

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, October 29, 2007

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: McGreevy, O'Connell, Lobdell, Chairman Spadoni, D'Auria

Plan Commissioner late: Poivey (arrived at 5:31 pm)

Plan Commissioner absent: President Pollitt

Also present: Larry Aasen, David Coates, FJ Frazier, Administrator Kelly E. Hayden-Staggs, Rob Ireland, Nancy Krei, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, Village Attorney Dale Thorpe, Director of Public Works Craig Workman

Visitors Heard

None

Announcements

Hayden-Staggs stated that the Toddler Time Story Program will be held at the Fontana Public Library on Thursdays, November 1, 8, 15 and 29, 2007, at 10:30 am; Daylight Savings Time will end on Sunday, November 4, 2007; the next monthly meeting of the Village Board will be held Monday, November 5, 2007, at 6:00 pm; the next monthly meeting of the CDA Board will be held on Tuesday, November 6, 2007, at 6:00 pm; the public hearing for the 2008 budget will be held on Monday, November 19, 2007, at 5:00 pm; Village Hall will be closed for the Thanksgiving holiday from November 22 to 25, 2007; the next monthly meeting of the Plan Commission will be held Monday, November 26, 2007, at 5:30 pm.

Approve Minutes

O'Connell/McGreevy 2nd made a MOTION to approve the minutes for the meetings held September 24 and October 15, 2007, and the MOTION carried without negative vote.

Public Hearing

Public Hearing on Conditional Use Permit Application Filed by Country Club Estates Property Owners Association to Construct Storage Building With a Unisex Toilet Room in the Association's Lakefront Parking Lot

Chairman Spadoni opened the public hearing at 5:31 pm. At last month's meeting, FJ Frazier stated that the initially approved wood frame structure, to be used as a beach house and storage room with a bathroom, was located too close to the existing fence. Frazier stated that if constructed in the initially proposed site, the building would have created a congested situation between the building and the sidewalk. The amended CUP application moves the building five feet to the west. Stella Sellas, 641 Shabbona Drive, stated that she was concerned if the amended plan includes the planting of more trees. Sellas stated that additional trees would block the view from her residence. Frazier stated that there are no additional trees that will be planted at the site. No other comments were

made before the public hearing was closed at 5:33 pm. Chairman Spadoni asked Frazier and project architect David Coates if they read the staff suggested conditions for approval. Frazier stated that the 18 of the 19 suggested conditions for approval are not a concern; however, he asked the Plan Commission to consider waiving the ninth suggested condition that an 8-foot area of black-topped pavement that encroaches onto Village property be removed and turned into green space. Frazier stated that even if the black topped area is torn out, he is not certain that grass would grow in the area. McCarthy stated that the Village staff tries to address all nonconforming issues when an application is filed. McCarthy stated that as a condition for approval of building permits, applicants are required to bring nonconforming situations into compliance with the zoning code. McCarthy stated that the Building and Zoning Department does not have the authority to approve applications that are not in complete compliance with the zoning code. Chairman Spadoni asked Attorney Thorpe if the Plan Commission could approve the CUP without requiring the applicants to remove the encroaching portion of the lot. Thorpe stated that if the Plan Commission made it implicit in the motion to recommend approval of the CUP application that it does not condone or approve the encroachment, the proposal could be approved without the suggested staff condition. O'Connell stated that she does not have a problem with allowing the encroaching area to remain for now; however, if the road is ever widened or a pedestrian/bicycle path installed along the side of the road, the paved strip may have to be removed at that time. McGreevy stated that he agrees with O'Connell and the paved area can be left in its current condition. D'Auria stated that he agrees that it would be fine to leave the paved area since it is not causing any problems. O'Connell stated that she wants to make sure the applicants realize the paved 8-foot strip is Village property. Lobdell stated that she agrees with the other Plan Commission members and if the paved strip is needed in the future, it can be addressed at that time. The 19 staff suggested conditions for approval are:

