

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

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

Monday, November 27, 2006

President Howell 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: D’Auria, McGreevy, O’Connell, Spadoni, Treptow, President Howell, Poivey

Also present: Michael Chorneyko, Village Administrator Kelly E. Hayden-Staggs, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Peter Novak, Building Inspector Ron Nyman, Trustee Pete Petersen, Kris Toledo, Village Attorney Dale Thorpe, Public Works Director Craig Workman

Visitors Heard

President Howell introduced the new Plan Commission member, Derek D’Auria, who was appointed to fill the position recently vacated by Laurie Larson. D’Auria stated that his wife, Donna, teaches at Williams Bay School, their daughter is a student at Fontana Elementary School, and their son is almost 3 years old. D’Auria stated that they built their home at 860 Sauganash Drive nine years ago. D’Auria stated that he earned a Bachelor of Arts Degree in English literature at Penn State and a Master of Business Administration Degree from Dunham School of Business, Aurora University. He is employed as the director of development at George Williams College of Aurora University, Williams Bay, is the president of the Walworth County Visitors Bureau Board of Directors and is a licensed real estate sales person in Illinois.

Announcements

President Howell stated that the Plan Commissioners and audience could read the announcements on the agenda, which included: the first day to circulate nomination papers for the Spring Election on Friday, December 1, 2006; the monthly meeting of the Village Board on Monday, December 4, 2006, 6:00 pm; a Board of Appeals hearing on Wednesday, December 6, 2006, 4:00 pm; the monthly meeting of the CDA Board on Wednesday, December 6, 2006, 6:00 pm; the Village of Fontana quarterly newsletter article deadline on Friday, December 8, 2006; the Village of Fontana Christmas Party at Novak’s on Monday, December 11, 2006, 6:00 pm; Accurate Appraisal Village Hall office hours on Friday, December 15, 2006, from 10:00 am to 2:30 pm; and the next monthly meeting of the Plan Commission on Monday, December 18, 2006, 5:30 pm.

Approve Minutes

Spadoni/McGreevy 2nd made a MOTION to approve the minutes for the meetings held October 30, 2006, and the MOTION carried without negative vote.

Plan Commission General Business

CUP Concept Review for Application Filed by Michael Raymond Custom Homes, LLC – Set Public Hearing

Michael Chorneyko of Michael Raymond Custom Homes, LLC stated that a Conditional Use Permit is required to cut down more than 30 percent of the trees to accommodate the construction of a single-family residence on a lot at 89 Medinah Lane, in the Abbey Springs subdivision. Chorneyko

stated that his company previously constructed five other residences in the Abbey Springs subdivision. Chorneyko stated that when the lot was plated back in 1970, a CUP was not required to cut down the trees that are in the construction footprint. Thorpe stated that another issue not related to the CUP for cutting down the trees is a sewer line easement. Thorpe stated that the Village needs a more definitive survey of the site that delineates the exact location of the existing Village sewer line. Thorpe stated that if necessary, the sewer line would have to be protected during the construction process; however, it cannot be determined from the preliminary plan filed with the CUP application. Thorpe stated that an updated survey with the sewer easement depicted will have to be filed prior to the issuance of a building permit to construct the new residence. Hayden-Staggs stated that if the Plan Commission votes to approve the CUP application to cut down the trees, one of the conditions for approval will be the receipt of a building permit. O'Connell asked if approval was necessary from the Abbey Springs Association. Chorneyko responded that the plan has received approval from the Abbey Springs architectural review board. In response to a question, Nyman stated that the applicant wants to cut down 14 of the 20 existing trees on the site. Chorneyko stated that the company owns multiple lots in the Village and he requested that the Tree Ordinance requirement to replant all the cut down trees on the same lot be waived if they agree to plant the replacement trees on other lots. Spadoni stated that since the trees being proposed to be cut down are large, mature trees, they should be replanted on the same lot. President Whowell suggested that the Plan Commissioners visit the lot prior to the public hearing on the CUP application. Hayden-Staggs stated that the CUP application is just for the tree issue and if approved, the developer still will need to obtain a building permit before the project can be commenced and the trees cut down. The sewer line issue will have to be resolved before a building permit is issued. O'Connell/Treptow 2nd made a MOTION to hold a public hearing on Monday, December 18, 2006, beginning at 5:30 pm to consider the CUP application filed by Michael Raymond Custom Homes, LLC, and the MOTION carried without negative vote.

