

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

**Monday, February 26, 2007**

President Whowell called the monthly meeting of the Village of Fontana Plan Commission to order at 5:34 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**Plan Commissioners present:** Roll call: Spadoni, O'Connell, Treptow, President Whowell, Poivey, D'Auria, McGreevy

**Also present:** Cheryl Bartz, Trustee Joe Bidwill, David Coates, F. J. Frazier, Village Administrator Kelly E. Hayden-Staggs, Robert Hehr, Betty and Russ Hovde, Jim Howe, Rob Ireland, Mike Keefe, Art Larson, Steven Lyon, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Building Inspector Ron Nyman, Trustee Pete Petersen, Treasurer Peg Pollitt, Trustee Ron Pollitt, David Rasmussen, Richard Rasmussen, Don Roberts, Village Planner Mike Slavney (arrived at 6:15 pm), Mr. and Mrs. Rolf Suppes, Tim Swatek, Village Attorney Dale Thorpe, Antoinette Vigilante, Jan Whitler, Kathryn Galik Wilkinson, M. Bruce Wilkinson, Public Works Director Craig Workman

**Visitors Heard**

None

**Announcements**

Hayden-Staggs stated that the next meeting of the Village Board will be Monday, March 5, 2007, beginning at 6:00 pm; the CDA Board monthly meeting is scheduled for Wednesday, March 7, 2007, beginning at 6:00 pm; the VOF Newsletter article deadline is Friday, March 16, 2007; Fontana Elementary School District will hold a forum to discuss the enrollment situation on Monday, March 19, 2007, beginning at 6:30 pm; the Geneva Lake West Chamber of Commerce will host a candidate's forum at the Abbey Resort on Thursday, March 22, 2007; and the Plan Commission's next monthly meeting will be held Monday, March 26, 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 January 29, 2007, and the MOTION carried without negative vote.

**Public Hearings**

**Conditional Use Permit Application Filed by Michael Keefe, 1014 South Lakeshore Drive (STFV 00085), Fontana, WI, to Construct Entry Pillars Adjacent to Driveway**

President Whowell opened the public hearing at 5:36 pm. Mike Keefe stated that he applied for the conditional use permit in order to accommodate the erection of two entrance pillars for the driveway at his residence. The total height of the pillars will be 8-feet-6-inches and they will be erected five feet back from South Lakeshore Drive and five feet back from the driveway. McCarthy stated that the Village of Fontana Municipal Code dictates that a CUP is required to approve the entrance pillars and staff recommended four conditions for approval. The recommendations delineated in the February 22, 2007 staff report are that the conditional use permit shall be contingent upon the applicant obtaining within 90 days valid building and zoning permits and completing the construction of the two entry pillars within one year of issuance of said permits; that construction of any portion of the proposed entry pillars shall not commence until all applicable building and zoning permits

have been obtained and paid in full; that all outstanding cost recovery fees billed to date applicable to this project shall be paid prior to the issuance of any building and zoning permits; and that the height of the structures (entry pillars) shall not exceed 8-feet-6-inches as measured from the existing grade. The Plan Commission was in consensus that the proposed entry pillars look great and they have no concerns with regard to the application as presented. President Whowell closed the public hearing at 5:39 pm.

Poivey/Spadoni 2<sup>nd</sup> made a MOTION to approve the conditional use permit application as presented, with the conditions that the applicant obtain within 90 days valid building and zoning permits and that the construction of the two entry pillars is completed within one year of issuance of said permits; that construction of any portion of the proposed entry pillars does not commence until all applicable building and zoning permits have been obtained and paid in full; that all cost recovery fees are paid prior to the issuance of any building and zoning permits; and that the height of the structures (entry pillars) do not exceed 8-feet-6-inches as measured from the existing grade. The MOTION carried without negative vote.

