

**VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN**

(Official Minutes)

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, October 27, 2008

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: D’Auria, McGreevy, O’Connell, President Pollitt, Chairman Spadoni, Poivey

Plan Commissioner absent: Lobdell

Also present: David Audino, Steve Beers, Amy Carmen, Chad and Pam Carper, Administrator Kelly E. Hayden-Staggs, Gene Kovacs, Attorney John Maier, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building Inspector/Zoning Administrator Ron Nyman, Attorney Tim Swatek, Village Attorney Dale Thorpe, Director of Public Works Craig Workman

Visitors Heard

None

Announcements

1. Village of Fontana Trick or Treat Hours – **Friday, October 31, 2008 3:00 to 7:00 pm**
2. GIS Presentation to Village Board – **Monday, November 3, 2008 at 5:30 pm**
3. Village Board Monthly Meeting – **Monday, November 3, 2008 at 6:00 pm**
4. General Election – **Tuesday, November 4, 2008, Polls Open 7:00 am to 8:00 pm**
5. Monthly Tornado Siren Test – **Wednesday, November 19, 2008 at noon**
6. 2009 Budget Public Hearing – **Monday, November 17, 2008 at 5:00 pm**
7. Library Board Meeting – **Wednesday, November 19, 2008 at 10:00 am**
8. Park Commission Meeting – **Wednesday, November 19, 2008 at 6:00 pm**
9. Volunteer Work Day at the Duck Pond Prairie Restoration Site – **Saturday, November 22, 2008**
10. Plan Commission Monthly Meeting – **Monday, November 24, 2008 at 5:30 pm**
11. Village Hall Closed for Thanksgiving Holiday – **November 27 to 29, 2008**

Approve Minutes

President Pollitt/Commissioner McGreevy 2nd made a MOTION to approve the minutes as submitted for the special and monthly meetings held September 29, 2008, and the MOTION carried without negative vote.

Public Hearing

Zoning Code Text Amendment to Section 17-7 (6)(f), *Design Standards*

Chairman Spadoni opened the public hearing at 5:32 pm. Spadoni stated that staff recommended the minor text amendment to Section 17-7(6)(f) in order to add private streets to the section. The section would read, “Every lot shall front or abut on a public or private street.” Spadoni closed the public hearing at 5:33 pm.

Commissioner O’Connell/Commissioner Poivey 2nd made a MOTION to recommend Village Board approval of the text amendment to Section 17-(6)(f) as presented, and the MOTION carried without negative vote.