Novaks' Parking Lot Plan Sketches, Letter of Apology Submitted by Peter Novak

Peter Novak stated that as well as presenting a written letter of apology to the Plan Commission he wanted to personally apologize for not following a Plan Commission directive regarding the laying of granite filler under the grass lot on the east side of the Novak's building. Novak started to construct a parking lot addition prior to applying for or receiving a building permit, and after the project was "red-tagged" by the Building Inspection Department, the Plan Commission approved a directive that ordered Novak to have the lot returned to its preconstruction state. Novak did not follow the directive and instead had grass sod laid over the granite filler layer. The Plan Commission then approved a motion to have a letter of noncompliance placed in the Village file for the property. Novak stated that he would like the Plan Commission to consider removing the letter of noncompliance from the file, and he would also like to submit a certified survey of the lot and present a proposed parking lot renovation plan at the December 18, 2006 meeting of the Plan Commission. Novak stated that he would like to keep the grass area in its current state and renovate the current side and back portions of the paved lot. President Whowell stated that the grass area looks good and the grass has survived despite the granite subsurface layer. President Whowell stated that if the grass is kept watered, the area should continue to look good. O'Connell stated that even though Novak submitted an apology that does not address the fact that he did not comply with a Plan Commission directive. President Whowell responded that Novak did make a mistake by ignoring the Plan Commission directive; however, he is working to correct the mistake and would like to earn approval for a parking lot renovation plan. Spadoni stated that Novak "thumbed his nose" at the Plan Commission and until he shows the Village that he is truly sorry for his actions, the letter of noncompliance should not be removed from the Novak's file. Spadoni stated that besides submitting a letter of apology, Novak should demonstrate that he is sorry for his actions. McGreevy stated that he would be willing to vote to remove the letter of noncompliance from the Novak's property if Peter Novak follows through with the proposal to fix up the parking lot and improve the rest of the property. Poivey stated that he would be willing to consider the removal of the letter of

noncompliance, but he has to see an actual proposal submitted for the parking lot renovation. President Howell stated that Novak should be prepared to satisfy the concerns at the December 18, 2006 Plan Commission meeting.

President Howell called for a break in the agenda for the Plan Commission at 5:59 pm.

Joint ETZ Committee Chairman Poivey Howell called the meeting of the ETZ Committee to order at 6:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

ETZ Committee members present: Roll call: Chairman Poivey, Village of Fontana representative D’Auria, Village of Fontana representative Treptow, Walworth Township representatives Magowan, Van Dreser and Jordan, Linn Township representative Polek

ETZ Committee member absent: Linn Township representative Larry Aasen
(**Note:** The Linn Town Board has not yet replaced Linda O’Hare as one of its three representatives on the Joint ETZ Committee.)

Plan Commission-ETZ Public Hearings

Public Hearings - Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI, from A-1 ETZ to A-4 ETZ and Conditional Use Permit Application Filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI for a Contractor Storage Yard in the A-4 ETZ Zoning District

Poivey and President Howell opened the public hearings at 6:02 pm. The Walworth Town Board previously reviewed the proposal to establish the proper zoning to accommodate the landscaping service business and the construction of a new storage shed on the property. Village of Fontana staff reviewed the situation after learning of the Walworth Town Board’s support of the proposal and it was recommended that the most appropriate action would be to rezone the property from A-1 ETZ to A-4 ETZ. The A-4 zoning district allows for a contractor’s storage shed for the landscaping business under the conditional use permit approval process. The applicants subsequently filed the Petition to Amend the Zoning Ordinance and Zoning Map from A-1 to A-4, and a Conditional Use Permit application. Van Dreser stated that Walworth Township has no concerns with regard to the proposal, especially considering the zoning will not have to be amended to an initially proposed business district. Kris Toldeo stated that she reviewed the Village of Fontana staff report recommended conditions for approval and she has no objections. McCarthy presented the Village staff report, which recommended approval with 14 conditions. During discussion, some of the conditions were amended and a 15th condition was added after Hayden-Staggs pointed out that if ETZ Committee and Plan Commission voted to approve the conditional use permit at the meeting, it would have to be made conditioned on Fontana Village Board approval of the Petition to Amend the Zoning District. The conditions outlined in the staff report and added at the meeting are:

1. Access to all buildings on the site shall be maintained to allow emergency vehicle access.
2. All business operations shall be conducted at the rear of the applicant’s property, to include employee parking, and business vehicle, equipment and material storage.
3. Proposed 54-foot by 42-foot structure shall be allowed contingent upon the submission of a complete building permit application which clearly depicts the location of the proposed structure, maximum height, construction plans, and conformance to all other state and local codes and ordinances. Construction of the proposed structure shall not commence until a zoning and building permit has been issued.
4. No members of the general public will be allowed on site.
5. No retail sales shall be allowed on site.
6. No more than 15 employee vehicles, nine business vehicles, and six trailers shall be allowed on site as part of this conditional use permit.