**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**

President Whowell opened the public hearing at 5:40 pm. Attorney Jim Howe stated that he was representing the applicants on the proposal to raze the existing residence and develop three single-family residences on the 4 acre site. Howe stated that the existing roads and driveways on the site will have to be widened to accommodate the three new residences. Howe stated that easements will be granted to adjacent property owners and the Village for the roads and utilities, and the lakefront portion of the parcel will be placed in a nature conservancy with the Geneva Lake Conservancy. With regard to the architectural style of the homes, Howe stated that strict covenants will be required. Howe stated that since the piers depicted on the site survey have to go through the Village of Fontana approval process, they will be removed from the plat. Even though the piers have received Wisconsin DNR approval, pier permits still have to be secured through the Village of Fontana Lakefront and Harbor Committee. Howe stated that he reviewed the staff report, and the developer will abide by the suggested conditions for approval. Howe stated that a storm water management plan for the entire parcel is being drafted and it will be turned into the Village for consideration. Howe stated that the site will be maintained by a condominium association, and the developer will pay for all the road upgrade costs. In response to a question, Howe stated that Barton and Joan Love plan on having the current Westgate estate razed, and they will live in one of the three new homes. Howe stated that the Loves would like to retire and the Westgate estate is too large for them to manage, that's why they are seeking approval for the condominium association proposal. A conditional use permit is required for more than one primary residence on one parcel in the RS-1 District. Howe stated that the new residences will be separated by minimums of 40 feet and 25 feet, and there is 164 feet of lakefront frontage that will be in the conservancy area. In response to a question, Nyman stated that the proposal meets the minimum lot size and density limitations of the zoning district. Hayden-Staggs stated that if the Plan Commission voted to approve the CUP, it would have to be contingent on Village Board approval of the condominium plat and declarations. Russ Hovde, owner of a neighboring residence, stated that he has concerns that the proposal calls for the loss of a significant estate and about the sizes of the new residences. Antoinette Vigilante, owner of a neighboring residence, stated that she is concerned about the negative impact of the proposal to raze the Westgate estate, which is architecturally significant and a gem on the Geneva Lake lakefront. Vigilante stated that she also is concerned that the plan calls for four boat slips on the pier. Vigilante stated that the Westgate estate has not been lost through three sales of the property and the current owners have not been successful in their attempt to sell, so they are proposing to raze the historic structure and subdivide the parcel. Vigilante stated that if approved, the development will create a

negative impact on the lakefront and the entire Village and she does not support the proposal. Attorney Richard Rasmussen stated that he was representing the neighboring property owners, Mr. and Mrs. Rolf Suppes. Richard Rasmussen stated that Suppes would like to propose conditions for approval that restricts construction to Mondays through Fridays, from 7:00 am to 5:00 pm; that amends the plan to ensure that the entrance pillars for the Suppes estate are not disturbed, that the existing property lines are respected, and that the driveway layout does not cause automobile lights to shine into a bedroom window at the Suppes estate; that the storm water management plan protects the existing drainage tiles in the area; and that temporary construction items are screened and placed in the least visible location possible. Howe stated that a Title Search has been completed on the parcel and he said he will provide a copy of the search to Richard Rasmussen. Howe stated that there will be restrictions in the condominium association covenants with regard to permitted construction hours, temporary construction items will be screened, the property lines will be respected and the existing drainage tiles will be worked into the storm water management plan. In response to a question regarding how large the new residential units can be, Nyman stated that the code only dictates minimum sizes and setback requirements. Steven Lyon, owner of a neighboring property, stated that the original Westgate grounds have been subdivided in the past; however, the estate has remained and he would like to see it stay. One of the developers stated that the preliminary plans call for using the dismantled stones from the Westgate estate on the new structures. Rolf Suppes stated that he cringed when he learned of the proposal to raze the Westgate estate, and although the proposal is not a bad plan, he would hate to see the estate come down. In response to a question from Russ Hovde, Howe stated that the current tax bill for the property is in excess of \$56,000. Spadoni stated that it was his opinion that the CUP application and condominium plat and declarations should be tabled because of lack of information submitted by the developers. Spadoni stated that staff still has to review a storm water management plan and a revised plat that addresses the stated concerns. McCarthy presented the staff report and the 23 suggested conditions if the Plan Commission favors approval of the CUP application, including: Sheet 2 of the Condo Plat shall be submitted (signature page); 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; detached garage to be removed (depicted on west property line) shall have a clearly defined “remove by” date; all property owners who 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 tree; 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 Village of Fontana 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; all other state and local codes and ordinances shall apply; and approval shall be contingent