1. A 30-foot-wide utility easement shall be provided to the Village of Fontana which is acceptable to both the Village Attorney and the Public Works Department.
2. The structure shall be located no closer than 12 feet from the east property line and no closer than 5 feet from the north property line.
3. The structure shall be constructed as depicted on the February 26, 2007 CUP approval. There shall be no modification of the construction plans, to include but not be limited to, overall size and height of the approved structure. The only exception shall be that on-building signage depicted on the February 26, 2007 CUP approval shall be considered withdrawn by the applicant and is not allowed as part of this amended approval.
4. A permanent, clearly defined "vehicle-free" zone shall be delineated around the perimeter of the structure as depicted in the October 19, 2007, site plan. The applicant shall describe delineation methods in writing, which shall be approved by staff, and adhered to by the applicant.
5. Hours of operation (structure open) shall be from 10:00 am to 7:00 pm daily from Memorial Day to Labor Day each calendar year. The structure shall be securely locked at 7:00 pm. There shall be no access to the structure outside of the above-referenced times. Future modification of the hours of operation must be proposed through a CUP amendment approved by the Village of Fontana.
6. The structure shall not include any on-wall signage. Signage as depicted on the February 26, 2007 CUP approval shall be considered void. An allowance shall be made for a minimal on-wall sign indentifying the location of the bathroom.
7. All existing signage as depicted on the September 21, 2007 Staff Review shall be allowed to remain and allowed to be maintained as allowed by Village of Fontana Ordinance. Modification of existing non-conforming signs shall be brought into full compliance.
8. Future proposed modification of signage shall be proposed through a CUP amendment approved by the Village of Fontana.
9. All encroachments shall be removed from adjacent properties. The applicant shall be responsible for restoring any black-top encroachments to green space.
10. Current green space along the east property line shall be maintained and may not be

decreased.

11. Proposed green space as depicted in the October 19, 2007 site plan shall not be decreased.

12. Location and total calculation of existing green space (landscape areas) shall be included in the required as-built survey.

13. Green space shall not be reduced or eliminated in the future unless specifically allowed through a CUP amendment approved by the Village of Fontana. Future modification of the landscaping shall be proposed through a CUP amendment approved by the Village of Fontana.

14. The parking lot shall be paved and striped according to the final approved parking plan no later than 30-days after the issuance of occupancy, or Memorial Day 2008, whichever comes first.

15. The lighting plan shall consist of the two exterior 60 watt recessed waterproof can lights as depicted on the building plans as approved on the February 26, 2007 CUP. If other on-site lighting exists, the lighting plan may be amended within five days by staff. Future additional lighting shall be proposed through a CUP amendment approved by the Village of Fontana.

16. The existing shed and portable restroom facility shall be completely removed prior to occupancy issuance.

17. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction. CUP approval shall not alleviate the applicant from securing all required permits.

18. All outstanding cost recovery 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.

19. Any other outstanding fees (re-inspection, cost recovery) shall be paid in full prior to occupancy issuance.

Chairman Spadoni asked Thorpe to state the proper motion to address the proposed amendment to the ninth suggested condition for approval. Thorpe stated that the proper language for a motion would be for the Plan Commission to recommend Village Board approval of the CUP application subject to the conditions delineated in the staff report dated October 26, 2007, with the exception that condition number 9 shall be deleted and replaced with an acknowledgement that the Village shall maintain its claim on all right-of-way depicted and does not by this CUP permit any encroachments depicted in the plan.

O'Connell/D'Auria 2nd made a MOTION to recommend Village Board approval of the amended CUP application as submitted with the following 19 conditions:

1. A 30-foot-wide utility easement shall be provided to the Village of Fontana which is acceptable to both the Village Attorney and the Public Works Department.

2. The structure shall be located no closer than 12 feet from the east property line and no closer than 5 feet from the north property line.