7. Future proposed screening such as fencing to screen materials and vehicles from adjacent properties, shall be submitted as an amendment to this conditional use.
8. To insure the highest possible traffic safety for vehicles along public streets, on-site landscaping features shall be designed to account for driveway sight lines. No new shrubbery, trees, plantings, signs, or posts shall be located closer than 35 feet from North Walworth Road so as to not create a wall effect when viewed by motorists along the public road.
9. Piles of dead grass clippings, brush, and/or tree trimmings shall be stored outdoors only within a clearly defined area to be depicted on a site plan, or disposed off site.
10. The applicant shall establish a description of on-site pesticide and herbicide storage and use, (amounts and locations) which shall be copied to emergency departments (i.e., police & fire).
11. Signage shall not be allowed on site.
12. Any expansion or change of use, including any increase in the number of employee vehicles or equipment, will require an amendment to this conditional use permit and a certified, scaled site plan depicting proposed changes.
13. Within 30 days of the completion of the proposed 54-foot by 42-foot structure, the applicant shall completely remove the two frame sheds cited for removal on the site plan stamped November 27, 2006.
14. This approved Conditional Use Permit shall be limited to the applicant's listed only. Upon sale or transfer of company, this conditional use permit shall be considered not valid. A new conditional use permit application would be required for the new landscape business use.
15. The Conditional Use Permit shall be issued only if the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI, from A-1 ETZ to A-4 ETZ, is approved by the Fontana Village Board.

In response to a question regarding the current landscaping on the site, Kris Toledo stated that they are not planning to cut down any of the existing trees or to add plants along the road. Van Dreser stated that Kris Toledo should take care of the ninth condition for approval prior to the Village Board action on the Petition to Amend the Zoning District. Kris Toledo responded that they do not store or bring very much material back to the property – it is taken directly to compost sites in the municipalities where they work. There were no objections stated with regard to the Petition to Amend the Zoning District or the CUP application. Chairman Poivey and President Whowell closed the public hearings at 6:16 pm.

Plan Commission-ETZ General Business

ETZ Committee Recommendation on Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road

Magowan/Van Dreser 2nd made a MOTION to recommend approval of the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, from A-1 ETZ to A-4 ETZ as presented, and the MOTION carried without negative vote.

Plan Commission Recommendation on Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road

Spadoni/McGreevy 2nd made a MOTION to recommend Village Board approval of the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, from A-1 ETZ to A-4 ETZ as presented, and the MOTION carried without negative vote.

ETZ Committee Recommendation on Conditional Use Permit Application Filed by Manuel and Kris Toledo, W6189 N. Walworth Road

Van Dreser/Magowan 2nd made a MOTION to recommend approval of the Conditional Use Permit application filed by Manuel and Kris Toledo, W6189 N. Walworth Road, as presented with the conditions that access to all buildings on the site shall be maintained to allow emergency vehicle access; that all business operations shall be conducted at the rear of the applicant's property, to