on approval of the Condominium Plats and Declarations. Following discussion the Plan Commission was in consensus that a revised plat was needed to make sure all of the staff conditions and the additional concerns stated that night are addressed. Staff also requested a tree survey for the entire parcel, including species and sizes of the existing trees. Thorpe stated that a possible condition for approval could be the establishment of an architectural review provision for the owners of the neighboring properties to address landscaping issues and the visual character of the new buildings. Steven Lyon stated that he would like to see the new buildings reflect the character of the original Westgate estate. Thorpe stated that a CUP condition for approval could be drafted to articulate architectural and design standards specific to the subject property so nothing will surprise the owners of the neighboring properties regarding future residences. Following discussion, the Plan Commission was in consensus that the public hearing should be left open until next month when revised and more complete building plans can be presented, and the CUP application and recommendation on the Condominium Plat and Declarations should be tabled.

Spadoni/Poivey 2<sup>nd</sup> made a MOTION to table the public hearing and consideration on the CUP application, and the MOTION carried without negative vote.

**Petition to Amend Zoning From B-3 (Town of Linn) to Planned Development, Filed by Lake Geneva Yacht Club, Inc., W4780 South Lakeshore Drive, Fontana, WI, Contingent on Approval of Proposed Annexation of Property, for Continued Use as Yacht Club and Sailing School**

President Whowell opened the public hearing at 6:41 pm. Attorney Tim Swatek, representing the Yacht Club, stated the proposed annexation plat has been amended to prevent the creation of a township island. Swatek stated that storm water management plans will be presented for approval when site improvement plans are finalized; however, there are no immediate changes that will take place if the annexation is approved. Swatek stated that an initially proposed provision for future residential units has been removed from the proposal. Swatek stated that if the Yacht Club decides to pursue the residential aspect of the initially presented plan at some time in the future, an amendment to the Precise Implementation Plan will be proposed. Hayden-Staggs stated that if the Plan Commission voted to recommend Village Board approval of the Petition to Amend the Zoning to Planned Development and the General Development Plan, the zoning would be subject to the annexation taking place. Thorpe stated that he preliminarily reviewed the preannexation agreement and he recommended making some nonsubstantive changes. Hayden-Staggs stated that an item regarding sidewalks in the proposed preannexation agreement also has to be removed from the document. Sidewalks are not being required. In response to a question from Trustee Pollitt, Swatek stated that future improvement plans will dictate the storm water management plan, but the only immediate plan if the annexation is approved is the property will be connected to the Village sewer and water lines. Workman stated that the storm water management plan will be an issue that needs to be worked out when there is a disturbance proposed for the property. President Whowell closed the public hearing 6:53 pm.

Spadoni/Poivey 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the Petition to Amend Zoning From B-3 (Town of Linn) to Planned Development, filed by Lake Geneva Yacht Club, Inc., W4780 South Lakeshore Drive, Fontana, WI, contingent on approval of the proposed annexation of the property, for continued use as Yacht Club and Sailing School, and the General Development Plan as presented, and the MOTION carried without negative vote.

