

(official minutes)

SPECIAL JOINT VILLAGE BOARD  
and  
PLAN COMMISSION MEETING  
With  
PUBLIC HEARING - THE ABBEY RESORT LLC  
REZONE PETITION

Wednesday, April 30, 2003  
@ 6:00 p.m.

President Whowell called the Special Joint Board/Plan Commission Mtg. to order @ 6:00 p.m.  
Note: There was a Special Village Board Closed Mtg. @ 5:45 p.m.

Roll Call Village Board

Present: Bromfield, Geye (arrived @ 5:50 pm), O'Connell, Petersen, Turner, President Whowell  
Absent: Cole

Roll Call Plan Commission

Present: Geye (arrived @ 5:50 pm), Poivey, Rauland, Ripkey, Treptow, President Whowell  
Absent: Spadoni

Also present: Village Attorney Thorpe, Administrator Hayden, Village Clerk Smith, Robin Wettstein, Joe McHugh, Cindy Wilson, Margaret Canfield, Craig Workman.

**Abbey Representatives Present:** Vance Antoniou, Attorney Cary Kerger, Ed Snyder, Attorney John Maier

-6:05 p.m. Open Public Hearing – President Whowell  
The Abbey Resort LLC Re-Zone Petition and Ordinance

Attorney Thorpe gave a brief summary:

- The Abbey is currently zoned C-4 (from the late 70's arising out of a number of law suits that were then filed)
- The PD process is a method to give both parties some certainty as to what could and could not be done on the property and to improve upon the C-4 zoning ordinance
- The PD ordinance is a vast improvement over the current vaguely worded C-4 ordinance controlling the property

Attorney Thorpe stated the high points of the PD Ordinance:

- a greater level of detail
- a definition section
- defines the building envelope
- limitation on the number of residential hotel suites which may be located in the property
- limitation of the number of bedrooms that may be built within those suites
- strict regulations with pools

- pools located in the building have to be not visible at all at the abutting property lines
- pools located in the building may not be audio at the abutting property lines
- language included with regard to signage
- many limitations are set forth as to use
- limitation that no one who is not a paying guest or an owner of a unit in the hotel may use the pools located on the property or the spa

Robin Wettstein and Joe McHugh both stated that they were comfortable with the PD ordinance presented tonight.

Speaking with question/concern:

- Bob Chanson questioned expansion areas (pg.6), C-4 district (pg. 7), transient rentals (pg. 4)

Pg. 6 - Attorney Thorpe stated that when the building plans are finished, The Abbey will have to bring them in and petition for an amendment to The Abbey General Development Plan (GDP). A Precise Implementation Plan would also have to be approved.

Vance Antoniou reviewed the rendering and explained the changes:

- a second floor on the spa (15 service rooms)
- an added swimming pool that was a meeting room
- a couple of mezzanines added above the game room

In terms of the expansion area: the expansion area is depicted on the proposed site plan.

There is expansion proposed around the spa area and around the meeting rooms if it is needed.

Pg. 7 – Attorney Thorpe stated the current C-4 ordinance has certain mandated requirements for open space and density. Not all the C-4 areas are being re-zoned. The condos located to the south of the property are going to remain in the C-4 district. The VOF does not want to re-write the C-4 Zoning district, right now, making those condo areas legal conforming. As an in-between step we have allowed for The Abbey property to be included as it is now and determine legality in terms of density for the other C-4 abutting areas. The VOF will go back to the C-4 ordinance and do a text amendment to make sure that the condos in the C-4 area always stay legal conforming.

Pg. 4 – Attorney Thorpe stated that The Abbey offices have a permitted use to manage transient rentals of properties, as they do now. Thorpe noted that permitted accessory uses (pg. 5) addresses affiliated properties.

Thorpe added: any opportunity to use these hotel rooms as residences has been taken out of this ordinance. Any use not specifically listed is automatically, by the terms of this ordinance and the Village code, a prohibited use.

- Joyce Roche questioned the management failing and the dockominium court case.

Attorney Thorpe replied this is a zoning ordinance and a use regulation only. It is still up to the management to operate the business. The Village's subdivision code requires any developer to come up with a letter of credit/bond to guarantee performance, up front, under those obligations.

Attorney Thorpe stated that the dockominiums are a different issue, a totally separate corporation.

Attorney Kerger, representing the Abbey, stated that the legal issues of the dockominium are separate from the hotel.

- Skip Bliss suggested that the draft ordinance document be review again before Board action is taken after the public hearing tonight. Bliss questioned the language for the expansion areas (pg.6) #3

Attorney Thorpe reported that Plan Commission will need to recommend or deny any change or expansion, as an amendment to the GDP, before approval is given by the Village Board.

