amend the Zoning Ordinance Section 18-28 filed by the Village of Fontana on

Geneva Lake Regarding the Natural Resource Conservation Ordinance

Chairman Spadoni opened the public hearing at 5:31 pm. Hayden stated that staff and the Park Commission recommended one change to the proposed amendments to the Tree Ordinance with regard to invasive species. Hayden stated that the recommendation is to state in the ordinance that the invasive species are as defined on the published Wisconsin DNR list. Thorpe stated that if challenged, the DNR list will be more defensible than a locally developed list since it is established and updated by experts in the field. Park Commissioner Jill Wegner, who submitted two comments in an email, stated she went over the ordinance with one of the lawyers in her office. Wegner stated that word “protected” should be added to Item D on page 3 of the proposed ordinance because it is misleading. Thorpe stated that if the ordinance is read in its entirety, it is not misleading and the clause should not be altered. McCarthy stated that if the entire ordinance is read, it states in the beginning that cutting down all trees requires a permit, and then later in the section it lists the exceptions where a permit is not required. McCarthy stated that the entire ordinance could be rewritten to state the exceptions first, but the concern stated by Wegner is covered either way. Wegner stated that she also has a concern with a paragraph on page 7 of the proposed ordinance that may be misleading with regard to invasive trees. McCarthy stated that the section is necessary because the Park Commissioner previously determined that there are some invasive, nuisance species trees that should be protected for the Village’s tree canopy. McCarthy stated that there are a lot of redundancies in the amended ordinance because during the last eight months since the matter was directed to the Park Commission by the Village Board there have been a lot of specific items requested from various officials. Spadoni closed the public hearing at 5:39 pm. Spadoni stated that the amendment process has produced a better ordinance and he thanked the staff for its hard work. Poivey stated that he also thinks the amendments are appropriate and the new proposed ordinance flows well. O’Brien stated that the amended Tree Ordinance is a better document for the Village to administer and it still prevents people from arbitrarily cutting down the Village’s tree canopy. Lobdell stated that she also favors the proposed amendments. Lobdell stated that a future amendment should address some type of tree replacement credit for property owners who plant more desirable species of trees, such as oaks.

Commissioner O’Connell/Commissioner Poivey 2nd made a MOTION to recommend Village Board approval of the proposed amendments to the Natural Resource Conservation Ordinance as presented, with Sections 18-28 (c)(4) and 18-28 (g)(1)(e) amended to state that the list of invasive tree species shall be the Wisconsin Department of Natural Resources published list of invasive tree species. The MOTION carried without negative vote.

General Business

Planned Development Zoning Amendment Concept for Stephen P. Beers Property at 453, 454 & 457 N. Lakeshore Drive and Lot 2 CSM 1515 on Stearns Road

McCarthy stated that the incomplete application for a density shift and Condominium Plat was withdrawn by the applicant May 23, 2009 and the proposal to amend the zoning of the three subject parcels from RS-1 to a Planned Development is again being pursued by the applicant. A conceptual Planned Development rezone application was presented to the Plan Commission at its September 2008 meeting. Attorney Tim Swatek stated riparian rights and environmental corridor concerns have caused the density shift proposal to be shifted back to a Planned Development. Swatek stated that the proposal is the same as previously requested, the approval mechanism has just been shifted to a Planned Development rezone. In response to unresolved stormwater management issues, Swatek stated that a plan will be worked out between the Village engineering firm and the developer’s engineering firm prior to the issuance of building permits. Thorpe stated that the fundamental issue that the Plan Commission members had to decide is the proposed density shift through a Planned Development. Hayden stated that the Village staff members indicated in September 2008 and again at the last staff meeting that the Planned Development concept as a whole is not appropriate. Hayden stated that the Zoning Code also has been amended to prohibit development proposals in the RS-1 District from using land from lots located across public and private streets or right-of-ways

