ORDINANCE 11-06-06-04

An Ordinance Amending the Village of Fontana-on-Geneva Lake Zoning Ordinance and Accompanying Zoning Map.

WHEREAS, Fairwyn Development Corporation ("Fairwyn") did previously petition the Village of Fontana-on-Geneva Lake (the "Village") to amend the Village's Zoning Ordinance (and accompanying zoning map) with regard to the property described more specifically in Addendum "A", attached hereto and incorporated herein by reference as if set forth at length herein (the "First Phase Property") by rezoning said property to the Planned Development Zoning District; and

WHEREAS, the Village Board of the Village of Fontana-on-Geneva Lake did thereafter, pursuant to the procedures specified by the Village Municipal Code, adopt Ordinance No. 01-05-05-01 whereby the First Phase Property was rezoned for the Planned Development Zoning District; and

WHEREAS, Fairwyn did subsequently petition the Village to further amend the Village Zoning Ordinance (and accompanying zoning map) with regard to the property described more specifically in Addendum "B", attached hereto and incorporated herein by reference (the "Second Phase Property"); and

WHEREAS, the First Phase Property and the Second Phase Property shall together comprise the "Subject Property" for purposes of the General Development Plan referenced herein; and

WHEREAS, by said subsequent petition, Fairwyn has requested that the Second Phase Property be rezoned to the Planned Development Zoning District pursuant to the process described more specifically in Sec. 18-89 of the Village Municipal Code and those additional procedures set forth at Sec. 18-330 through Sec. 18-336 of the Village Municipal Code; and

WHEREAS, the Plan Commission, after due notice, did conduct a public hearing on the most recent Petition and the proposed amendment to the Zoning Ordinance (and accompanying zoning map) set forth therein as to the Second Phase Property described therein and did thereafter make a favorable recommendation to the Village Board; and

WHEREAS, Fairwyn has further requested an amendment to the existing General Development Plan ("GDP") for the Subject Property in conformity with the procedures and requirements set forth at Sec. 18-89 of the Village Municipal Code; and

WHEREAS, the components of the GDP as previously approved, together with the newly approved components of the amended GDP, have been listed on the index attached hereto as Addendum "C" , which said Addendum "C" and the GDP are incorporated herein by reference as if set forth at length herein; and

WHEREAS, The Village Board of the Village of Fontana-on-Geneva Lake, having given due consideration to the recommendation of the Village Plan Commission, the petition by Fairwyn, the GDP, and such other information made available to the Village Board, do make the determinations set forth herein.

NOW, THEREFORE, the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

SECTION I. INCORPORATION OF RECITALS; FINDINGS.

1. **Incorporation of Recitals.** The recitals set forth above are incorporated herein by reference as if set forth at length herein.

2. **Findings.** The Village Board makes the following Findings in connection with the adoption of this Ordinance:

a. The GDP is consistent with the spirit and intent of the Village Redevelopment Plan, Master Plan and the applicable Village zoning regulations, and produces significant benefits to the Village in terms of improved environmental design sufficient to justify the application of the "planned development" concept.

b. That the general character of the GDP produces an attractive environment appropriate to the intensity of the mixed uses proposed and which is compatible with existing developments in the surrounding area, and with general community development plans and policies.

c. That the GDP provides for appropriate municipal services or their equivalent in private services.

d. That the GDP includes design standards which adequately provide for practical operation and maintenance of vehicle and pedestrian circulation, parking, emergency services, delivery services, and snow plowing.

e. That the GDP serves to adequately preserve and protect existing natural environmental or ecological resources.

f. That the mixed uses permitted pursuant to this Ordinance are determined to be appropriate to the location and environmental character of the Subject Property.

SECTION II. ZONING ORDINANCE (AND MAP) AMENDMENT.

The Zoning Ordinance, and accompanying zoning map, of the Village of Fontana-on-Geneva Lake are hereby amended in the following respects:

The Second Phase Property described in Addendum "B" is hereby changed from its current C-2, General Commercial, Zoning District, to the PD, Planned Development, Zoning District pursuant to Sec. 18-89 of the Village Municipal Code and subject to all terms and provisions of this Ordinance.

SECTION III. USE AND AREA REGULATIONS.

A. The use of the Subject Property shall be at all times in compliance with the GDP, an

index for which is attached hereto as Addendum "C" and incorporated herein by reference, and those additional regulations set forth in this Ordinance. To the extent the GDP is inconsistent with the terms of this Ordinance, this Ordinance shall control.