Robin Wettstein reported that the PD is a two step process with a general development plan (GDP) and a premise implement plan (PIP). Any expansion would need to come back before approval is granted. Also, any change or deviation between the GDP and PIP would have to come back to the Village for approval.

Attorney Maier added: the proposed expansion areas were depicted on the proposed site plan, prepared by Ramaker, so that Planners, Plan Commission, Village Board and CDA could see where it is.

- Chris Goebel questioned if there is a process for ordinance amendment initiated by the Village.

Attorney Thorpe answered yes, it is a consensual process, and both the property owner and the Village must agree otherwise there is no amendment.

Trustee Turner added: any new use that would come up would have to come back for approval. If a use is not specifically stated, it is prohibited.

- Mike Falls questioned the property having a casino (pg. 12). Falls suggested putting no casino in the PD ordinance.

Attorney Thorpe answered if it is not among the four uses specifically listed as a permitted use within this ordinance, it is prohibited. In this State, there is a big difference between a casino, a gambling house and a resort hotel. Thorpe noted that the prohibition language that has been negotiated into this PD doesn't exist in the C-4 ordinance. In addition, there are limitations set forth at Section 18-78 of the municipal code.

- Harry Nelson questioned if casino would be wanted in ten years.

Village Planner, Robin Wettstein suggested excluding casino under resort hotel definition.

Administrator Hayden reported that in addition to the notice being published in the newspaper, it was mailed to neighbors within 300 feet of the subject property.

- Skip Bliss questioned the 45' height limitation and if CDA seen the proposed expansion areas.

Attorney Thorpe answered that the 45' height limitation was taken right out of the C-4 ordinance that has existed for the past 25 years.

Attorney Kerger responded:

- the expansion area is a very limited area
- total buildable area of this project is probably 5%
- expansion areas were included on the plan because of possibility
- C-4 has greater entitlements
- PD has less entitlements
- 45' height on expansion can be taken out because any expansion must be architecturally consistent anyway
- in these few areas we are asking for the entitlement to build something provided it is architecturally consistent with the rest of the project in the Village's opinion

Speaking for:

- Rick Rosenow, representing the condo association immediately adjacent to the property, believes upgrading this facility is going to be a tremendous benefit.

Speaking against: 0

- 7:20 p.m. Close Public Hearing – President Whowell  
The Abbey Resort LLC Rezone Petition and Ordinance

Comments from Plan Commissioners:

Pg. 6 #3 – Expansion Areas Shown on GDP was discussed further.

Commissioner Poivey questioned 'shall be approved' (pg.6 #3 – expansion area)

Trustee Turner suggested that a positive statement be included for the developer to construct in the expansion areas without the words 'shall be approved'.

Attorney Kerger asked for a right, an entitlement to expand, provided that The Abbey petitions, complies and demonstrates that conditions are met. Attorney Kerger feels that entitlements are being relinquished with a PD versus C-4 zoning.

Commissioner Treptow – okay with the Re-zone Ordinance

Commissioner Ripkey – questioned the water features and asked for more detail plans for the neighborhood.

Planner Robin Wettstein added:

The Abbey has provided much more detail than they are required to by Village ordinance.

Attorney Kerger reported that the internal aquatic center (25,000 sq. ft. area) has not been designed yet. The aquatic center will not be open to the public, but rather for paying guests and unit owners with guests staying at the hotel. Vance Antoniou stated that The Abbey wants this aquatic feature to encourage group business. Detail plans will follow once the rezone ordinance has been approved.

Attorney Thorpe added: from the beginning of this project, the Village was very clear that nothing exceeded the building envelope. Even to the extent that if there is a water feature inside the building, it had to be invisible from someone on the street, inaudible from someone on the street and if there is anything in the courtyard, the water features can't be heard either, even over the top of the buildings. So that from the outside it looks like a first class hotel. Under this ordinance, what is inside the building was less of a concern than what was outside the building.

Attorney Thorpe explained the step process: the PIP will have a great deal of detail and will be presented to the Plan Commission and to the Village Board. It is not unusual for the concept approval of a GDP to come first, to give the developer some assurance that it is worth spending the money on the next steps and not just precise plan for what they want to do in the building but also the drafting that is necessary to put together the condominium paperwork and the engineering of the building itself. This is what our code mandates.

Trustee Turner added: The Abbey has stayed within the footprint, expanded within the courtyard but in terms of the water feature it is a much different project than the project that everybody was upset about in 2001. If approved, we will approve the 'concept' of an indoor water facility and an outdoor water recreation area with very strong controls on height and sound on the outside one. The detail plan will follow.