**Conditional Use Permit Application and Petition to Amend Zoning From RS-3 (Single-Family Residential District) Parking Overlay to RS-1 (Single-Family Residential District), filed by Country Club Estates Property Owners Association, PO Box 341, Fontana, WI, for Proposed Construction of Storage Building With Unisex Toilet Room in the Association's Lakefront Parking Lot**

President Whowell opened the public hearings at 6:55 pm. Architect David Coates presented the same proposed site plan that was presented last month, with the new storage shed/family bathroom

building located in the northeast corner of the parking lot, five feet from the north lot line and seven feet from the east lot line. Coates stated that proposed location is tucked in the corner of the site, which is shielded by big pine trees and not visible from the bridge on Lakeshore Drive. Coates stated that the new building will replace the portable toilet and storage shed currently located in the parking lot. Coates stated that the bathroom would be a family friendly and handicapped accessible facility, with an outdoor shower. The storage area will be used for beach chairs, children's toys and a family-sized barbecue. Attorney David Rasmussen stated that he was representing the Country Club Estates Association and a Conditional Use Permit in the RS-1 District would allow the Plan Commission to approve modified setback and minimum lot size requirements. Hayden-Staggs stated that the staff agrees that the Plan Commission could vote to approve a conditional use permit that would allow for the construction of the new building in a location that does not meet the minimum setback standards of the RS-1 District; however, staff is concerned that the applicant did not submit the modified site plan that was directed by the Plan Commission last month. Hayden-Staggs stated that staff was unable to make a final recommendation on the proposed site without having a specific site plan filed. Slavney stated that it was the Plan Commission's task to determine the appropriate site for the building. A Country Club Estates resident stated that he supports the proposal as presented because that corner of the lot is located closest to the association's beach area. Jan Whitler stated that the proposed location of the new building will not be visible from the bridge, so he supports the proposal since it will eliminate the portable toilet and the storage shed. Arnie and Joyce Havens, owners of the residence located adjacent to the parking lot at 646 Shabbona Drive, submitted an email to the Village that states they support the proposed location of the new building as presented because it will be close to the walkway to the beach and more convenient for beachgoers, and it will be located further away from their house. Spadoni stated that he thinks the proposed location for the new building is a great idea and he would have no problem voting to waive the setback and lot size requirements. O'Connell stated that she disagrees with the proposed location of the building, and she would have liked to see a site plan with the building located in a position that adheres to the setback minimum standards. O'Connell stated that there are also safety considerations if the building is not visible from the road, and the area may attract kids after dark. Treptow stated that he also would have liked to see the building "flopped over" and moved to the west to meet the minimum setback requirements. Poivey stated that he does not think that the location of the building is an issue, he just wants to find a way to make the proposal work. D'Auria stated that the proposed location for the building tucked in the corner makes the most sense because it will not affect the adjacent property owners and there is no need to consider other sites. McGreevy stated that the email from Arnie and Joyce Havens, the owners of the closest neighboring property, supports the proposed location, they would like to see the portable toilet and shed replaced with a new building to be hooked into the Village sewer and water system, and the building is best suited tucked in the corner. Spadoni stated that he wanted to approve the proposal as presented with five conditions suggested in the staff report, including that the applicant submit documents that describe policies and procedures for access to the structure designed to limit safety hazards (safe access to and inside the structure; "after hours" access, etc.); a detailed signage plan, including, but not limited to, style, sizes, materials, lighting, copy; a detailed lighting plan, including, but not limited to, style, wattage, location; a detailed landscaping plan, including, but not limited to, existing fence clarification, green space improvements; and a detailed parking plan, including, but not limited to, total number of spaces, sizes and access. McCarthy stated that another standard condition suggested in the staff report would be to establish a time frame for submitting the required documents and obtaining permits and completing construction. Following discussion on whether the time frame should be 90 days, or 120 days, the Plan Commission decided to not set a time frame and just state "prior to the issuance of a building permit." Thorpe stated that if the Plan Commission favored the proposal as presented, there were two motions necessary: one to recommend Village Board approval of the Petition to Amend Zoning, and a second motion to approve the Conditional Use Permit application as presented, subject to the approval of the Petition to Amend the Zoning and the meeting of the stated conditions. President Whowell closed the public hearings at 7:39 pm.