3. The structure shall be constructed as depicted on the February 26, 2007 CUP approval. There shall be no modification of the construction plans, to include but not be limited to, overall size and height of the approved structure. The only exception shall be that on-building signage depicted on the February 26, 2007 CUP approval shall be considered withdrawn by the applicant and is not allowed as part of this amended approval.

4. A permanent, clearly defined "vehicle-free" zone shall be delineated around the perimeter of the structure as depicted in the October 19, 2007, site plan. The applicant shall describe delineation methods in writing, which shall be approved by staff, and adhered to by the applicant.

5. Hours of operation (structure open) shall be from 10:00 am to 7:00 pm daily from Memorial Day to Labor Day each calendar year. The structure shall be securely locked at 7:00 pm. There shall be no access to the structure outside of the above-referenced times.

Future modification of the hours of operation must be proposed through a CUP amendment approved by the Village of Fontana.

6. The structure shall not include any on-wall signage. Signage as depicted on the February 26, 2007 CUP approval shall be considered void. An allowance shall be made for a minimal on-wall sign indentifying the location of the bathroom.

7. All existing signage as depicted on the September 21, 2007 Staff Review shall be allowed to remain and allowed to be maintained as allowed by Village of Fontana Ordinance. Modification of existing non-conforming signs shall be brought into full compliance.

8. Future proposed modification of signage shall be proposed through a CUP amendment approved by the Village of Fontana.

9. The applicant acknowledges that the Village shall maintain its claim on all right-of-way depicted and does not by this CUP permit any encroachments depicted in the plan.

10. Current green space along the east property line shall be maintained and may not be decreased.

11. Proposed green space as depicted in the October 19, 2007 site plan shall not be decreased.

12. Location and total calculation of existing green space (landscape areas) shall be included in the required as-built survey.

13. Green space shall not be reduced or eliminated in the future unless specifically allowed through a CUP amendment approved by the Village of Fontana. Future modification of the landscaping shall be proposed through a CUP amendment approved by the Village of Fontana.

14. The parking lot shall be paved and striped according to the final approved parking plan no later than 30-days after the issuance of occupancy, or Memorial Day 2008, whichever comes first.

15. The lighting plan shall consist of the two exterior 60 watt recessed waterproof can lights as depicted on the building plans as approved on the February 26, 2007 CUP. If other on-site lighting exists, the lighting plan may be amended within five days by staff. Future additional lighting shall be proposed through a CUP amendment approved by the Village of Fontana.

16. The existing shed and portable restroom facility shall be completely removed prior to occupancy issuance.

17. A complete submittal for building and zoning permits shall be applied for and issued prior to the commencement of construction. CUP approval shall not alleviate the applicant from securing all required permits.

18. All outstanding cost recovery 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.

19. Any other outstanding fees (re-inspection, cost recovery) shall be paid in full prior to occupancy issuance.

The MOTION carried without negative vote.

General Business

Mill Street Condominium Association PIP Amendment – Signage Proposal (Tabled 8/27/07 and 9/24/07)

Chairman Spadoni stated that the applicant still has not submitted any of the requested information or modifications directed by the Plan Commission at its August 27, 2007 meeting. Chairman Spadoni stated that the agenda item should be moved to pending until the applicant submits something new to the village.

O’Connell/Lobdell 2nd made a MOTION to table the agenda item until something new is submitted by the applicant, and the MOTION carried without negative vote.

Lakefront Zoning Ordinance Amendment Proposal – Reschedule Workshop Meeting

Hayden-Staggs stated that rather than attempting to reschedule the workshop meeting, the Plan Commission may want to authorize village staff to work on the proposed amendments and then bring back to the Plan Commission a final draft to be considered for a public hearing. Following discussion, the Plan Commission directed staff to finalize the proposed amendments in a draft at the staff meeting scheduled for Wednesday, November 14, 2007 beginning at 1:00 pm, and to present the draft for Plan Commission consideration at the monthly meeting scheduled for Monday, November 26, 2007.

