

**VILLAGE OF FONTANA ON GENEVA LAKE  
WALWORTH COUNTY, WISCONSIN**

**(Official Minutes)**

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Monday, September 29, 2008**

Chairman Spadoni called the monthly meeting of the Village of Fontana Plan Commission to order at 5:39 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Plan Commissioners present:** Poivey, D'Auria, McGreevy, O'Connell, President Pollitt, Chairman Spadoni

**Plan Commissioner late:** Lobdell (arrived at 5:42 pm)

**Also present:** David Audino, Steve Beers, Village Engineer Joe Eberle, Administrator Kelly E. Hayden-Staggs, Rob Ireland, Gene Kovacs, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building Inspector/Zoning Administrator Ron Nyman, Tim Swatek, Village Attorney Dale Thorpe, Bruce and Kathi Wilkinson, Director of Public Works Craig Workman

**Visitors Heard**

None

**Announcements**

1. CDA Board Monthly Meeting – **Wednesday, October 1, 2008 at 6:00 pm**
2. Walworth County Clean Sweep Program – **Friday and Saturday, October 3 & 4, 2008**
3. Village Board Monthly Meeting – **Monday, October 6, 2008 at 6:00 pm**
4. Finance Committee Budget Meeting – **Thursday, October 9, 2008 at 3:00 pm**
5. Blue Ribbon Lakefront Building Committee Meets – **Thursday, October 9, 2008 at 5:00 pm**
6. Special Village Board Meeting with Village of Walworth Board of Trustees – **Monday, October 13, 2008 at 5:00 pm**
7. Fontana Public Library Board Meeting – **Wednesday, October 15, 2008 at 10:00 am**
8. Park Commission Monthly Meeting – **Wednesday, October 15, 2008 at 6:00 pm**
9. Village Board/Finance Committee Joint Budget Meetings – **Thursday and Monday, October 16 & 20, 2008 at 5:00 pm**
10. Blue Ribbon Lakefront Building Committee Meeting – **Thursday, October 23, 2008 at 5:00 pm**
11. Plan Commission Monthly Meeting – **Monday, October 27, 2008 at 5:30 pm**
12. Trick or Treat Hours – **Friday, October 31, 2008 from 3:00 to 7:00 pm**

**Approve Minutes**

O'Connell/Poivey 2<sup>nd</sup> made a MOTION to approve the minutes as submitted for the meeting held August 25, 2008, and the MOTION carried without negative vote.

**General Business**

**Proposal to Amend/Adopt Regulations With Regard the Windmill Electrical Generators - Tabled 7/28/08 & 8/25/08**

Thorpe distributed samples of ordinances that other municipalities have adopted to regulate windmill development proposals. Thorpe stated that the Plan Commission members should review the ordinances and provide direction to Village staff for the drafting of a proposed ordinance for the Village of Fontana. Thorpe stated that as the use of wind energy become a more viable source of

energy throughout the Midwest, many municipalities are adopting wind energy ordinances in order to better regulate the placement and the operation of wind energy facilities and structures. Thorpe stated that some of the concerns the Village may wish to address are ensuring public safety, identifying and minimizing on- and off-site impacts, promoting good land use practice, expressing local preferences, and informing and involving the public. President Pollitt stated that he would like to review the sample ordinances. McGreevy stated that among the safety issues that should be addressed in the ordinance is the accumulation of ice on the structures during the winter months. Thorpe stated that municipalities may regulate size, setback and location requirements by adopting wind energy ordinances.

President Pollitt/McGreevy 2<sup>nd</sup> made a MOTION to table the item until next month and to direct staff to prepare a draft ordinance, and the MOTION carried without negative vote.

### **Certified Survey Map Filed by Myron and Geraldine Audino**

Gene Kovacs of RSV Engineering presented a proposed certified survey map creating two residential lots in the 10-acre area on top of the ridge of the former gravel pit, above the Cliffs of Fontana subdivision. The proposal includes two associated road variances and portions of the lots are in environmental overlay districts. In response to staff concerns, Kovacs stated that on the revised CSM the utility lines are no longer proposed to be brought into the lots by crossing other properties. Kovacs stated that other engineering concerns noted in the staff report will be worked out if the proposal receives approval. In response to a question from Spadoni, Kovacs stated that many of the concerns noted in the September 26, 2008 staff report have been addressed and the others will be addressed. The proposal includes the stipulation that the lots cannot be further subdivided. Thorpe stated that there were road access concerns that were addressed following staff meetings with the applicants. McCarthy stated that the Plan Commission is authorized in the Municipal Code to approve road access variances through the subdivision variance approval process. President Pollitt stated that he attended the Plan Commission staff meeting and he thanked the applicants for working with staff to address the zoning code concerns. O'Connell asked if the proposal includes provisions for the public pedestrian/bicycle path to cross the property. David Audino stated that an easement will be provided to allow for non-motorized traffic to use the bicycle/pedestrian path. Hayden-Staggs stated that although the staff concerns have been addressed, the easement issues still have to be resolved before staff can recommend action. Spadoni asked the Plan Commission members if they had any concerns with the proposal and took a straw vote. There were no concerns stated in the straw vote. Thorpe stated that staff will work with the applicants during the next month to resolve the easement issues and to address the remaining staff concerns and the proposal should be ready for a vote next month.