to calculate total density. Hayden stated that the proposal has “gone full circle” as indicated by Swatek because the proposal has run into issues with the environmental corridor and with the proposal to assign lake rights to properties located across the road from the lake. Thorpe stated that the developer would like to have two separately deeded lots on the lakeside of the road. There currently are two homes on one lot. Joseph McHugh stated that the Geneva Lake Conservancy opposes the proposal to create two sellable lots out of the one current lot on the lakeside of the road if the density standards are not met. McHugh stated that if the Village votes to approve the proposal, there has to be a mitigating fact that makes the subject property different from the other properties located on Lakeshore Drive. There has not been a Petition to Amend the Zoning Ordinance and Zoning Map filed with the Village of Fontana; just two inquiry letters from Swatek dated June 9, 2009 and May 23, 2009. Swatek asked the Plan Commission members for their opinions on the proposal for Planned Development zoning prior to the filing of the petition and payment of the application fee. Beers stated that the proposal will help the Village get rid of a nonconforming structure to be reconstructed on the lakeside lot and it will lock in a preservation area and dictate how the lot will be developed in the future. Beers stated that if approved, the proposal will also help resolve a stormwater runoff problem in the area. Chairman Spadoni asked the Plan Commission members if they would provide initial feedback on the proposal. President Petersen stated that if the proposal still includes the provision to assign lake rights to the two lots located across the road, he is opposed. O’Brien stated that she is also opposed to assigning lake rights to properties located across the road from the lake. D’Auria stated that the current RS-1 zoning is appropriate for the subject parcels, and he does not see any extraordinary circumstances that would justify Planned Development zoning. Poivey stated that he is opposed to lakefront assignment for lots that are located across the road from the lake, but he does not have an opinion on the proposal to rezone the lots into a Planned Development. Lobdell stated that she agrees it is not a good idea to approve for the creation of two separate lots out of the one lakeside lot if the density standard is not met. Lobdell stated that it is also not a good idea to approve a Planned Development rezone to allow for the assignment of lake rights to properties located across the road. O’Connell stated that the Plan Commission has been down this road before and the proposed Planned Development rezone was opposed. O’Connell stated that she would not be in favor of rezoning the lots into a Planned Development.

Building, Site and Operational Plan Amendment Filed by Fontana Jeweler, 553 Valley View Drive

McCarthy stated that the BSOP has to be amended to approve the proposed addition plan. Since the property is located in the TIF District and the project will cost in excess of \$10,000, the proposal had to be presented to the CDA Board for a recommendation. The CDA Board recommended approval of the proposal as presented; however, if the applicant wishes to proceed with requesting Façade Improvement Program financial assistance from the CDA, the CDA indicated the proposal will have to be enhanced. McCarthy stated that staff recommended approval with conditions; however, there are some unique issues that came up with regard to a perpetual “no-build” easement on the property. Eric Hurkman stated that he does not have any concerns with the suggested conditions for approval and the easement issues were resolved before he purchased the property from his parents. Hurkman stated that the easement area is a former driveway that was filled in when the parking was transferred to the front of the buildings. Hurkman stated the Charlie and Trisha Forbeck, owners of the adjacent property, signed off on the easement and the right for a driveway to be located between the buildings was cancelled. Thorpe stated that there is nothing on record with the Walworth County Register of Deeds that states that easement agreement has been terminated. Following discussion, the Plan Commission members were in consensus that the applicant could work with Thorpe to clarify the easement issue. McCarthy stated that one of the conditions for approval on the staff report was included because comments were made by some of the CDA members about the need for windows on the side elevation. Following discussion, the Plan Commission members were in consensus that more windows would not be necessary – especially considering the building is a jewelry store.

Commissioner O'Connell/Commissioner O'Brien 2nd made a MOTION to recommend Village Board approval of the Building, Site and Operational Plan Amendment as filed by Fontana Jeweler, 553 Valley View Drive, with the following conditions:

1. Applicant must provide an up-to-date survey which depicts all property lines, existing structures, proposed building additions, easements, right-of-ways, and apparent encroachment issues, which shall be submitted to the Village and a copy made available to the Village attorney.
2. Determination by the Village attorney regarding placement of the proposed addition in relation to any existing easements or covenants is required prior to approval.
3. Applicant must apply for and obtain all necessary permits for the LED Open sign. A double fee may be charged due to installing the sign without proper permits.
4. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction of and/or installation of any portion of this approved project. BSOP approval shall not alleviate the applicant from securing all required permits. Construction shall be made in accordance with the Village approved BSOP plans.
5. All outstanding cost recovery fees billed to date applicable to this project shall be paid prior to the issuance of any building and zoning permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed.
6. Any future proposed modifications shall require Village of Fontana approval in the form of an Amendment to the approved Building, Site and Operational Plan and its conditions.

The MOTION carried without negative vote.