include employee parking, and business vehicle, equipment and material storage; that the proposed 54-foot by 42-foot structure shall be allowed contingent upon the submission of a complete building permit application which clearly depicts the location of the proposed structure, maximum height, construction plans, and conformance to all other state and local codes and ordinances; the construction of the proposed structure shall not commence until a zoning and building permit has been issued; that no members of the general public will be allowed on site; that no retail sales shall be allowed on site; that no more than 15 employee vehicles, nine business vehicles, and six trailers shall be allowed on site as part of this conditional use permit; that future proposed screening such as fencing to screen materials and vehicles from adjacent properties, shall be submitted as an amendment to this conditional use; that to insure the highest possible traffic safety for vehicles along public streets, on-site landscaping features shall be designed to account for driveway sight lines; that no new shrubbery, trees, plantings, signs, or posts shall be located closer than 35 feet from North Walworth Road so as to not create a wall effect when viewed by motorists along the public road; that piles of dead grass clippings, brush, and/or tree trimmings shall be stored outdoors only within a clearly defined area to be depicted on a site plan, or disposed off site; that the applicant shall establish a description of on-site pesticide and herbicide storage and use, (amounts and locations) which shall be copied to emergency departments including the police and fire departments; that signage shall not be allowed on site; that any expansion or change of use, including any increase in the number of employee vehicles or equipment, will require an amendment to this conditional use permit and a certified, scaled site plan depicting proposed changes; that within 30 days of the completion of the proposed 54-foot by 42-foot structure, the applicant shall completely remove the two frame sheds cited for removal on the site plan stamped November 27, 2006; that the approved Conditional Use Permit shall be limited to the applicant's listed only, and that upon sale or transfer of company, this conditional use permit shall be considered not valid; that a new conditional use permit application would be required for a new landscape business use; and that the Conditional Use Permit shall be issued only if the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI, from A-1 ETZ to A-4 ETZ, is approved by the Fontana Village Board. The MOTION carried without negative vote.

Plan Commission Recommendation on Conditional Use Permit Application Filed by Manuel and Kris Toledo, W6189 N. Walworth Road

The agenda item was incorrectly listed by the village clerk as “recommendation” on the CUP application, instead of final approval. Hayden-Staggs stated that the conditional use permit application could be approved by the Plan Commission that night with the condition that the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI, from A-1 ETZ to A-4 ETZ, is approved by the Fontana Village Board. Spadoni/Poivey 2nd made a MOTION to approve the Conditional Use Permit application filed by Manuel and Kris Toledo, W6189 N. Walworth Road, as presented with the conditions that access to all buildings on the site shall be maintained to allow emergency vehicle access; that all business operations shall be conducted at the rear of the applicant's property, to include employee parking, and business vehicle, equipment and material storage; that the proposed 54-foot by 42-foot structure shall be allowed contingent upon the submission of a complete building permit application which clearly depicts the location of the proposed structure, maximum height, construction plans, and conformance to all other state and local codes and ordinances; the construction of the proposed structure shall not commence until a zoning and building permit has been issued; that no members of the general public will be allowed on site; that no retail sales shall be allowed on site; that no more than 15 employee vehicles, nine business vehicles, and six trailers shall be allowed on site as part of this conditional use permit; that future proposed screening such as fencing to screen materials and vehicles from adjacent properties, shall be submitted as an amendment to this conditional use; that to insure the highest possible traffic safety for vehicles along public streets, on-site landscaping features shall be designed to account for driveway sight lines; that no new shrubbery, trees, plantings, signs, or posts shall be located closer than 35 feet from North Walworth Road so as to not create a wall effect

when viewed by motorists along the public road; that piles of dead grass clippings, brush, and/or tree trimmings shall be stored outdoors only within a clearly defined area to be depicted on a site plan, or disposed off site; that the applicant shall establish a description of on-site pesticide and herbicide storage and use, (amounts and locations) which shall be copied to emergency departments including the police and fire departments; that signage shall not be allowed on site; that any expansion or change of use, including any increase in the number of employee vehicles or equipment, will require an amendment to this conditional use permit and a certified, scaled site plan depicting proposed changes; that within 30 days of the completion of the proposed 54-foot by 42-foot structure, the applicant shall completely remove the two frame sheds cited for removal on the site plan stamped November 27, 2006; that the approved Conditional Use Permit shall be limited to the applicant's listed only, and that upon sale or transfer of company, this conditional use permit shall be considered not valid; that a new conditional use permit application would be required for a new landscape business use; and that the Conditional Use Permit shall be issued only if the Petition to Amend the ETZ Zoning District filed by Manuel and Kris Toledo, W6189 N. Walworth Road, Walworth, WI, from A-1 ETZ to A-4 ETZ, is approved by the Fontana Village Board. The MOTION carried without negative vote.

Adjourn Joint ETZ Committee

Treptow/Jordan 2nd made a MOTION to adjourn the meeting of the Joint ETZ Committee at 6:18 pm, and the MOTION carried without negative vote.