Spadoni/D’Auria 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the Petition to Amend Zoning from RS-3 (Single-Family Residential District) Parking Overlay to RS-1 (Single-Family Residential District), filed by Country Club Estates Property Owners Association, for the construction of a storage building with a unisex toilet room in the association’s lakefront parking lot, and the MOTION carried without negative vote.

Spadoni/Poivey 2<sup>nd</sup> made a MOTION to approve the Conditional Use Permit application to modify the minimum lot size requirements and setback requirements of the RS-1 Zoning District as presented, with the conditions that the Petition to Amend Zoning is approved by the Village Board, that the applicant submit documents that describe policies and procedures for access to the structure designed to limit safety hazards (safe access to and inside the structure; “after hours” access, etc.); a detailed signage plan, including, but not limited to, style, sizes, materials, lighting, copy; a detailed lighting plan, including, but not limited to, style, wattage, location; a detailed landscaping plan, including, but not limited to, existing fence clarification, green space improvements; and a detailed parking plan, including, but not limited to, total number of spaces, sizes and access; and that the required documents be submitted prior to the issuance of a building permit. The MOTION carried without negative vote.

### **General Business**

#### **Condominium Plat and Declarations Filed by Barton and Joan Love, 928B South Lakeshore Drive**

Spadoni/Poivey 2<sup>nd</sup> made a MOTION to table consideration of the Condominium Plat and Declarations, and the MOTION carried without negative vote.

#### **Lake Geneva Yacht Club Preannexation Proposal**

Spadoni/Poivey 2<sup>nd</sup> made a MOTION to recommend Village Board approval of the preannexation agreement with the conditions that nonsubstantive changes are made by Village Attorney Dale Thorpe as recommended, and that Item “b” from Section 5 on Page 8 is removed from the agreement, and the MOTION carried without negative vote.

#### **Abbey Springs Boat Storage Expansion – PIP Amendment Proposal (Tabled 12-18-06 & 1-29-07)**

Hayden-Staggs stated that the Plan Commission voted last month to recommend Village Board approval of the proposal, and it was tabled by the Village Board at its February 5, 2007 meeting. The Village Board indicated its opposition to the proposal to increase the total number of boat storage spaces and voted to table the matter pending the receipt of more information from the applicant and from the Geneva Lake Environmental Agency on Geneva Lake boat count statistics. The agenda item was a typo; however, Hayden-Staggs stated that she could provide an update. Abbey Springs Manager Mac Niven requested that the item be pulled from the Village Board agenda until further notice.

#### **Condominium Plat, Declarations and Bylaws Filed by Robert Hehr for Property at 636 S. Lakeshore Drive**

David Rasmussen stated that he was representing Robert Hehr with regard to the proposal to create a two-unit condominium association. The two homes already are constructed; however, the second home initially was approved by a former building inspector as a caretaker’s residence. David Rasmussen stated that Hehr is again pursuing approval of a condominium plat, declarations and bylaws to create individual ownership of the two homes, with one foot of common property ownership on the parcel. The parcel will not be divided and the current use of the property will not be affected. Thorpe stated that there is enough land to meet the zoning requirements to have two primary homes on the lot and the approval process was just a matter of paperwork. Poivey stated that he remembers the issue coming before the Plan Commission previously, and O’Connell stated that she also remembers that the proposal was previously denied. Thorpe stated that after the second

