

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Tuesday, May 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: O'Connell, President Pollitt, Treptow, Chairman Spadoni, Poivey

**Plan Commissioner late:** D'Auria (arrived at 5:39 pm)

**Plan Commissioner absent:** McGreevy

**Also present:** Tim Bextel, Administrator Kelly E. Hayden-Staggs, Jim Howe, Rob Ireland, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Peter Novak, Building Inspector Ron Nyman, Dan Shepard, Mara Spring, Rolf Suppes, Village Attorney Dale Thorpe

**Visitors Heard**

None

**Announcements**

Hayden-Staggs stated that next monthly meeting of the Village Board will be held Monday, June 4, 2007, at 6:00 pm; the CDA Board monthly meeting will be held Wednesday, June 6, 2007, at 6:00 pm; the Park Commission and Geneva Lake Conservancy will host an open house event Saturday, June 16, 2007, from 10:00 am to noon; and the Plan Commission's next monthly meeting will be held Monday, June 25, 2007, beginning at 5:30 pm.

**Approve Minutes**

O'Connell/Treptow 2<sup>nd</sup> made a MOTION to approve the minutes for the meeting held April 30, 2007, and the MOTION carried without negative vote.

**Public Hearings**

**Continued Public Hearing on Conditional Use Permit Application Filed by M. Bruce Wilkinson to Remove in Excess of 30 Percent of Existing Protected Trees on Lot 49 in the Country Club Estates Subdivision**

Chairman Spadoni opened the continued public hearing at 5:32 pm. Hayden-Staggs stated that there has been nothing new submitted by the applicant.

O'Connell/Poivey 2<sup>nd</sup> made a MOTION to continue the public hearing and to table consideration of the Conditional Use Permit application filed by M. Bruce Wilkinson to remove in excess of 30 percent of the existing protected trees on Lot 49 in the Country Club Estates Subdivision, and the MOTION carried without negative vote.

**Conditional Use Permit Application Filed by Thomas S. Freytag, 533 N. Lakeshore Drive, to Erect Two Decorative Stone Pillars**

Chairman Spadoni opened the public hearing at 5:33 pm. Hayden-Staggs stated that the CUP application was filed to allow the applicants to erect two pillars at the driveway entrance to the

recently constructed residence. The pillars were erected at the same time as the new residence; however, the applicants did not obtain a required permit. McCarthy stated that the Municipal Code calls for the applicants to pay double fees for the project, if approved by the Plan Commission. Hayden-Staggs stated that the applicants complied with the other staff concerns cited at last month's meeting. No comments were made during the public hearing, which was closed at 5:34 pm by Chairman Spadoni.

Pollitt/Poivey 2<sup>nd</sup> made a MOTION to approve the Conditional Use Permit application as presented, with the conditions that a double Building Permit fee must be paid within 10 days of the date of the CUP approval, that all cost recovery fees must be paid prior to the issuance of any building and zoning permits, and that the height of the entry pillars does not exceed 6 feet as measured from the existing grade. The MOTION carried without negative vote, with D'Auria not yet at the meeting and McGreevy absent.

**Petition to Amend Zoning Ordinance Filed by the Village of Fontana to Adopt Temporary Moratorium on the Acceptance, Review and Approval of Land Divisions and Subdivisions Applications and Condominium Plat Applications for Lakefront Properties**

Chairman Spadoni opened the public hearing at 5:35 pm. Thorpe stated that the proposed ordinance reflects the direction dictated at previous meetings. Thorpe stated that the public hearing and ordinance adoption is the next step in formalizing the Resolution approved by the Village Board on April 2, 2007. Thorpe stated that an ordinance will provide the Village with the best defense possible if the moratorium is challenged in court. Chairman Spadoni closed the public hearing at 5:36 pm. Following discussion, the Plan Commission was in consensus that the recommended time frame for the moratorium period should be 120 days, or until October 2, 2007, unless rescinded earlier by the Village Board.

O'Connell/Treptow 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the proposed ordinance with the time frame to be set at 120 days, and the MOTION carried without negative vote.

D'Auria arrived at the meeting at 5:39 pm.

