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

JOINT SESSION MEETING of the VILLAGE OF FONTANA BOARD OF TRUSTEES, CDA BOARD OF COMMISSIONERS and PLAN COMMISSION
and the
PLAN COMMISSION and JOINT EXTRATERRITORIAL ZOINNG COMMITTEE

Monday, October 24, 2005

President Whowell called the special meeting of the Village Board to order at 4:47 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: Turner, O'Connell, Bromfield, President Whowell, Petersen, Larson, Pollitt

Also present: Village Clerk Dennis Martin, Attorney Dale Thorpe, Public Works Director Craig Workman

Announcement for Board of Trustees to Consider Going Into Closed Session - President Whowell

Trustee Bromfield/Trustee Turner 2nd made a MOTION for the Village Board to go into closed session pursuant to Chapter 19.85 (1) (e) Wis. Stats., for the purpose of "deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require," specifically a property acquisition for the Highway 67 project, and the roll call vote followed:

O'Connell – Yes
Bromfield – Yes
President Whowell - Yes
Petersen – Yes
Larson – Yes
Pollitt – Yes
Turner – Yes

Adjourn Closed Session

Trustee Turner/Trustee O'Connell 2nd made a MOTION to adjourn the Village Board's Closed Session at 5:07 pm and to reconvene in open session, and the MOTION carried without negative vote.

President Whowell announced the Village Board was still in session at 5:12 pm.

President Whowell called the Plan Commission to order at 5:12 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll Call vote: President Whowell, Poivey, Larson, Eakright, O'Connell, Spadoni, Treptow

Chairman Turner called the special meeting of the CDA to order at 5:12 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

CDA Commissioners present: Roll Call vote: Chairman Turner, Petersen, Chanson, Fisk, Hibbard

CDA Commissioners absent: Wilson, Bliss

Also present: David Audino, Cheryl Bartz, Jim Celano, Jim and Meagan Feeney, Tom Hill, Assistant Zoning Administrator Bridget McCarthy, CDA Executive Director Joseph McHugh, Building

Inspector Ron Nyman, Bob Sandy, Planner Mike Slaveny, Paul Sloth

Visitors Heard
None

Announcements
President Whowell announced that the monthly Village Board meeting will be held Tuesday, November 1, 2005, at 6 pm; the CDA Board meeting will be held Wednesday, November 2, 2005, at 6 pm; the Children's Book Week at the Fontana Public Library will be held November 14 to 18, 2005; the 2006 Budget Public Hearing will be held Monday, November 21, 2005, at 5 pm; Village Hall will be closed for the Thanksgiving holiday on November 24, 25 and 26, 2005; and the next Plan Commission meeting was scheduled for Monday, November 28, at 6 pm.

Village Board Meeting Date Change
President Whowell announced since the officials were waiting for the Par Development representatives to set up a PowerPoint presentation, it was a good time for the Village Board and Plan Commission to discuss a proposed change of regular meeting dates.
Trustee Larson/Trustee O'Connell 2nd made a MOTION to change the regular monthly meeting date of the Village Board to the first Tuesday of the month, beginning at 6:00 pm, and the MOTION carried without negative vote.

Set New Regular Plan Commission Meeting Date-Last Tuesday of Every Month
Commissioner Spadoni/Commissioner O'Connell 2nd made a MOTION to change the regular monthly meeting date of the Plan Commission to the last Tuesday of the month, beginning at 5:30 pm, and the MOTION carried without negative vote.