Plan Commission General Business (Continued)

VCP Language – SEWRPC Recodification

Thorpe stated that the Village staff recently discovered that the Southeastern Wisconsin Regional Planning Commission made another mistake when the Village of Fontana municipal code was recodified. Thorpe stated that some sections of the code were taken out, some were amended and some were moved to different sections by SEWRPC without Village approval. The code for the Village Center Preservation District was changed to make existing uses of property conditional uses that would have to be reapplied for by new property owners. The code is supposed to state that the existing uses in the VCP are uses by right, not permitted through the conditional use permit process. Thorpe stated that the Village could simply amend the municipal code to put it back the way it was before it was unintentionally changed by SEWRPC. In response to a question of how many errors have been discovered, Hayden-Staggs stated that the Village previously found and corrected an error in the ETZ section of the code, and more errors are being discovered by staff. The Plan Commission directed Thorpe to draft a list of all the recodification errors by reviewing the current code and comparing it to the code before it was recodified. Thorpe stated that it will cost about \$500 for the office time his staff will need to review the code and prepare a list prior to the December 18, 2006 Plan Commission meeting.

Spadoni/Treptow 2nd made a MOTION to direct Village Attorney Dale Thorpe to review the Village of Fontana Municipal Code and prepare a list of recodification errors at a cost not to exceed \$500, and the MOTION carried without negative vote.

Fencing Ordinance Amendment for Section 18-27 (f)(1)

McCarthy stated that the Village staff is proposing amendments to the fence section of the municipal code to address contradictions and to allow for the erection of large stone pillars at the driveway entrances to Fontana residences. The proposal was presented for initial input, and if favorably reviewed next month, a public hearing will be scheduled for the January 29, 2007 Plan Commission meeting. Thorpe stated that the proposed ordinance amendments may be affected by a state law that regulates the maximum height of fences. After discussion, the Plan Commission directed staff to amend a section of the preliminary draft to state that any fence within a street yard, including along property lines which intersect a right-of-way, and any fence in excess of four feet in height, shall be “no more than” 60 percent opaque, instead of “a maximum of” 60 percent opaque. Staff was

directed to have a draft ordinance prepared for review at the December 18, 2006 Plan Commission meeting, at which time a public hearing will be set for the January 29, 2007 Plan Commission meeting.

Adult Oriented Business Regulations

Thorpe stated that the adult oriented business regulations were discussed by staff and he distributed examples of ordinances adopted by other municipalities. Treptow stated that the regulations should be made as strict as possible so the issue does not have to come up again in the future. Thorpe stated that municipalities cannot ban adult oriented businesses, but they can specify exactly where they would be allowed and establish stringent licensing requirements. The Plan Commission members were directed to review the sample ordinances distributed by Thorpe and to provide feedback to the staff prior to the December 18, 2006 meeting. Thorpe suggested that the Village of Fontana “borrow” language from other ordinances that have been adopted in municipalities where the ordinances have been challenged in court and successfully defended. The Plan Commission directed staff to review the sample ordinances provided by Thorpe and to put a draft ordinance together for review at the December 18, 2006 Plan Commission meeting. A public hearing will have to be held to amend Section 18 of the municipal code.

O’Connell/Spadoni 2nd made a MOTION to direct Village staff to review the sample ordinances provided by Thorpe and to put a draft ordinance together for review at the December 18, 2006 Plan Commission meeting, and the MOTION carried without negative vote.

Schedule Tree Ordinance Workshop Meeting

President Whowell stated that a joint meeting of the Plan Commission and Park Commission has to be scheduled to address Tree Ordinance Amendments directed by the Village Board. President Whowell stated that the Village Board wants the commissioners to amend the fee structure and replacement requirements so that invasive or nuisance trees are subject to minimal fees and replacement requirements, and premium or protected trees are subject to the greater fees and replacements requirements. President Whowell stated that the Village Board also wants the commissioners to address how much of the Tree Ordinance should be enforced in the ETZ District. The Plan Commissioners were in consensus that a joint workshop meeting should be scheduled for the second week of January, and directed the Park Commission to submit some possible dates for the meeting.

Pending Items for Future Agendas

1. Concept Review for CUP – Edward Lyon (Tabled 5/30/06 & 6/26/06)
2. Minimum Lot Size Requirement Discussion (Tabled 6/26/06)
3. Abbey Harbor Condo Plat
4. Fontana Village Inn BSOP

Adjourn Plan Commission

Spadoni/Treptow 2nd made a MOTION to adjourn the Plan Commission meeting at 6:48 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: 12/18/06