General Business

Conceptual Condominium Plat Filed by Steve Beers - Tabled 9/29/08

Attorney Tim Swatek stated that he and his client worked with Village staff on a proposal that meets the density standards of the Zoning Code by using preserved land on an adjacent parcel to accommodate four residential units in a condominium association. Swatek stated that by using land across the street from the lakefront lot, there could be two homes permitted on each side of North Lakeshore Drive. Swatek stated that his client can use platting, the condominium declarations or conditional approval to adhere to the standards of the zoning code and to alleviate staff concerns. Swatek stated that his client will be able to address all of the staff concerns for the proposed development of a conforming second single-family residence to replace a current garage/caretaker's quarters on the lakeside of North Lakeshore Drive and for the platting for two residential units on the west side of North Lakeshore Drive. Chairman Spadoni stated that he favors the proposal because it will limit the development of residences on the west side of North Lakeshore Drive to a total of two and it will move the nonconforming residential structure on the lakeside of the road 25 feet off the road. Thorpe stated that if approved, the condominium plat and association would create lots for four residences that would all be conforming, legal structures. Hayden-Staggs stated that the conceptual proposal as amended adheres to the current standards of the Zoning Code. Hayden-Staggs stated that land located across a street can be deemed adjacent and combined for density calculations. Swatek stated that his client was seeking an indication on a starting point prior to investing funds on the required documentation and plans that will be submitted for staff approval and Plan Commission consideration. The conceptual proposal favored by staff was for the existing unit 1 on the lake side of the street to remain as is; for unit 2 on the lake side of the street to replace the existing garage/caretaker's structure with maximum size restrictions placed on the future residential structure; for unit 3 to be the existing residential building located on the west side of the street and for that structure to remain as is; and for unit 4 to be constructed on a future building site located on the west side of the street, as far off a land ridge as possible. Staff recommended that the proposed property remain in the RS-1, Single Family Residential, District. O'Connell stated that she has concerns with property owners using the "contiguous parcel" parameters of the Zoning Code when the parcels are located on opposite sides of a street, especially Lakeshore Drive. O'Connell stated that if the proposal to use lots located directly across a street is approved, other property owners could combine lots located two or three lots down the street and adjoin them in a similar manner. O'Connell stated that it does not make any sense to allow property owners to adjoin lots located on opposite sides of a street. McCarthy stated that as the Zoning Code is currently written, the lots owned by Beers are considered contiguous. President Pollitt stated that the amended proposal presented that night is a good compromise worked out by the developers and the staff members. President Pollitt stated that although the proposal is in adherence with the current zoning code, that section of the code needs to be reconsidered because he has the same concerns as O'Connell. McGreevy stated that he is in favor of the amended proposal as presented that night, especially if it adheres with the zoning code. D'Auria stated that the proposal is a good compromise since the lot owned by Beers that is located on the lakeside of the street is only about 1,200 square feet short of meeting the minimum density standard for two primary residential structures, and the proposal will eliminate the existing nonconforming structure on the lakeside lot. D'Auria stated he agrees that the section of the code that allows for lots located on opposite sides of streets to be deemed contiguous needs to be looked at for possible amendments. Poivey stated that he agrees with D'Auria and President Pollitt that the amended concept is a good compromise from the initially presented concepts and that the existing parameters of the zoning code need to be reviewed with regard to contiguous lots. Chairman Spadoni stated that the consensus of the Plan Commission members is that they favored the conceptual condominium plat and association as presented.

BSOP Filed by Bruce Wilkinson - Tabled 9/29/08

Attorney Thorpe stated that staff recommended conditional approval of the Building, Site and Operational Plan as applied for by M. Bruce Wilkinson as a representative of Marilyn Galik for a

grading fill permit for Lots 24 and 49 in the Country Club Estates subdivision. The staff report dated October 27, 2008 states that the reason a BSOP is required for Lot 24 is that the proposed construction of a new home on Lot 49 involves the removal of trees and grading on Lot 24. The staff report states that activity on Lot 49 is dependent on proposed activity on Lot 24. The staff report states that the a current building permit application for a proposed new home on Lot 49 is complete and, only for lack of BSOP approval and a “hold harmless” agreement, the building permit is ready to be issued. The staff report states that storm water issues have been reviewed by the Village engineer and Village Public Works Department. The staff report states that although the Village engineer and Public Works Department don’t agree with the submitted engineering plans, a signed “hold harmless” agreement, ensuring that the Village is not held responsible for any damage done to the applicant’s property as a result of said engineering plans, would allow the applicant to move forward with the proposed grading (filling) and construction plans. The staff report states that there are no proposed building plans for Lot 24; however, for purposes of tree removal and grading, and drainage planning, it is agreed that the conceptual building footprint represents the location of future building plans. The staff report states that tree removal calculations were based on this information. The staff report states that the applicant has agreed with staff that the conceptual building footprint accurately represents the location of the future building plans and that future building permit submittals will reflect this. The staff report states that a Plat of Survey for Lots 24 and 49, dated April 16, 2003, by Jensen & Olsen, was received by the Village on November 7, 2007, and it represents the existing topography of the land and is being used as the “before” documentation in relation to the proposed Site, Grading, Drainage & Erosion Control Plan submitted on September 18, 2008, and is on file in the Building & Zoning Department. The staff report states that the submitted site plan indicates a shared drainage-way created between Lot 24 and Lot 49. The staff report states that a drainage easement should be created to ensure future maintenance and continued un-obstruction of the drainage-way. The staff report states that this area should be protected from future filling, landscaping, building, or any other such action which would block or impede the intended flow of storm water to the desired outlet location. The staff report states that installation of a curb along the abutting roadway so as to keep storm water on the road will move storm water downhill and away from the subject Property. The staff report states that the applicant has indicated in an earlier meeting with staff that applicant would pay for this curb improvement. The staff report states that a more detailed erosion control plan is required depicting the handling of storm water runoff and debris during the filling and grading process and construction phase. The staff report states that if the Plan Commission members considered recommending Village Board approval of the BSOP as submitted, the following six conditions for approval are recommended:

1. A “hold harmless” agreement, to the extent permitted by law, should be drafted and reviewed prior to meeting with Plan Commission.
2. Grading & Drainage BSOP approval for Lot 49 should be contingent on receipt of a signed “hold harmless” agreement.
3. Grading & Drainage BSOP approval for Lot 24 should be contingent on Lot 49 BSOP approval.
4. Building Permit approval for Lot 49 should be contingent on a signed Hold Harmless agreement and BSOP approval for Lots 24 and 49.
5. Tree Removal Permit approval for Lot 24 should be contingent on receiving Lot 24 BSOP approval and Lot 49 Building Permit approval.
6. Tree Removal Permit approval for Lot 49 should be contingent on receiving Lot 49 BSOP approval and Lot 49 Building Permit approval.

The staff report states that additional items that also need to be addressed include minor conflicting information with regard to tree removal which must be clarified prior to the issuance of a tree removal permit for Lot 49. Specifically, trees No. 2 and No. 8 are depicted to be remaining on Exhibit B – Trees to be Removed; however, both Exhibit C – Replacement Tree Siting and the Site, Grading, Drainage & Erosion Control Plan submitted for BSOP approval depict trees No. 2 and No. 8 as being removed. Tree No. 2 is located at the driveway entrance, and Tree No. 8 is located off a

sidewalk by a side door. Also Exhibit B proposes the removal of 30 percent of the existing protected trees and no CUP is required; however, if trees No. 2 and No. 8 will be removed, 40 percent of the existing protected trees are proposed for removal, and this would require CUP approval. The staff report states that the applicant must clearly state the plans for these two trees as it affects calculations and procedure. In response to a question from O'Connell, Thorpe stated that if approved, the fill permit would allow the applicants to complete a fill project on the lots; however, it would not constitute the approval of a building permit.

President Pollitt/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the Building, Site and Operational Plan for a fill permit as applied for and subject to the conditions delineated in the October 27, 2008 Village of Fontana staff report. The MOTION carried on a 5-1 vote, with Commissioner O'Connell voting no and Commissioner Lobdell absent.

Proposal to Amend/Adopt Regulations With Regard the Windmill Electrical Generators – Tabled 7/28/08, 8/25/08 & 9/29/08

Spadoni stated that staff is still working on the draft ordinance to be proposed to regulate windmill electrical generator development proposals and he asked the Plan Commission members to forward their comments and concerns to the staff members.

President Pollitt/Commissioner O'Connell 2nd made a MOTION to table the matter until the November 24, 2008 meeting, and the MOTION carried without negative vote.