Public Hearing
Public Hearing on Petition for Amendment of the Zoning Ordinance and Zoning Map of the Village of Fontana on Geneva Lake from General Commercial, Primary Environmental Corridor Overlay and Performance Standard-Mixed to Planned Development, filed by Par Development, Inc., East Dundee, IL, 60118, for property owners Myron and Geraldine Audino, 600 Higgins Road, Park Ridge, IL, 60068, for a 24.16-acre parcel of land located adjacent to State Highway 67 to the west of the Fontana Village Hall on the former site of the Geneva Lake Gravel and Sand Company Works of Fontana, WI.
Thorpe stated that because of amendments to some of the initial submittals, the Plan Commission, CDA and Village Board were in a position to only act on the zoning issue and General Development Plan for the proposed duplex subdivision. The issues that could be acted on that night include the proposed use of the 24.26-acre parcel, the proposed density of 66 units, and the general layout of the 33 buildings. Thorpe stated that if the three bodies voted to approve the zoning amendment and the General Development Plan, the developer still would have to receive approval for a Precise Implementation Plan, the final plat and a developer's agreement; however, another public hearing will not be required. Par Development representatives then presented a PowerPoint program and addressed the concerns stated at last month's Plan Commission meeting. Turner received clarification that the proposal only includes the 24.16 acres of land on the lower portion of the former quarry site, and the upper acreage will remain undeveloped in an environmental corridor. Geneva Lake Conservancy Executive Director Jim Celano stated that the Village officials should make sure to address the groundwater and run-off situations on the site. Jamie Whowell stated that he is concerned that the southern potion of the slope is not adversely affected by the development. Another neighboring property owner stated that she is concerned the development will create a steep cliff in her backyard. The developer stated that if approved, the construction company will work with adjacent property owners who want to fill in their backyards in areas that previously were excavated. Another neighbor stated that he wanted to make sure the lights in the new subdivision are illuminated downward and that the plantings are coordinated in the area. The new homes will sell for $450,000 to $600,000, and an association will be responsible for road and landscaping maintenance. Bob Rauland stated that the proposed subdivision is too dense for the site and the emergency access road may not be adequate. Slavney stated that the developers responded to the concerns voiced last month; however, if the Village is going to approve a residential subdivision, the master plan should

be amended because the area currently is delineated for mixed uses. President Whowell closed the public hearing at 6:28 pm. Larson stated that she thinks four of the proposed units should be eliminated because the proposal is too dense, and the unit proposed closest to Highway 67 is unacceptable because, as proposed, the back of the two-story building would face the road.. O'Connell stated she thinks the proposed subdivision is too dense and there should be more space between the buildings. The developers responded that the initial proposal featured 80 units, which was reduced to 66, and there will be between 16 and 20 feet between the buildings. Turner responded that a portion of the parcel currently is zoned RM1, and that zoning district allows for five units per acre. Par Development is only proposing 2.5 units per acre. Treptow stated that he thinks the building proposed for the site closest to Highway 67 also should be moved, possibly by the pool area. Spadoni stated that he thinks the development should be shielded from Highway 67 with a berm running along the entire length of the parcel. Turner suggested that a condition for approval of the zoning change and General Development Plan could be that a berm or landscaped screening must be provided by the developer and approved by the Plan Commission. Larson suggested that the proposed building located closest to Highway 67 be limited to a one-story model, and the developer agreed to this suggestion.

General Business

Plan Commission Recommendation and Findings on General Development Plan Filed by Par Development, Resolution 10-24-05-01

Plan Commissioner Spadoni/Commissioner O'Connell 2nd made a MOTION to recommend approval of the zoning amendment, the General Development Plan and Resolution No. 10-24-05-01 with the conditions that Building No. 21 on the submitted subdivision layout plan be a one-story building, and that the landscaping plan to be approved by the Plan Commission feature a berm or natural screening along Highway 67. The MOTION carried without negative vote.

CDA Recommendation and Findings on General Development Plan Filed by PAR Development, Resolution 10-24-05-02

CDA Commissioner Petersen/Commissioner Hibbard 2nd made a MOTION to recommend approval of the zoning amendment, the General Development Plan and Resolution No. 10-24-05-02 with the conditions that Building No. 21 on the submitted subdivision layout plan be a one-story building, and that the landscaping plan to be approved by the Plan Commission feature a berm or natural screening along Highway 67. The MOTION carried without negative vote.