Lobdell/Poivey 2nd made a MOTION to direct the Village staff members to finalize a draft of the proposed amendments to the lakefront zoning ordinance at the staff meeting scheduled for Wednesday, November 14, 2007, beginning at 1:00 pm, and to present the proposed amendments to the Plan Commission at the monthly meeting scheduled for Monday, November 26, 2007, beginning at 5:30 pm, and the MOTION carried without negative vote.

Update on Novaks Deli Letter of Noncompliance – Grass Area Site Visit

Nyman inspected the grass area at Novaks Deli, 158 Fontana Boulevard, on October 3, 2007 and determined that it is compliant with regard to viability. Nyman stated that all other issues with regard to the noncompliance letter have been resolved.

McGreevy/Poivey 2nd made a MOTION to authorize the removal of the letter of noncompliance from the property file for Novaks Deli, 158 Fontana Boulevard, as recommended, and the MOTION carried without negative vote.

Third Amendment to Resolution Approving PIP for Par Development Cliffs of Fontana Planned Development & Third Amendment to the Development Agreement

Chairman Spadoni stated that Par Development has not yet responded to the conditions for approval suggested by Village Engineer Joe Eberle and approved by the Village Board and Plan Commission, and the developers also have not provided the documentation requested by Thorpe. Chairman Spadoni suggested tabling the matter until the next month meeting.

O’Connell/Poivey 2nd made a MOTION to table the agenda item, and the MOTION carried without negative vote.

Thorpe then stated that the Plan Commission could consider approving the proposed third amendment to the resolution approving the Precise Implementation Plan for the Cliffs of Fontana Planned Development and the third amendment to the development agreement with the condition that the Village engineer and attorney review the amended documents to verify that they address the conditions established October 15, 2007. Thorpe stated that the proposed resolution and amended development agreement distributed that night will not change after the conditions have been met by the developer. Hayden-Staggs stated that the Plan Commission and Village Board voted at a special joint meeting held October 15, 2007 to approve the proposed third amendment to the PIP and the development agreement and indicated that the resolution and development agreement would be approved at the next monthly meetings. Hayden-Staggs asked the Plan Commission members if they would consider holding a special meeting prior to the monthly meeting of the Village Board on Monday, November 5, 2007, to take final action on the proposed third amendment to the resolution approving the PIP for the Par Development Cliffs of Fontana Planned Development and the third amendment to the development agreement. Following discussion, the Plan Commission members indicated that there could be a special meeting scheduled for November 5, 2007 if the documents are ready for final action.

Proposed Zoning Ordinance Amendments to Sections 18-27, 18-35 & 18-65 – Set Public Hearings

Chairman Spadoni stated that amendments have been proposed by Village staff for Section 18-27, Accessory Uses and Structures, Section 18-35, Exterior Lighting, and Section 18-65 (j), Landscaping. The three proposed changes to Section 18-27 would relocate exterior lighting standards to its own section; would include sheds, storage units and other like-use accessory structures in the computation for maximum allowable accessory structures on a lot and maximum size of all accessory structures;

and would require green space between the property line and concrete patios, driveways and parking areas. The proposed change to Section 18-35 would relocate the exterior lighting standards to its own section. The proposed change to Section 18-65 (j) would exempt municipal property from the landscaping standards paragraph. Hayden-Staggs stated that the proposed additional paragraph for Section 18-65 (J) should read: "Municipal property shall be exempt from this paragraph. The approval of fencing on municipal property, including, but not limited to location, height and material, shall be left to the discretion of the Village Board."

McGreevy/Lobdell 2nd made a MOTION to set a public hearing for Monday, November 26, 2007, beginning at 5:30 pm, to consider the proposed amendments to Section 18-27 as presented, and the MOTION carried without negative vote.