**General Business**

**Conditional Use Permit Application Filed by Barton and Joan Love, 928B South Lakeshore Drive (STFV 00087 - Westgate), Fontana, WI, to Develop Three Single-Family Residences with Residential Accessory Structures in the RS-1 (Single-Family Residential District) Zoning District – Tabled 4/30/07**

Attorney Jim Howe stated that he was representing the applicants at the meeting. Thorpe stated that the proposal has been fine tuned since it was first filed in January 2007 to reflect the concerns stated by the staff members and neighboring property owners. Thorpe stated that the proposal was tabled at last month's meeting, with an extension agreed to by Attorney Anthony Coletti, in order to finalize the amended site plan and condominium plat to address the concerns stated by Rolf and Ingrid Suppes. Howe stated that the proposed driveway was moved to the south and the layout of the road was amended to prevent automobile lights from shining into the windows of the Suppes residence. The other concerns stated have been incorporated into the suggested conditions for approval of the CUP and into a proposed Plan Commission resolution drafted by Thorpe. Rolf Suppes stated that the amended site plans and plat and the suggested conditions for approval of the CUP alleviate the concerns previously stated by he and his wife. In response to a question from O'Connell, Thorpe stated that the new residences will be served by private laterals, and the proposal does not contain any public improvements so a developer's agreement is not necessary. The 22 conditions for approval suggested in the staff report are:

1. Sheet 2 of the Condo Plat shall be submitted (signature page).
2. The proposed piers have not been submitted or approved by the Village of Fontana Lakefront and Harbor Committee, and therefore shall be removed from the plat. Pier

- approvals require conformance to the process and regulations set forth by the Wisconsin Department of Natural Resources and the Village of Fontana Municipal Code.
3. The detached garage to be removed (depicted on the west property line) shall have a clearly defined “remove by” date.
  4. All property owners which access their properties through the access drives shall be notified in writing of their financial expectations and other requirements this proposal will create.
  5. A copy of all recorded easements shall be provided.
  6. Storm water shall be clearly and satisfactorily addressed and detailed on the submitted documents.
  7. It shall be clarified when the access roads will be widened and paved.
  8. All size, species and health of protected trees to be removed shall be provided, and proper tree removal permits shall be obtained prior to the removal of any protected trees.
  9. Trees to be removed to benefit lake views shall be clarified [Article IV. 4.4(5)].
  10. All required setbacks and offsets shall be conforming to the zoning district the property is located in (40 feet between units 2 and 3; 25 feet between northwest corner of unit 2 and property line).
  11. All signage and lighting shall conform to the Municipal Code.
  12. Lake view easements shall be better defined.
  13. Acceptable colors shall be better defined.
  14. Conservation easement(s) shall be worked out with the Geneva Lake Conservancy.
  15. A storm water management plan in conformance with NR151 shall be prepared.
  16. An erosion control plan shall be prepared.
  17. The Village’s sanitary sewer near the north end of the property shall be located to verify that it lies within the center of the depicted 20 foot easement. Any easement for Village utilities shall contain a provision allowing Village access to the easement for purposes of maintaining, constructing, removing and replacing the utilities.
  18. Each building unit shall have its own individual sanitary sewer and water services which should be privately owned and maintained.
  19. Home professions permitted shall be better defined [Article VII. 13].
  20. Exhibit B, Article IV Site Amenities 4.2 shall read “subject to ~~County~~ Village of Fontana zoning standards.”
  21. Exhibit B, Article IV Site Amenities shall better define “rear yards” or “rear areas” with regard to acceptable placement of miscellaneous structures.
  22. All other state and local codes and ordinances shall apply.