Village Board Action on Zoning Ordinance and Zoning Map Amendment filed by PAR Development, 10-24-05-01

Trustee Turner/Trustee O'Connell 2nd made a MOTION to approve the zoning ordinance and zoning map amendment, the General Development Plan and Ordinance No. 10-24-05-01, with the conditions that Building No. 21 on the submitted subdivision layout plan be a one-story building, and that the landscaping plan to be approved by the Plan Commission feature a berm or natural screening along Highway 67. The MOTION carried with one negative vote cast by Trustee Bromfield.

CDA and Village Board Resolution Authorizing CDA Review of Projects Exceeding $10,000, Resolution 10-24-05-

Since Administrator Kelly E. Hayden-Staggs was unable to attend the meeting that night to explain the necessity for the Resolutions, the Village Board and CDA decided to table the matter.
CDA Chairman Turner/Commissioner Petersen 2nd made a MOTION to table the item, and the MOTION carried without negative vote.
Trustee Bromfield/Trustee Larson 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Village Board Ordinance Amendment to Section 23, Ordinance 10-24-05-

Since Hayden-Staggs was unable to attend the meeting that night to explain the necessity for the ordinance amendment, the Village Board decided to table the matter.
Trustee Bromfield/Trustee O'Connell 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Adjourn CDA

CDA Chairman Turner/Commissioner Chanson 2nd made a MOTION to adjourn the special meeting of the CDA Board of Commissioners at 7:00 pm, and the MOTION carried without negative vote.

Village Board Business

Approve Payables

Trustee Bromfield/Trustee Pollitt 2nd made a MOTION to approve the payables as submitted, and the MOTION carried without negative vote. Trustees O'Connell and Larson did not vote because they had momentarily stepped out of the meeting room.

Accept James and Carol Whowell Settlement of Cost Recovery Claim

Village Clerk Dennis Martin received on October 17, 2005 a letter and a check for $2,958.39 from James and Carol Whowell with regard to their cost recovery claim.

Trustee Bromfield/Trustee Petesen 2nd made a MOTION to accept the check and settlement of the claim with James and Carol Whowell, and the MOTION carried without negative vote.

Mill House Demolition

Workman stated that two bids were received for the demolition of the old Mill House. The low bid submitted by Down to Earth was for $10,978. Workman stated that the DPW crew has not had an opportunity to investigate the building to determine what portions of the historically significant building can be saved, such as the beams.

Trustee Bromfield/Trustee Petersen 2nd made a MOTION to table the matter, and the MOTION carried without negative vote.

Fontana Boulevard Construction Bid Approval

Workman stated that the low bid, $1.33 million, for the construction of the combined projects was submitted by Mann Brothers, Inc. The next closest bid was for $1.6 million. The construction includes three different projects, including the storm sewer construction for the Highway 67 project. Turner stated that the village will save between $800,000 and $1 million on construction costs by combining the projects.

Trustee Turner/Trustee Bromfield 2nd made a MOTION to approve the $1.33 million bid submitted by Mann Brothers, and the MOTION carried without negative vote.

Highway 67 Project Property Acquisition

Trustee Turner/Trustee Petersen 2nd made a MOTION to table the matter, and the MOTION carried without negative vote.

Adjourn Village Board

Trustee Turner/Trustee O'Connell 2nd made a MOTION to adjourn the special meeting of the Village Board at 7:10 pm, and the MOTION carried without negative vote.

Chairman Poivey called to order the special meeting of the Joint ETZ Committee at 7:10 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

ETZ Committee members present: Roll call vote: Village of Fontana representatives Mike Poivey, Rick Treptow, George Spadoni; Town of Linn representatives Bill Grunow, Linda O'Hare, Larry Aasen; Town of Walworth representatives Dennis Jordan, Jim van Dreser

ETZ Committee member absent: Town of Walworth representative Ken Magowan

Approve Plan Commission-ETZ Minutes

ETZ Chairman Poivey/Village of Fontana representative Treptow 2nd made a MOTION to approve the minutes for the September 26, 2005 meeting, and the MOTION carried without negative vote.
Plan Commissioner Poivey/Commissioner Treptow 2nd made a MOTION to approve the minutes for the September 26, 2005 meeting, and the MOTION carried without negative vote.