O'Connell/Poivey 2nd made a MOTION to set a public hearing for Monday, November 26, 2007, beginning at 5:30 pm, to consider the proposed amendments to Section 18-35 as presented, and the MOTION carried without negative vote.

McGreevy/Poivey 2nd made a MOTION to set a public hearing for Monday, November 26, 2007, beginning at 5:30 pm, to consider the proposed amendments to Section 18-65 with the last sentence to read, "Municipal property shall be exempt from this paragraph. The approval of fencing on municipal property, including, but not limited to location, height and material, shall be left to the discretion of the Village Board." The MOTION carried without negative vote.

Abbey Resort BSOP Amendment and Performance Standards Review for Proposed Spa Renovation – Introduction Only

Cary Kerger of Abbey Provident Venture LLC stated that they are seeking approval of a renovation plan that includes an upgrade to the Fontana Spa, including the redesign of the lobby, exit and entrance to the spa, new landscaping, locker room improvements and the development of a VIP suite in the Fontana Spa. Kerger stated that the proposal also includes some modifications to the existing exterior signage. The signage and additional landscaping are the only exterior changes being proposed. Kerger stated that the proposal does not seek to increase the existing footprint of the building and the existing use will not be altered. Kerger stated that the plans for the proposal are being finalized and the scope of the project will be determined when cost estimates can be reviewed. The Abbey has only transmitted conceptual plans of the proposal to the village to date. Kerger stated that after meeting with the village staff members, it was determined that some minor amendments will have to be drafted and approved for the existing Building, Site and Operational Plan with regard to the spa operations. The Plan Commission also will have to make a determination on the Performance Standards for the proposal as directed by the CDA Board. Kerger stated that the Abbey is working with the CDA to earn approval for funding through the CDA facade improvement program. At its October 3, 2007 meeting, the CDA Board approved a motion to recommend approval of the proposed Abbey Spa Renovation Project, as presented, contingent on a review confirming compliance with the adopted Performance Standards ("Design Standards") to be performed by the Plan Commission. There were no concerns stated by the Plan Commission members with regard to the conceptual plans as presented. Kerger stated he will file the detailed plans with the Village as soon as they are drafted and approved by the Abbey.

RFP Planner Recommendation

Chairman Spadoni stated that four Requests for Proposals were received by the Village for the planning services contract. The Finance Committee directed Hayden-Staggs to put out RFPs for all the Village's contracted services. Spadoni asked the staff members which firm they would endorse. Hayden-Staggs stated that Mike Slavney and his firm, Vandewalle and Associates, have worked well with the Village of Fontana for many years. Hayden-Staggs stated that Slavney has excellent credentials and the service he provides is very valuable. Hayden-Staggs stated that the proposal submitted by Vandewalle and Associates is the best overall option of the four submitted RFPs. Thorpe stated that he has worked on Village of Fontana issues with Slavney for many years, and Slavney's experience and insight into Village issues makes him the best choice. McCarthy stated that

she also would recommend the approval of Slavney and Vandewalle and Associates for the Village planning services. McCarthy stated that Vandewalle and Associates is a planning services firm, not a firm that offers a variety of municipal services, and she would recommend approval of their bid. Following discussion the Plan Commission was in consensus that they should recommend approval of the RFP submitted by Vandewalle and Associates.

O'Connell/Poivey 2nd made a MOTION to recommend Village Board approval of the RFP submitted by Vandewalle and Associates for the village planning services, and the MOTION carried without negative vote.

Pending Items for Future Agendas

1. BSOP Filed by Kimberly Dabertin for All For Ewe, 148 Fontana Boulevard
2. Abbey Springs Clubhouse Renovation – PIP Amendment Proposal (Tabled 1-29-07)
3. Abbey Springs Boat Storage Expansion – PIP Amendment Proposal (Tabled 12-18-06, 1-29-07)

Adjournment

Poivey/McGreevy 2nd made a MOTION to adjourn at 6:19 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: 11/26/07