Commissioner Rauland questioned:

- o definitions (pg.11 #3 - indoor and outdoor sport and recreational facilities) and suggested added cross-country to the ski facilities
- o indoor and outdoor sport and recreational facilities shall be available and used by guests and invitees (pg. 4)

Attorney Thorpe stated the use we tried to protect against was the bus pulling up outside the building and people paying \$10 for a pool pass and spending the day there who didn't rent a room or own a room. The idea that guests and invitees might use the facilities was discussed. Permitted room occupancy will be self imposed by management for The Abbey.

Administrator Hayden commented that detail plans will be the next step. The Abbey has provided more detail than what is necessary for this phase that we are focusing on tonight.

Comments from Village Board:

Trustee Geye: after reviewing commercial signage (pg.9), Trustee Geye had no further questions.

Trustee Petersen: after reviewing and making the corrections from tonight, Trustee Petersen approved the ordinance.

Trustee Bromfield: approved the rezone ordinance.

Trustee O'Connell: still reviewing the document.

Trustee Turner questioned:

- satellite dish antennas as accessory use (pg. 5)
- does signage permit anything beyond the sign ordinance

Attorney Thorpe read from Pg. 11 #H – no additional monument or wall signs shall be permitted on the property. This is meant to be a limitation.

Trustee Turner commented:

- we should not get involved with the indoor water feature subject to the PIP process
- the outdoor aquatic area is very well handled in the PD
- the expansion areas do not effect green space
- the PIP process gives a tremendous amount of control
- this ordinance says conceptually the Village will look at these things and The Abbey will come back with the detail plans
- the ordinance is a very good document

- 8:15 p.m. more comments after Public Hearing:

Bob Chanson questioned the proposed expansion area and height of the expansion along Fontana Blvd.

Harry Nelson reported that more citizens were offended by the blue roof than the water park from the last proposed development in 2001.

Joyce Roche asked if this could be put to a referendum vote.

President Whowell responded: there has not been one negative statement from the public hearings held about this project. There were questions but no one has said that this is a bad idea. This building block is one of the fundamental steps to create revenue to do the wonderful things that is in the Village of Fontana's Master Plan. At the moment, there is a partnership between the community and The Abbey to see that this is done and done properly.

Ron Pollitt applauded the Village officials for doing a good job.

Steve Beers questioned the impact of the dockominiums.

Skip Bliss asked for no action to be taken tonight until the revisions from tonight have been drafted and reviewed in final form.

### **Plan Commission Resolution**

Plan Commission Recommendation for an Ordinance Amending the Village of Fontana on Geneva Lake Zoning Ordinance and Accompanying Zoning Map for The Abbey Resort, LLC

Attorney Thorpe submitted draft Plan Commission Resolutions, in favor and against.

Attorney Thorpe read the four agreed to changes of the 10<sup>th</sup> Ordinance draft:

- (pg.4) 4. A. Permitted Uses by Right for Transient Rentals – Residential dwellings or residential condominium units located on Abbey Phase I, II, III instead of the words which are not located on the property (the balance reads the same)
- (pg. 6) 3. Attorney read the paragraph.
- Sentence Change - The property owner shall have the right, subject to the terms of this ordinance, to construct additional permitted structures within the expansion areas.
- Sentence Change – The construction that is proposed for the expansion areas must be substantially consistent with the color, architectural quality and visual and aesthetic character of the existing permitted structures on the property: and the height of the buildings proposed for construction in the expansion area must not exceed forty-five (45) feet.
- (pg. 12) definition of resort hotel to include a clause at the end that shall not include a casino
- (pg. 11) definition of indoor and outdoor sport and recreational facilities to add cross-country to ski facilities

No action taken.

### **The Abbey Resort LLC Rezone Ordinance**

No action taken.

President Whowell scheduled a Joint Board and Plan Commission meeting for 5:30 p.m., on Monday, May 5, 2003.

Attorney Thorpe will submit final changes, the resolution with the conditions stated in the text and the slightly revised ordinance by Friday.

### **Adjourn Plan Commission**

Rauland/2<sup>nd</sup> Treptow. MOTION was made to adjourn. MOTION carried without negative vote.

### **Adjourn Village Board**

Trustee Bromfield/2<sup>nd</sup> Geye. MOTION was made to adjourn. MOTION carried without negative vote.

Time: 8:45 p.m.

Minutes prepared by:

Phyllis E. Smith

Village Clerk

Note: These minutes are subject to further review. Once approved the official minutes will be on file at the Village Hall.

Approved: 7-14-03