Plan Commission – ETZ Business

Grunow ETZ Boundary Amendment Petition (Tabled September 26, 2005)

Grnow stepped down from his position on the ETZ Committee to present his proposal. Even though Grunow did not submit a preliminary concept plan for the 63-acre parcel or a survey that delineates the environmental features of the site, he requested that the ETZ Committee and Plan Commission act on his petition to amend the boundaries of the ETZ District to include his parcel. Grunow stated that he would like the parcel added to the ETZ because two other adjacent parcels that he owns already are in the district. Spadoni stated that he favors the proposal because it would extend the control of the Joint ETZ Committee and Village of Fontana Plan Commission a little further out into Linn Township. Thorpe stated that if approved, Grunow still will have to receive approval for development proposals from the ETZ Committee, the Village of Fontana, Linn Township and Walworth County.

ETZ Committee Village of Fontana representative Spadoni/ETZ Committee Village of Fontana representative Treptow 2nd made a MOTION to recommend approval of the petition to amend the ETZ Boundary, and the Roll Call Vote followed:
Aasen – No
O'Hare – Yes
Poivey – Yes
Treptow – Yes
Spadoni – Yes
The MOTION carried on a 4-1 vote, with Grunow abstaining.

Plan Commissioner Spadoni/Commissioner O'Connell 2nd made a MOTION to recommend approval of the petition to amend the ETZ Boundary, and the MOTION carried without negative vote.

Adjourn ETZ Committee

ETZ Committee Village of Fontana representative Spadoni/ETZ Committee Village of Fontana representative Treptow 2nd made a MOTION to adjourn the ETZ Committee meeting at 7:28 pm, and the MOTION carried without negative vote.

Plan Commission Public Hearing

Conditional Use Permit Application filed by John O'Neill to Amend the CUP Approved March 1, 2005, to Renovate and Add a Second Floor on the existing residence at 323 Bayview Drive, Fontana, WI 53125 (Tax Parcel No. SRA 00044)

President Whowell opened the public hearing at 7:30 pm. O'Neill presented the changes he proposed to the initial Conditional Use Permit approved March 1, 2005. McCarthy presented the staff report which suggests 12 conditions for approval. Although the initial approval and the current staff report call for the removal of a landscaped retaining wall from the public right-of-way, President Whowell stated that he favors O'Neill's proposal to allow the retaining wall to remain in place. Eakright stated that the wall is an attractive feature of the current neighborhood and all the neighbors favor the proposal for it to remain in place. Thorpe stated that although the initially issued CUP did call for the removal of the retaining wall from the right-of-way, a letter from O'Neill's attorney, Daniel S. Draper, would provide the Village with a record that the wall is an encroachment. The letter from Draper, which will be made part of the official CUP conditions, states in part: "Specifically with respect to Proposed Amendment 5, the O'Neills would offer to enter into a covenant with or in the alternative, grant a maintenance easement to the Village of Fontana on Geneva Lake wherein the O'Neills would grant ingress and egress to the Village for that portion of the retaining wall that encroaches on the right of way for Second Avenue to allow maintenance to be done along that right of way. Maintenance would include the maintenance or installation of utilities under that portion of the right of way. In addition, the O'Neills would agree to maintain and repair any damage done to the retaining wall as a result of work being done on or under the right of way. In exchange, the Village would allow the retaining wall to remain where it is presently located and where it has been located for some time." Larson stated that the nonconforming lots ordinance calls for no increase in the total footprint of the existing structure and for correcting encroachments. Larson stated that if the retaining wall is not removed, the village will not be receiving any benefit from the approval of the amended CUP. President Whowell stated that the current conditions of the O'Neill property do not constitute a messy situation that needs to be addressed by the Village. President Whowell stated that in other cases where the Plan Commission has approved CUP under the nonconforming lots ordinance, the Village has ordered car ports and parts of structures to be removed from the public right-of-way. Spadoni stated that each CUP application is unique, and in the case of the O'Neill property, that wall is an attractive feature of the lot that has been there for many years. President Whowell closed the public hearing at 7:55 pm.