### **Condominium Plat Filed by Steve Beers**

Attorney Tim Swatek stated that he and Steve Beers have been working on the condominium plat proposal for a few years, including the recent moratorium during the lakefront zoning code review and amendment process. Swatek stated that the proposal is currently for a Planned Development and a four-unit condominium association, with two units on lots located on both sides of North Lakeshore Drive. There is one lot on the lakeside of North Lakeshore Drive, and two lots located across the road. The lots have a total of 190,000 square feet of land. Swatek stated that a non-conforming structure located near the road on the lakeside lot would be razed and reconstructed further back on the lot if the proposal is approved. Swatek stated that the proposal would not impact the three current boat slips on the lake. A common area would be delineated in the condominium association declarations. Swatek stated that the concern with regard to groundwater management will be addressed as well as the other staff concerns if the concept is favorably received by the Plan Commission. Thorpe stated that there currently are two residences on the lakeside lot, and the proposal is a matter of paperwork to have the nonconforming residential structure taken down and relocated on the lot. Thorpe stated that if favorably received by the Plan Commission, there still are some preserved land issues that need to be worked out under Section 18-79 of the Zoning Code.

Beers stated that if approved, the Planned Development would be eliminating an existing nonconforming structure, it would be creating fixed sites for four residential units on the three parcels and it would be creating permanent limitations on the lots. In response to a question, Beers stated that there have always been two residential structures located on the lakeside lot since it was purchased by his parents in the early 1950s. Spadoni stated that a positive aspect of the proposal is the relocation of the nonconforming residential structure, currently located above a garage adjacent to North Lakeshore Drive. McCarthy stated that the density requirements of the lakefront zoning district do not allow for two primary residential structures on the 68,000-square-foot lot. A lot must be at least 80,000 square feet in order to allow for two primary residential structures in the lakefront zoning district. McCarthy stated that the zoning code does allow for the nonconforming garage/residential structure to be reconstructed on the lot at the same size of the current structure. The proposal would combine the lakeside lot with the two lots on the other side of the road in order to create a parcel totaling 190,000 square feet with a four-unit condominium association. President Pollitt stated that he would be concerned about setting a precedent of combining lots on both sides of Lakeshore Drive in order to allow for additional residential structures on lakeside lots. Swatek stated that by approving the proposal as a Planned Development the Village would be in a position to create site specific zoning standards. Lobdell stated that if the Plan Commission voted to approve a proposed Planned Development instead of sticking with the lakefront zoning district, it would be tough to vote to deny a proposal in the future with a similar situation. Thorpe stated that the proposal is using the zoning options of the existing code, which was recently reviewed and not changed. Hayden-Staggs stated that aspects of the proposal are in accordance with land division options in the zoning code; however, she does not think changing the zoning to a Planned Development is appropriate. Hayden-Staggs stated that by allowing the nonconforming garage/residential structure to be moved back and enlarged also could change the characteristics of the neighborhood.

President Pollitt was excused from the meeting at 6:30 pm.

Beers stated that the two lots located on the west side of North Lakeshore Drive are large enough to accommodate two primary residential structures. Spadoni stated that he would suggest the applicants continue to meet with Village staff to address the outstanding questions. Swatek stated that Beers would like an indication of the proposal is favored by the Plan Commission. O'Connell stated that she has a problem with the concept because it would be using non-abutting parcels to meet the density standard of the zoning code. Lobdell stated that she is opposed to using a parcel located on the west side of Lakeshore Drive for density calculations for parcels on the east side of Lakeshore Drive. McGreevy stated that he is concerned about the total square footage proposed for the replacement structure for the current nonconforming garage/residential structure, and without that information, he cannot support the concept. D'Auria stated that if approved, the area would look better without the garage/residential structure located so close to the road. D'Auria stated that the proposal would be more attractive to the Village if there were more of a trade off for the portion of the area that is in an environmental corridor. D'Auria stated that he also is concerned about the proposed use of the Planned Development zoning. Poivey stated that he thinks the proposal should be further discussed at the staff level and a more specific proposal should be presented to the Plan Commission. Poivey stated that he does not have enough information to have an opinion on the concept. Hayden-Staggs stated that the applicants wanted to present the proposal to the Plan Commission in order to get a preliminary opinion before funds are invested on engineering plans. Eberle stated that sloped land on the lots on the west side of North Lakeshore Drive will cause storm water runoff problems. McCarthy stated that the proposal should not use Planned Development zoning because the current zoning district is more appropriate. Swatek stated that with the Planned Development zoning, the Village can create more restrictions to control the development. Spadoni stated that he has two concerns with the proposal. Spadoni stated that the proposal to allow two residential structures on the 68,000-square-foot lot when 80,000 square feet is

required concerns him, and he is also concerned about what the proper maximum size for the new residential structure of the current nonconforming structure would be if it were razed and relocated. Spadoni stated that there needs to be more discussion at the staff level and he suggested tabling the concept presentation.