Pollitt/Poivey 2<sup>nd</sup> made a MOTION to approve Plan Commission Resolution No. 05-29-07-01 as presented and the Conditional Use Permit application as submitted, with the conditions that Sheet 2 of the Condo Plat shall be submitted (signature page); the proposed piers are removed from the plat; the detached garage to be removed (depicted on the west property line) shall have a clearly defined “remove by” date; all property owners which access their properties through the access drives shall be notified in writing of their financial expectations and other requirements this proposal will create; a copy of all recorded easements shall be provided; storm water shall be clearly and satisfactorily addressed and detailed on the submitted documents; it shall be clarified when the access roads will be widened and paved; all size, species and health of protected trees to be removed shall be provided, and proper tree removal permits shall be obtained prior to the removal of any protected trees; trees to be removed to benefit lake views shall be clarified [Article IV. 4.4(5)]; all required setbacks and offsets shall be conforming to the zoning district the property is located in (40 feet between units 2 and 3; 25 feet between northwest corner of unit 2 and property line); all signage and lighting shall conform to the Municipal Code; lake view easements shall be better defined; acceptable colors shall be better defined; conservation easement(s) shall be worked out with the Geneva Lake Conservancy; a storm water management plan in conformance with NR151 shall be prepared; an erosion control plan shall be prepared; the Village’s sanitary sewer near the north end of the property shall be located to verify that it lies within the center of the depicted 20 foot easement; any easement for Village

utilities shall contain a provision allowing Village access to the easement for purposes of maintaining, constructing, removing and replacing the utilities; each building unit shall have its own individual sanitary sewer and water services which should be privately owned and maintained; home professions permitted shall be better defined [Article VII. 13]; Exhibit B, Article IV Site Amenities 4.2 shall read “subject to County Village of Fontana zoning standards;” Exhibit B, Article IV Site Amenities shall better define “rear yards” or “rear areas” with regard to acceptable placement of miscellaneous structures; and all other state and local codes and ordinances shall apply. The MOTION carried without negative vote.

**Condominium Plat and Declarations Filed by Barton and Joan Love, 928B South Lakeshore Drive – Tabled 2/26/07, 3/26/07 & 4/30/07**

Thorpe stated that the Plan Commission makes a recommendation to the Village Board for condominium plat and declaration proposals.

O’Connell/D’Auria 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the Condominium Plat and Declarations filed by Barton and Joan Love, 928B South Lakeshore Drive, and the MOTION carried without negative vote.

**Cliffs of Fontana Planned Development Amendment - Single-Family Concept**

Dan Shepard and Tim Bextel of Par Development presented a concept plan to amend the previously approved Precise Implementation Plan for the Cliffs of Fontana development in the former Audino quarry site. Following a recent marketing analysis, Shepard stated that the developers received input that a single-family residence development will be more successful than a duplex development. The approved plan calls for 66 duplex units in a total of 33 buildings. Shepard stated by reducing the proposed minimum side yard setback distances from 15 feet to a minimum of 12 feet between buildings, the project engineer was able to layout 66 single-family home sites on the existing site plan. Shepard stated that the amendment concept does not incorporate any other changes to the previously approved plan. Shepard stated that if the amendment is approved, some of the retaining walls that were going to be constructed between homes sites will no longer be necessary. Shepard stated that single-family home sites will not require any changes to the previously approved engineering and landscaping plans. Shepard and Bextel showed a video of a subdivision at the Boulder Ridge Country Club in northern Illinois that was developed about 10 years ago by Par Development. The homes in the Boulder Ridge subdivision have 10-foot minimum setbacks, and the amendment proposal is for the homes to have 12-foot minimum side yard setbacks. The Plan Commission was in consensus that because of the extensive landscaping, the homes in the Boulder Ridge subdivision are barely visible from the street. Spadoni asked if the amended plan will meet the minimum green space requirements of the Municipal Code, and Shepard responded yes, but he will double check the calculations to make sure. Shepard stated that the single-family homes would be offered in four different models with 12 different elevations, and the homes would range from 1,950 to 2,350 square feet. Spadoni stated that if approved, the amended plan may attract more families and full-time residents to the Village than duplexes. O’Connell asked Shepard if the single-family home sites were located with the 15-foot minimum side yard setbacks called for in the initially approved plan, how many units would be lost, and Shepard responded two or three units. In response to questions, Shepard stated the side yard setbacks are proposed at minimum distances because the exact setbacks can’t be determined until the lots are sold and the home designs are selected. Following discussion, Shepard was directed to meet with Village Planner Mike Slavney to make sure the amended plan is in compliance with the monotony clause of the previously approved developer’s agreement. Shepard stated that Par Development would like to receive approval of the amendment in order to produce a more successful project; however, if the amendment is not favored, the duplex project will have to be put on hold until the market comes back. President Pollitt stated that he likes the fact that the development calls for sidewalks to be constructed on both sides of the roads in the subdivision and that the distances to the front of the new homes will be staggered back from the roads. O’Connell stated that she has concerns with the number of units being proposed, and that she