residence was constructed on the lot as a caretaker's residence, the applicant attempted to earn approval for the condominium plat. Thorpe stated that at that meeting, the issue became a matter of the second residence not being a caretaker's residence and the proposal was denied for that reason. Thorpe stated that similar proposals have been unsuccessful because the subject parcels have not been large enough to meet the minimum standards of the Zoning Code. Thorpe stated that the current proposal is in conformance with the Municipal Code, and if approved, the property will become a condominium association with limited common elements, including the driveways. Staff recommended that the applicant remove the piers from the condominium plat and that the surveyor also make other lot width clarifications. Other recommendations in the staff report include that the plat be amended to depict actual dimensions of the proposed units; that the Village's sanitary sewer line on the property be located to verify that it lies within the center of depicted easements; that any easement for Village utilities shall contain a provision allowing the Village access to the easement for purposes of maintaining, constructing, removing and replacing the utilities; that the condominium declarations shall include Village access to easements; and that all other state and local codes and ordinances shall apply. The Plan Commission was in consensus that the matter should be tabled until the plat and declarations are amended to address the corrections and staff conditions, including the removal of the piers from the plat and the clarification of a lot width perpendicular line on the plat. Spadoni/O'Connell 2<sup>nd</sup> made a MOTION to table the Condominium Plat, Declarations and Bylaws filed by Robert Hehr for the property at 636 S. Lakeshore Drive, and the MOTION carried without negative vote.

**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**

Bruce Wilkinson stated that he was seeking approval of the CUP to remove trees in preparation of construction a single-family residence. Wilkinson stated that an architectural plan has been completed and the location for a new home has been determined. Wilkinson stated that there are 20 trees on the lot that fall under the regulation of the Tree Ordinance, and seven of those trees are healthy; the others are nuisance trees, dead or diseased. Wilkinson stated that taking into consideration the plans for the driveway, the footprint of the new residence, and the over-dig area created during construction, he would like to remove 16 of the existing trees and replace them on the lot with 17 trees planted in various groupings. Wilkinson stated that five of the trees that he is proposing to cut down are healthy and the others are dead or decaying from the wet conditions of the lot. Thorpe stated that the applicant may want to make sure that an approvable drainage plan can be figured out for the lot before a Tree Permit CUP is pursued. Kathryn Galik Wilkinson stated that an engineered plan has been prepared for the single-family residence and it will be submitted. Thorpe stated that it was his suggestion that the applicants submit an engineering plan before the tree issue is acted on to make sure a storm water management plan can be figured out. Wilkinson stated that an engineer from Farris, Hansen & Associates Inc., Elkhorn, has prepared a storm water management plan for the lot, and he would like to move forward with the approval process at this time to take care of the tree issue. Thorpe stated that it would be a good idea for the applicant's engineer to meet with Village Engineer Joe Eberle to attempt to work out potential engineering problems. The staff review of the CUP application recommends conditional approval, contingent on 10 suggested conditions, including:

1. Satisfactory resolution, which shall comply with all state and local codes and ordinances, of all grading and draining issues, as detailed in Attorney Thorpe's correspondence to the applicant, dated June 2, 2006, shall be met prior to the issuance of any building and zoning permits, tree removal permits and tree removal.
2. There shall be no removal of any protected tree until all contingencies have been fully satisfied, and a valid tree removal permit has been issued.
3. If it is found that replacement is not a viable option, it shall be required that any tree mitigation fees into the Tree Reforestation Fund must be paid in full prior to the removal of