Poivey/D'Auria 2<sup>nd</sup> made a MOTION to table the matter, and the MOTION carried without negative vote.

#### **Ordinance Language Amendment to Section 17-7**

McCarthy stated that the proposed amendment to Section 17-7(6)(f) is a minor change that would add "or private" to the subsection to read: "Every lot shall front or abut on a public or private street." The staff report states the current code requires new lots to front or abut a public street; however, many streets currently existing in the Village are classified as private streets. It is feasible that future development proposals may also incorporate private roadways.

Poivey/O'Connell 2<sup>nd</sup> made a MOTION to hold a public hearing on Monday, October 27, 2008 q5 5:30 pm to consider the proposed amendment to Section 17-7(6)(f) as presented, and the MOTION carried without negative vote.

#### **BSOP Filed by Bruce Wilkinson**

Bruce Wilkinson stated that in response to direction provided at an August 22, 2008 meeting with the Village staff, he submitted to the Village on September 18, 2008 a site, grading, drainage and erosion control plan for lot 24 of the Country Club Estates subdivision; a tree removal permit application for lots 24 and 49 of the Country Club Estates subdivision; a Building, Site and Operational Plan and accompanying site, grading, drainage and erosion control plan dated August 18, 2008 prepared by Farris, Hansen and Associates; and a cost recovery certificate and agreement. Bruce Wilkinson stated that he has been attempting to complete the permit application process to construct single-family residences on the lots for 30 months. Bruce Wilkinson stated that it is his belief that all the necessary documents have now been submitted. Hayden-Staggs stated that a Building, Site and Operational Plan is required in the zoning code for proposals to fill lots. Hayden-Staggs stated that a hold harmless agreement is still needed before the Plan Commission and Village Board would be ready to act on the BSOP application. Hayden-Staggs stated that the applicants no longer need a Conditional Use Permit for the tree removal portion of the project because they have moved the proposed footprint of the structure from the initially proposed location. Hayden-Staggs stated that the hold harmless agreement is recommended to protect the Village with regard to storm water and the potential for runoff water going down the street and onto other lots. Thorpe stated that there may be other staff concerns when the documents that were filed on September 18, 2008 are reviewed by staff. The document submittal deadline for Village of Fontana Plan Commission meetings is 20 days prior to the meeting date. Thorpe stated that the staff members would like to review the documents and bring the matter back for a vote at next month's Plan Commission meeting. Spadoni stated that if there is any further direction the applicants need from the staff, it should be delineated in a letter. Hayden-Staggs stated that staff provided direction in a letter dated August 8, 2008 and the requested documents were filed with the Village on September 18, 2008. Hayden-Staggs stated that staff will draft a hold harmless agreement, meet to review the agreement and then present it to the applicants for their review. Spadoni stated that he would suggest a motion to table the matter until next month. Bruce Wilkinson stated that he wanted the Plan Commission to vote on the BSOP that night and that he was upset the village staff members were delaying the process and costing his family time and money with unproductive meetings. Spadoni then called for a five-minute recess before Bruce Wilkinson was given the floor again. Bruce Wilkinson stated that he was concerned that the item was placed on the agenda that night if a decision couldn't be made. Wilkinson stated that the Village of Fontana is indifferent to his proposal to construct residences on the lots and he was hoping to resolve the permitting process at the meeting. Wilkinson stated that he is trying to avoid proceeding with the claim that has been filed against the Village, but he is not pleased with the process and the meeting that night was a waste of their time. Thorpe stated that he called the attorney representing

Bruce and Kathi Wilkinson in an attempt to explain the situation on Friday, September 26, 2008, but the call was not returned.

O'Connell/Lobdell 2<sup>nd</sup> made a MOTION to table the item, and the MOTION carried without negative vote.

**Condominium Plat Amendment Filed for Cliffs of Fontana Planned Development**

Par Development is proposing an amendment to the previously approved and amended condominium plat; however, there was not a representative at the meeting to present the proposal.

McGreevy/Lobdell 2<sup>nd</sup> made a MOTION to table the item, and the MOTION carried without negative vote.

**Pending Items for Future Agendas**

1. Brick Church Hotel and Spa BSOP Proposal
2. Conditional Use Permit Application Filed by US Cellular

**Adjournment**

McGreevy/D'Auria 2<sup>nd</sup> made a MOTION to adjourn at 7:11 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: 10/27/08