would like to see two less units and 15 foot minimum side yard setbacks. President Pollitt stated that he likes the proposal a lot, and he can see how separate single-family home sites would be more marketable than duplex units. Treptow stated that he has been in favor of single-family home sites rather than duplex sites since the residential proposal was first presented for the former quarry site. Treptow stated that he also has the same side yard setback concerns that were stated by O'Connell; but, he will tour the Boulder Ridge subdivision to get a first-hand look at how the development will look in about 10 years. Poivey stated that he also favors the proposal, and that he does not mind the look of the proposed models that call for the front doors of the residence to be facing the side yard, not the road. D'Auria stated that he also favors the proposal and he supports the plan because it could attract more families and more students for the Fontana Elementary School District. D'Auria stated that the very unique development site justifies the proposal and possible approval of 12-foot minimum side yard setbacks. Shepard stated that Par Development will develop 66 units under the initially approved duplex plan or under the proposed amended plan for single-family home sites. Thorpe stated that Par Development will have to file an amended Precise Implementation Plan, an amended plat and an amended condominium declaration in order to receive approval for the proposed amendment. Thorpe stated that the General Development Plan will not have to be amended, and another public hearing will not have to be conducted. Spadoni directed Shepard to contact Slavney and Village Engineer Joe Eberle to make sure the amended plans are in conformance with the initially approved developer's agreement and engineering plans.

#### **Review Municipal Code Regarding Duties of the Plan Commission**

Chairman Spadoni stated that President Pollitt requested all the Village committee and commission members to review the Municipal Code with regard to the stated duties of their respective bodies. Martin will distribute copies of the state statutes that further delineate the Plan Commission's duties. Plan Commission members were directed to contact Hayden-Staggs or President Pollitt if they have any suggestions or concerns after reviewing the duties.

#### **Proposed Zoning Ordinance Revision for Conditional Use Permits Referred to Village Board for Final Approval**

Hayden-Staggs stated that in reviewing the municipal codes in other municipalities, there are many municipalities that make Conditional Use Permit applications approved by the Village Board on recommendation of the Plan Commission. Currently, the Plan Commission approves CUP applications and they are not brought before the Village Board. Thorpe stated that if approved, the CUP application approval process would mirror the approval process for Petitions to Amend the Zoning Ordinance and Zoning Map. Thorpe stated that the approval process for Conditional Use Permits is left up to the municipalities to determine, it is not dictated by the state statutes. President Pollitt stated that certain projects currently can be approved without any input from the elected Village Board members, and the Village Board members are the people who will be held responsible by the voters. Pollitt stated that the event tent approved last year for the Abbey Resort was approved without any input from the elected Village Board members. Hayden-Staggs stated that the event tent was approved as an amendment to the Abbey Resort's Building, Site and Operation Plan (BSOP), and BSOPs are approved by the Plan Commission, not the Village Board. O'Connell stated that she does not have an opinion one way or the other on the matter; however, the CUP final approval probably should be voted on by the Village Board. Treptow stated that he does not have an opinion on the proposal. D'Auria stated that he can understand President Pollitt's point, but the approval process could be dragged out. Poivey stated that he agrees with President Pollitt's point, but he also is worried about bogging down the approval process. Thorpe stated that if the Plan Commission and Village Board favor amending the Municipal Code for the CUP application approval process, the amendment also should address the approval process for Building, Site and Operational Plans. Chairman Spadoni stated that the Plan Commission members should think about the proposal during the next month, and the Plan Commission will make a recommendation at the June 25, 2007 meeting.

Pollitt/O'Connell 2<sup>nd</sup> made a MOTION to table the proposal until the June 25, 2007 Plan Commission meeting, and the MOTION carried without negative vote.