- any protected trees and the issuance of a tree removal permit, or occupancy issuance may be held until such time as any fees due with regard to tree mitigation has been fully met.
4. A completed, signed and dated, tree removal permit application shall be provided, and the tree removal permit fee paid in full, prior to the issuance of a tree removal permit.
  5. A tree removal permit shall not be issued until such time as a building permit application for the construction of a new family home on the same lot has been issued. In the event the placement of the structure is modified and affects the removal of trees applied for in this application and approval, the applicant shall be required to modify the tree removal application. In the event more trees are proposed removed the applicant shall be required to seek subsequent approval through the amendment of this Conditional Use Permit.
  6. Prior to the issuance of a building permit, thereby allowing the issuance of a tree removal permit, the applicant shall provide engineered plans which depict sufficient infiltration and management of storm water, and the affect proposed infiltration and management would have on the health of proposed replacement trees. In the event engineered plans determine a modification is required which would negatively affect the health of a proposed replacement tree, that tree shall be planted elsewhere on the property, or a fee shall be paid into the Tree Reforestation Fund.
  7. Replacement trees must be sustained for a minimum of three years from their planting date. In the event a replacement tree is determined to be dead, diseased, or dying, at any time or times within the three years from its planting date, a subsequent replacement shall be planted, or a fee shall be paid into the Tree Reforestation Fund based on the size of the original tree removed as listed within this conditional use application.
  8. In the event a Building Permit is not obtained within 120 days, this conditional use shall be considered not valid since the stated purpose of proposed tree removal is for the construction of a single family dwelling. Written notice by the Village of Fontana shall be given clearly stating the conditional use is no longer valid.
  9. In the event a building permit is issued, but construction is not commenced within six months and said building permit is considered void and no longer valid [§14-67] this conditional use shall also be considered not valid and removal of trees shall not take place. If removal of any or all trees have already taken place, the applicant shall be required to comply with all mitigation requirements within three months, or at the start of the next planting season, whichever comes first, of the date of the written notice that this conditional use has been considered not valid by the Village of Fontana.
  10. Tree mitigation of previously issued tree removal permit No. 498-1106-TR shall be included as a requirement of this conditional use permit approval, and shall be considered as part of this application, and as such, shall be held to all approvals and conditions listed and granted.

Spadoni stated that he would like to make a motion to approve the CUP with the suggested conditions; however, a public hearing has to be held prior to action on a CUP application. McGreevy/Spadoni 2<sup>nd</sup> made a MOTION to set a public hearing date on Monday, March 26, 2007, beginning at 5:30 pm, to consider 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.

#### **VCP Language – SEWRPC Recodification Error List (Tabled 1-29-07)**

Thorpe stated that he reviewed Chapter 18 of the Municipal Code and prepared a list of the errors made by the Southeastern Wisconsin Regional Planning Commission when it recodified the code in 2000. Thorpe stated that he reviewed the current zoning regulations and compared them to the version of the zoning ordinance that was in effect prior to the recodification. Thorpe stated that the project was the result of the Village staff discovering that a number of historic zoning regulations for the Village had been altered through the recodification process in 2000, and that there had been no disclosure or discussion of the changes at the time the recodification took place. Some of the 104 total changes noted by Thorpe are “modernizations” of the former code and not really substantive;

however, the changes addressed in a proposed ordinance are substantive and should be corrected. Thorpe stated that rather than correcting the substantive changes in a piecemeal manner, they are combined in the proposed ordinance he drafted. D'Auria stated that the document prepared by Thorpe is a good document that he would like to review and maybe suggest other changes be addressed at this time. Hayden-Staggs stated that staff really didn't get a chance to thoroughly review the error list since it was submitted by Thorpe, and it would not be a problem to delay setting a public hearing on the matter for another month.

Spadoni/Treptow 2<sup>nd</sup> made a MOTION to table the proposal, and the MOTION carried without negative vote.

### **Adult Oriented Business Regulations**

Thorpe stated that the Village adopted an ordinance on November 2, 1998 that prohibits live, totally nude, non-obscene, erotic dancing in establishments licensed to sell alcohol beverages and creating an exception from such prohibitions for theaters, civic centers, performing arts centers, and dinner theaters where live dance ballet, music and dramatic performances of serious artistic merit are offered on a regular basis. Thorpe stated that other options that municipalities have to govern adult oriented businesses are to establish a specific licensing procedure and to designate a specific zoning district where adult oriented businesses would be allowed. Thorpe stated in the small Village of Fontana, it would not be possible to locate an area to designate as a zoning district where adult oriented businesses would be allowed; there are no areas in the Village that isolated or located far enough away from a church, civic center or school. Thorpe stated that the Village's best option to supplement Ordinance 11-2-98-1 is to establish a licensing procedure. Thorpe stated that he would like to discuss the issue further with Village Planner Mike Slavney and make sure that the 1998 ordinance was firmly published and added to the Municipal Code. Slavney stated that the licensing approach to regulate adult oriented businesses is used in many municipalities the size of the Village of Fontana. Hayden-Staggs stated that since the Plan Commission was in consensus that the matter is best handled as a licensing procedure, the agenda item will be referred to the Village Board since it is not going to be an issue of zoning.