In addition, the Public Use Area, Commercial Use Area and Residential Use Area, as those terms are used in this Ordinance, shall be those areas depicted more specifically in the GDP (the "Use Area Map"). A copy of the Use Area Map is attached hereto as Addendum "D" and incorporated herein by reference.

B. Specific Use Areas and Specific Use Regulations.

(1) Public Use Area.

a. The public use area for the Subject Property shall be that area depicted and described as the "Public Use Area" on the Use Area Map attached hereto as Addendum "D".

b. Permitted Uses By Right In The Public Use Area.

i. All uses of a public or institutional nature including a public street and a public plaza or park.

c. Area Regulations In The Public Use Area.

i. Not applicable.

(2) Residential Use Area.

a. The residential use area for the Subject Property shall be that area depicted and described as the "Residential Use Area" on the Use Area Map attached hereto as Addendum "D".

b. Permitted Uses By Right In The Residential Use Area.

i. Fourteen single-family dwellings constructed as townhomes pursuant to the terms of the GDP.

ii. One pool.

c. Area Regulations In The Residential Use Area.

i. As set forth in the GDP.

(3) Commercial Use Area.

a. The retail use area for the Subject Property shall be that area depicted and described as the "Commercial Use Area" on the Use Area Map attached hereto as Addendum "D".

b. Permitted Uses By Right In The Commercial Use Area.

i. Retail or wholesale sale of goods or services, including retail stores and commercial and professional offices.

c. Area Regulations In the Commercial Use Area.

i. As set forth in the GDP.

SECTION IV. ADDITIONAL ZONING REQUIREMENTS.

All uses described herein shall be subject to those rights of the Village of Fontana set forth more specifically in Document No. 277484, a currently recorded easement agreement between the Village and the then owners of the Subject Property or a portion thereof.

All other terms and conditions of the municipal code of the Village of Fontana-on-Geneva Lake not inconsistent herewith, including future amendments thereto, are incorporated herein by reference as if set forth at length herein.

SECTION V. EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon and from its passage, approval and publication as required by law.

PASSED AND ADOPTED by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin this 6th day of November, 2006.

VILLAGE BOARD
OF THE VILLAGE OF FONTANA-ON-GENEVA LAKE

By: _____
Thomas Whowell, Village President

Attest: _____
Dennis Martin, City Clerk

"The undersigned do hereby consent to the terms of this Ordinance as required by Section 62.23(7)(b) Wis. Stats. and by the Fontana Municipal Code."

FAIRWYN
DEVELOPMENT CORPORATION, A WISCONSIN CORPORATION

By:_____

Attest:_____

ADDENDUM "A"

Parcel 1:

Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 in Block 11, Original Plat of the Village of Fontana, Walworth county, Wisconsin

Also that portion of the vacated alley lying immediately East of Lot 2, being the West ½ of said alley, and all of the vacated alley lying South of the North line of Lot 3 extended East and the North line of Lot 4 extended West, in said Block 11 of the Village of Fontana, Walworth County, Wisconsin.

Parcel 2:

Lot 1 in Block 3 of the Assessor's Plat No. 1, C.L. Douglass Addition to the Village of Fontana, Walworth County, Wisconsin.

ADDENDUM "B"

Parcel 3:

Part of Lot 1 in Block 2, Assessor's Plat No. 1, C.L. Douglass Addition to the Village of Fontana and part of Outlot 2 of the Assessor's Plat No. 1, C.L. Douglass Addition to the Village of Fontana, Walworth County, Wisconsin described as follows: Beginning at a found iron pipe at the Southeast corner of Lot 1, Block 2, Assessor's Plat No. 1, C.L. Douglass Addition to the Village of Fontana; Thence South 01E 17' 25" East a distance of 30.00 feet to a set iron pipe; thence South 89E 02' 00" West a distance of 159.62 feet to a set iron pipe; thence North 03E 35' 51" West a distance of 130.32 feet to a found iron pipe; thence North 89E 06' 51" East a distance of 165.16 feet to a found iron pipe; thence South 01E 07' 31" East a distance of 99.95 feet to a found iron pipe; which is the point of beginning.

ADDENDUM "C"

Index of General Development Plan

Petition dated 11/19/04
Rider to Petition dated 11/19/04
Exhibit "A" to said Rider
Exhibit "B" to said Rider
Exhibit "C" to said Rider
Exhibit "D" to said Rider (composed of three pages)
Exhibit "E" to said Rider
Exhibit "F" to said Rider
Amended Petition

and

Submittal made by Attorney John Clair on behalf of the applicant dated September 8, 2006 and comprised of 76 pages.