Building, Site and Operational Plan Amendment Filed by Fontana Shores Condominium Association, 150 Lake Street

McCarthy stated that the staff members could not make a recommendation on the proposal to install entrance and exit gates on both sides of the condominium building parking lot without an up-to-date survey and other supporting documents. McCarthy stated that concerns such as if vehicles will be off the street when the drivers are waiting for the gate to open, if a proposed fence conforms to the Village Zoning Code, and if the Fire Department's ladder truck will be able to get into the lot have to be determined prior to the staff making a recommendation.

President Petersen/Commissioner O'Brien 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

FEMA Floodplain Ordinance Amendments to Section 18-102 – Set Public Hearing

Some minor amendments to the Village's FEMA floodplain ordinance are required as part of the county-wide Digital Flood Insurance Rate Map (DFIRM) project. Martin and Nyman worked with Gary Heinrichs at the Wisconsin DNR to determine what portions of the Village ordinance have to be amended to ratify the new DFIRM. The Village adopted the model DNR ordinance on August 6, 2007 in order to ratify an amendment to the Village's Flood Hazard Boundary Map at the request of the Abbey Ridge property owners, so there are only six areas that require minor amendments at this time.

Commissioner Lobdell/Commissioner Poivey 2nd made a MOTION to schedule a public hearing for Monday, July 27, 2009 beginning at 5:30 pm to consider the proposed amendments to Section 18-102 of the Municipal Code as presented, and the MOTION carried without negative vote.

Abbey Resort Minor Building, Site and Operational Plan Amendment – Resort Rentals

Hayden stated that because of its C-4 zoning, the Abbey Resort must file an amendment to its approved BSOP with any changes, no matter how minor. Hayden stated that staff would like to pursue an amendment to the C-4 Zoning District in order to give the Building and Zoning Department authority to approve minor requests. Hayden stated that the current request is for the resort's activity center to rent to visitors Scoot Coupes 3-wheel vehicles to be driven on the Village streets. In an email to the Village, Brian J. Terry states that the vehicles are approved to be driven on

public roadways by the Wisconsin Department of Transportation, they will be rented at the Abbey activity center from 7:00 am to 11:00 pm, the resort currently has two Scoot Coupes but could have up to 10 depending on demand, and the same vehicles are currently being rented to people in the city of Lake Geneva. D'Auria then made a motion that was seconded by Lobdell to recommend Village Board approval of the proposed amendment to the BSOP with the condition the amendment application process is completed. Thorpe stated that he is concerned if another amendment is approved for the Abbey Resort's BSOP, that a resolution and ordinance should be drafted to record the past approvals and to keep the record straight. President Petersen stated that he is concerned about the small size of the vehicles and he thinks they are very dangerous. Petersen stated that the vehicles are being driven in Lake Geneva and he is worried that someone is going to get killed in an accident. Poivey stated that he also observes the vehicles being driven in Lake Geneva, and he agrees that they are very unsafe. After it was pointed out that the vehicles are street legal and the Abbey Resort is already renting them to visitors, Chairman Spadoni took a roll call vote on the motion on the floor.

Commissioner D'Auria/Commissioner Lobdell 2nd made a MOTION to recommend Village Board approval of the proposed amendment to the BSOP with the condition the application process is completed, and the Roll Call vote followed:

Commissioner O'Brien – Yes

Commissioner D'Auria – Yes

Commissioner Poivey – No

Commissioner O'Connell – No

President Petersen – No

Commissioner Lobdell – Yes

Chairman Spadoni – Abstain

The MOTION failed to earn approval on a 3-3 vote.

Chairman Spadoni stated he would entertain a motion to refer the proposal to the Protection Committee for a recommendation.

President Petersen/Commissioner O'Connell 2nd made a MOTION to refer the proposal for the Abbey Resort activity center to rent Scoot Coupes 3-wheel vehicles to visitors to the Protection Committee for a recommendation, and the MOTION carried without negative vote.

Pending Agenda Items

1. Condominium Plat 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 – Tabled 3/30/09 & **Withdrawn** 5/23/09
2. Condominium Plat & CUP Filed by William Turner, 393 North Lakeshore Drive – Conceptual Presentation – Tabled 3/30/09 & **Withdrawn** 5/29/09
3. PIP Amendment Filed by Abbey Springs for Boathouse Structure Modifications – Tabled 3/30/09 & 4/27/09

Adjournment

Commissioner O'Brien/Commissioner O'Connell 2nd made a MOTION to adjourn the Plan Commission meeting at 6:24 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, the official minutes will be on file at the Village Hall.

APPROVED: 7/27/09