Plan Commissioner Spadoni/Commissioner Poivey 2nd made a MOTION to approve the amended CUP application as submitted, with the condition that the applicant enter into a covenant with the Village with regard to the retaining wall located in the public right-of-way, as outlined in the October 24, 2005 letter to the Village from O'Neill's attorney, Daniel S. Draper, and with the following conditions: approval of the removal of the previously approved second-floor 4-foot-by-8-foot balcony and service door and replacement with a window on the north elevation, as depicted in the submitted plans; denial of the addition of a 3-foot 6-inch-by-9-foot 10-inch covered entry porch roof over the front door on the north elevation, as depicted in the submitted plans; approval of the removal of the previously approved main double-door entry door and replacement with a single door with two sidelights on the north elevation, as depicted in the submitted plans; approval of the removal of a previously approved west-facing window and replacement with a single service door and a 3-foot 5-inch-by-5-foot 10-inch covered entry roof on the west elevation, as depicted in the submitted plans; approval of the addition of two exterior spiral staircases on the south elevation, as depicted in the submitted plans; approval of the addition of two second floor windows on the south elevation, as depicted in the submitted plans; approval of the second floor deck to a maximum size of 294 square feet on the south elevation, contingent upon the receipt and staff approval of drawings which shall depict the proposed completed dimensions and proposed distance to lot lines, which shall be at a minimum of 5 feet; approval of the main floor wooden deck on the east elevation contingent upon the receipt and staff approval of drawings, which shall depict the proposed completed dimensions and proposed distance to lot lines, which shall be at a minimum of 5 feet; approval of the applicant's request to allow the encroaching north elevation retaining wall to remain with the condition the applicant enter into the covenant with the Village; the applicant shall provide an as-built survey which shall include, but not be limited to, the location and size of all buildings, decks and impervious surfaces, prior to a final inspection and issuance of an occupancy permit; and the applicant shall pay in full all cost recovery prior to a final inspection and the issuance of an occupancy permit. The MOTION carried with one negative vote cast by Larson.

Plan Commission General Business

Review of FairWyn, Ltd. CUP Conditions Approved October 25, 2004 (Tabled September 26, 2005)

Brian Pollard stated that the dentist office is currently open in the new building, and work on the office space for a chiropractor is almost finished. Plan Commissioners asked questions about the landscaping timbers, which were not addressed or included in any of the initial conditions for approval. When it voted to approve the CUP on October 25, 2004, the Plan Commission established an annual review date on the conditions for approval, at which time more conditions could be added at the discretion of the Plan Commission. The conditions set on October 25, 2004 were that a mutually acceptable developer's agreement and land conveyance agreement were negotiated, and that the one-year review period was established. Pollard stated that he is working with the CDA's landscape architect and suggested that the landscaping be reviewed next year after the plantings have had time to grow.

Plan Commissioner Spadoni/Commissioner Treptow 2nd made a MOTION to extend the review to the April 25, 2006 Plan Commission meeting, at which time the landscaping plan and timber retaining wall will be reviewed, and the MOTION carried without negative vote.

Highlands of Fontana Preannexation, Easement Request – John Tracy

Thorpe stated that he has worked with Tracy's attorney, Tim Swatek, to address new case law with regard to preannexation agreements. Thorpe stated that the agreement will protect the developer and the Village during the approval process. The preannexation agreement will be presented for consideration at next month's Plan Commission meeting. Swatek stated that an easement across Village property for the installation of power lines also will be needed.