Certified Survey Map Filed by Myron and Geraldine Audino

Thorpe stated that David Audino and Gene Kovacs of RSV Engineering, Inc. worked with staff to address some of the preliminary concerns; however, there are still issues with the conservancy easement and site disturbance areas that need to be addressed. Thorpe stated that there also are staff concerns with the future maintenance of the pedestrian path that is planned to cross the lots. Thorpe stated that the staff objected to the developer's proposal to have the path dedicated to the Village because the staff does not feel it would be appropriate to have the public take on the responsibility of future path maintenance. The staff report states that the applicant is requesting approval of a certified survey map to create two separate parcels located on the upper ridge of the Par Development Cliff's of Fontana subdivision, parallel to Wild Duck Road, to be accessed off Dade Road. The staff report states that covenants need to be drafted and submitted to the village for review, and the proposed CSM needs to be modified with regard to the driveway access/easement to include an extended area where Dade Road ends, but does not quite meet up to the depicted easement area. Also the proposed CSM incorrectly labels Wild Duck Road as Dade Road. Dade Road runs north and south and is located in the area labeled as a 33-foot utility and right of way easement. The staff report states that Subdivision Variances are being requested through Section 17-8(2) of the Municipal Code because Section 17-7(3) requires any newly created lot to have a minimum frontage of 50 feet on a public or private right-of-way, and the proposed CSM indicates the applicant has less than the required amount; and Section 17-7(6)(f) requires every lot to front or abut on a public street, and lot 2 does not abut a public street, but will be accessed by an easement through lot 1. The staff report states that note 6 under General Notes on the proposed CSM with regard to site and native vegetation preservation and maintenance should be further expanded and clarified in a separate recordable document. The staff report states that verbiage and suggestions related to the conservation areas and the pedestrian path made by Village Attorney Thorpe in a correspondence dated October 21, 2008 also should be incorporated. The staff report states that approval of the proposed CSM should be contingent on covenants and all other recordable documents being submitted to the village for review, and that a condition for approval should be that the CSM will not be released until all recordable documents have been accurately recorded and received by the village.

Commissioner McGreevy/Commissioner D'Auria 2nd made a MOTION to recommend Village Board approval of the proposed Certified Survey Map and subdivision variances to Sections 17-7(3) and 17-7(6)(f) with the conditions that covenants are drafted and submitted to the village for review;

that the CSM be modified with regard to the driveway access/easement to include an extended area where Dade Road ends, but does not meet up to the depicted easement area; that the incorrectly labeled Wild Duck Road is corrected to read Dade Road; that note number 6 under General Notes on the proposed CSM with regard to site and native vegetation preservation and maintenance is further expanded and clarified in a separate recordable document; that the verbiage and suggestions related to the conservation areas and the pedestrian path made by Village Attorney Thorpe in a correspondence dated October 21, 2008 be incorporated; that all covenants and other recordable documents are submitted to the village for review; and that the CSM will not be released until all recordable documents have been accurately recorded and received by the village. The MOTION carried without negative vote.

Condominium Plat Amendment Filed for Cliffs of Fontana Planned Development – Tabled 9/29/08

Hayden-Staggs stated that the approved condominium plat for the Cliffs of Fontana subdivision has to be amended as construction of the individual residences commences. Thorpe stated that staff recommended approval of the condominium plat amendment as filed subject to the conditions of the village staff report and with the condition that Par Development enter into an agreement with the owners of the Audino property whereby Par would take responsibility of maintaining the pedestrian/bicycle path that will cross the properties from Highway 67 to the Duck Pond Recreation Area.

Commissioner Poivey/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the condominium plat amendment filed by Par Development for the Cliffs of Fontana Planned Development as submitted subject to the conditions of the village staff report and with the condition that Par Development enter into an agreement with the owners of the Audino property whereby Par would take responsibility of maintaining the pedestrian/bicycle path that will cross the properties from Highway 67 to the Duck Pond Recreation Area. The MOTION carried without negative vote.