**Novaks' Deli, 158 Fontana Boulevard – Certified Survey/Parking Lot Renovation Plan & Noncompliance Letter (Tabled 1-29-07)**

Hayden-Staggs stated that item was on the agenda to provide an update on the situation. On January 29, 2007, the Plan Commission voted to table the applicant's request to remove an Official Letter of Noncompliance from the property's Village file until the applicant submits proof he fulfilled the conditions delineated in a staff report dated January 26, 2007. This report required the following to be completed by May 15, 2007: repair all broken and crumbling asphalt in the parking lot; convert the gravel area in the northeast corner of the currently paved lot to green space; complete the striping of the lot; complete all aspects of the proposed parking plan and Dumpster enclosure; and conduct a site visit for the purpose of determining the viability of the grass-over-gravel area between October 1 and 15, 2007. After Peter Novak reported that the parking lot work had been completed, the Building and Zoning Department conducted an inspection on May 10, 2007. The site visit determined that the broken and crumbling asphalt was repaired in a satisfactory fashion, and that the striping of the lot was completed, although it differs slightly from the proposed plan because one standard sized parking stall was added. An 18-by-40-foot parcel of gravel located in the northeast portion of the parking lot was not converted to green space as directed. This area was paved without prior notification or approval of modification of the original Plan Commission requirement; however, total impervious surface area calculations indicate that the lot does not exceed the maximum impervious surface allowable in the Municipal Code. The Dumpster enclosure was proposed to be 6-by-16-feet wide and 5-feet high; however, the enclosure was constructed to be 5-feet-8-inches-by-17-feet-10-inches wide and 6-feet 4-inches high. Novak stated that the increase in length and width was necessary to enclose the Dumpster and to accommodate swinging doors on the front of the enclosure. No explanation of the height was given. It should be noted that village ordinance does not allow fences higher than 6 feet in rear yards. The staff report recommends that the Plan Commission should require the height of the Dumpster enclosure to be reduced to no more than 6 feet as measured from the existing grade; require a site visit between October 1 and 15, 2007 to determine viability of the grass-over-gravel area (east portion of property); and order the removal of the Official Letter of Noncompliance from the property file after all the conditions have been satisfied. After the presentation of the staff report, Nyman stated that he also noticed another Municipal Code violation that the new Dumpster enclosure blocks the required second emergency exit from the building. Following a lengthy discussion, Novak stated that he will remove from the rear of the building an overhead garage door that was installed in front of another exit door in order to provide the required second exit from the building. Novak was directed to provide the required second emergency exit from the building by moving the Dumpster in the new enclosure and to install an emergency exit handle on the outside gate, or by removing the overhead garage door from the back of the building; and to reduce the height of the Dumpster enclosure fence to a maximum of 6 feet as measured from the existing grade. The Plan Commission directed to Novak to bring the building into compliance with the Commercial Building Code by the June 25, 2007 Plan Commission meeting, at which the Building and Zoning Department will provide another update.

**Mill House Pavilion Update**

Hayden-Staggs stated that the agenda item was added to provide an update on the project. Hayden-Staggs stated that the Village is working with Par Development to reconstruct the original building foundation in the same site for the new pavilion.. Bextel stated that he was informed by the Wisconsin DNR that the high-water level will be marked the week of June 15, 2007. Hayden-Staggs stated that when complete, the building plans will be presented to the Plan Commission for review.

**Pending Items for Future Agendas**

1. Abbey Springs Clubhouse Renovation – PIP Amendment Proposal (Tabled 1-29-07)

2. Abbey Springs Boat Storage Expansion – PIP Amendment Proposal (Tabled 12-18-06, 1-29-07)
3. Set Public Hearing to Consider Proposed Amendment to the Village of Fontana Wellhead Protection Plan Ordinance (Tabled 4/30/07)
4. Review Lakefront Zoning
5. Park Place Café BSOP
6. Comfort Zone Window Tinting, LLC BSOP

**Adjournment**

Pollitt/O'Connell 2<sup>nd</sup> made a MOTION to adjourn at 7:08 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: 06/25/07