Natural Resources Conservation Ordinance Amendment (Tree Ordinance)
Treptow stated that the Park Commission has not yet reviewed the proposed amendments to the Tree Ordinance. The Park Commission also wants Thorpe to review the proposed amended ordinance prior to Plan Commission action.
Plan Commissioner Spadoni/Commissioner Poivey 2nd made a MOTION to table the matter until the next Plan Commission meeting, and the MOTION carried without negative vote.

Nonconforming Lot Ordinance Amendment – Survey Results
McCarthy stated that she has received six completed surveys from the village officials. A workshop will be scheduled to discuss the survey results and possible amendments to the ordinance.

Schmidt Five-Lot Subdivision Preliminary Review
Thorpe stated that the Schmidts are again moving forward with their proposal to develop five homes on the 27-acre parcel. Since the closest site is located more than 600 feet from the current village sewer line and the terrain on the entire site is very hilly, the developers are requesting that the Village allow the new homes to be serviced by septic systems, not the sanitary sewer line. Thorpe stated that the developers would like the requirement waived in exchange for only proposing five residences on the site.

Abbey Springs PD Amendment – Schedule Public Hearing
Thorpe stated that it recently was realized that during the recently completed, lengthy process to approve the Planned Development zoning for the entire Abbey Springs parcel, the old setback requirements were inadvertently reduced. Thorpe stated that the Abbey Springs would like the setbacks set at the same distance that are allowed in the previous zoning designation. The amendment will require a change in one of the exhibits and a couple of language amendments.
Plan Commissioner Treptow/Commissioner Spadoni 2nd made a MOTION to schedule a public hearing to consider the amended Abbey Springs Planned Development Ordinance on Tuesday, November 29, 2005, beginning at 5:30 pm, and the MOTION carried without negative vote.

Schedule Floodplain Ordinance Public Hearings
Thorpe stated that the lengthy Wisconsin DNR approval process resulted in changes in the draft ordinance already adopted by the Village of Fontana. Although the DNR approved the initial language, Thorpe stated that there are now more minor items that must be addressed.
Plan Commissioner Spadoni/Commissioner Treptow 2nd made a MOTION to schedule a public hearing to consider the amended Floodplain Ordinance on Tuesday, November 29, 2005, beginning at 5:30 pm, and the MOTION carried without negative vote.

Raze Order Amendment Review
McCarthy presented a report on creating an ordinance which would delineate the raze order process. Thorpe stated that the Village currently can issue raze orders through the state statutes; however, an ordinance would be appropriate. The Plan Commission decided to table the issue until the next meeting in order to allow the commissioners to review McCarthy's report.
Plan Commissioner Treptow/Commissioner Spadoni 2nd made a MOTION to table the matter until the next Plan Commission meeting, and the MOTION carried without negative vote.

Recommend to Village Board Renewal of Vandewalle and Associates Contract
With an approved change in the regular meeting date for the Plan Commission to the last Tuesday of each month, beginning at 5:30 pm, President Whowell stated that the Plan Commission could make a recommendation on the contract, which was tabled last month. Slavney reported that the proposed contract call for the same rates as last year. Slavney also stated that he will be able to attend all of the regular monthly meetings of the Plan Commission because of the approved meeting date change.
Plan Commissioner Spadoni/Commissioner Treptow 2nd made a MOTION to recommend Village Board approval of the 2006 contract and fee schedule with Vandewalle & Associates, Madison, as submitted, and the MOTION carried without negative vote.

Update on Hannigan CUP
Hayden-Staggs was not able to attend the meeting, so President Whowell moved on to the next agenda item.

Pending Items for Future Agendas

1. Prudden Proposal
2. Fontana Village Condos Proposal
3. Urlakis CSM
4. Hubertz Annexation
5. VOF/Pheasant Ridge Parcel Annexation

Adjourn Plan Commission

Plan Commissioner Spadoni/Commissioner Poivey 2nd made a MOTION to adjourn the meeting at 8:38 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, Village Board, CDA and the Joint ETZ Committee, the official minutes will be on file at the Village Hall.

APPROVED: 11/01/05 – VB
11/02/05 – CDA
11/29/05 - PC