CUP Application Filed by Tradewell Builders for Edward Lyon Property at 986 SLSD

Amy Carmen of Tradewell Builders, LLC brought in samples of the proposed building materials for a second primary residence on the Edward Lyon property at 986 South Lakeshore Drive. A conditional use permit is required for the construction of a second primary residence on a lot in the RS-1 Zoning District. A landscaping plan and a Building, Site and Operational Plan were submitted for the proposal, which includes razing an existing accessory structure and the cutting down of some protected trees on the parcel. There were no concerns from staff or the Plan Commission members. Commissioner O'Connell/Commissioner McGreevy 2nd made a MOTION to schedule a public hearing for Monday, November 24, 2008 beginning at 5:30 pm to consider the Conditional Use Permit application filed by Tradewell Builders, LLC to construct a second primary residential structure on the lot owned by Edward Lyon at 986 South Lakeshore Drive, and the MOTION carried without negative vote.

Jann Annexation Petition

Attorney John Maier stated that his clients Norma Finley Jann and Irwing G. Jann, W4818 South Lakeshore Drive, are seeking annexation from Linn Township into the Village of Fontana in order to have their residential driveway connected to South Lakeshore Drive. Maier stated that the property is located to the west of the Lake Geneva Yacht Club property, which was recently annexed into the Village, so the annexation is an “infill annexation.” Maier stated that the property is already connected to Village water; however, there is no sewer service available at this time, so the property would remain connected to its existing septic system. In response to a question from President Pollitt, Hayden-Staggs stated that if approved the Village of Fontana would be responsible to pay Linn Township the amount of taxes the property would have generated for the township’s portion of the annual property tax bill for three years. Hayden-Staggs stated that only the township portion of

the tax bill has to be paid to the Town of Linn at the current township tax rate, but the overall assessed value of the property will be added to the Village of Fontana's total valuation. President Pollitt stated that from a budgeting point of view, the Village has to make sure it is offset for the tax revenue that will be paid to Linn Township. President Pollitt stated that the annual tax payment will have to be added to the General Fund.

Commissioner Poivey/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the Petition for Direct Annexation filed by Norma Finley Jann and Irwing G. Jann, W4818 South Lakeshore Drive, and the proposed preannexation agreement as submitted, and the MOTION carried without negative vote.

BSOP Amendment for Georgie B's Restaurant

Chad and Pam Carper have requested approval of an amendment to the Building, Site and Operational Plan approved for Georgie B's Restaurant, located in the FairWyn Commercial Building at 441 Mill Street. Hayden-Staggs stated that the Carpers want to expand their operation into the entire two-unit building. The restaurant currently occupies the eastern unit. Hayden-Staggs stated that staff recommended approval of the proposal with the condition that the Carpers work with staff to comply with the Zoning Code standards. Chairman Spadoni stated that it is great news that the new restaurant is doing well and he wished the Carpers continued good luck.

President Pollitt/Commissioner McGreevy 2nd made a MOTION to recommend Village Board approval of the proposed amendment to the Building, Site and Operational Plan for Georgie B's Restaurant to expand into both of the two units in the FairWyn Commercial Building at 441 Mill Street with the condition the owners work with Village staff to amend the BSOP in compliance with the standards of the Village Zoning Code. The MOTION carried without negative vote.

Lakefront Survey Results

D'Auria stated that the results of the survey sent out by the Blue Ribbon Lakefront Building Committee were tabulated and reviewed by the committee. D'Auria stated that Kevin Krikland, the current tenant of the Village's lakefront marina building, is interested in working with the Village if a small retail space is created in a renovated building. D'Auria stated that he believes a small retail spot and a space to rent water sports equipment would be appropriate in conjunction with a facade improvement or simple renovation project. D'Auria stated that the results of the 515 surveys returned indicate that the public is opposed to a major construction project. There were 209 fulltime residents who completed and returned the survey. The results of the survey are posted on the Village website. Hayden-Staggs stated that the committee will determine what direction to take after considering the survey results. Hayden-Staggs stated that no matter what the scope of a proposed project concerning the lakefront marina building or Lake Street, the project will have to be approved in a referendum per the terms of the Village agreement with the FROG group.

Pending Items for Future Agendas

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

Adjournment

Commissioner McGreevy/Commissioner D'Auria 2nd made a MOTION to adjourn at 6:20 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: 11/24/08