### **Fencing Ordinance Amendment for Section 18-27(f)(1) (Tabled 1-29-07)**

McCarthy stated that the proposed amendment rectifies inconsistencies in the Municipal Code and corrects some errors with regard to the fencing regulations. McCarthy stated that one of the inconsistencies that the amendment addresses is that the maximum height of a fence within a setback area is 3.5 feet in one section and 4 feet in another. The amendment would make the maximum height of a fence within a setback area 3.5 feet throughout the Zoning Ordinance. Spadoni stated that the proposed amendment is a big issue that affects all of the residences in the Village. Spadoni stated the before a public hearing is held, the proposed amendment should be printed in the Village Newsletter and publicized. The Plan Commission directed Martin to publish the proposed amendment in the spring 2007 newsletter, which will be mailed to residents the last week of March. Spadoni/Poivey 2<sup>nd</sup> made a MOTION to set a public hearing for Monday, April 30, 2007, beginning at 5:30 pm for a Petition to Amend the Zoning Ordinance and Zoning Map of the Village of Fontana, Section 18-27(f)(1), and the MOTION carried without negative vote.

### **Tree Ordinance Amendments**

Treptow stated that the document referred by the Park Commission reflects the amendments suggested at the joint workshop meeting held January 9, 2007. In response to questions regarding evergreen trees, Treptow stated that evergreens are not listed as protected because they are not part of the tree canopy. Nyman stated that the proposed amendments should alleviate the concerns he had with the initial ordinance. McCarthy stated that the Building and Zoning Department still needs a list of acceptable replacement trees. Also language added to the purpose statement of the ordinance cannot be used to enforce the regulations within the ordinance. Hayden-Staggs stated that the Plan Commission could vote to present the initial Tree Ordinance amendments suggested at a public

hearing next month so that the changes can be implemented this spring when tree activity will increase. Hayden-Staggs stated that the issue could be revisited in the future and more amendments could be adopted if desired. In response to a question from Wilkinson, Treptow stated that a paragraph is being proposed to be added to section "F" of Item No. 7 of the Tree Ordinance that states, "Trees located within a proposed new building footprint as described on any application for a building permit, shall be exempted from this computation, but shall remain subject to all other requirements of this Natural Resource Conservation Ordinance."

Poivey/McGreevy 2<sup>nd</sup> made a MOTION to set a public hearing for Monday, March 26, 2007, beginning at 5:30 pm for a Petition to Amend the Zoning Ordinance and Zoning Map of the Village of Fontana, Section 18-28, Natural resource conservation ordinance, and the MOTION carried without negative vote.

#### **Documentation Submittal Deadline for Plan Commission Items – 20 Days**

Hayden-Staggs stated that the current submittal deadline of 10 days prior to the meeting dates does not leave enough time for the staff members to completely review all of the proposals prior to the meeting dates. Hayden-Staggs stated that the staff would like the deadline extended to 20 days prior to the meeting dates.

Poivey/Treptow 2<sup>nd</sup> made a MOTION to approve setting the document submittal deadline at 20 days prior to the Plan Commission meeting dates, and the MOTION carried without negative vote.

#### **Pending Items for Future Agendas**

1. Concept Review for CUP – Edward Lyon (Tabled 5/30/06 & 6/26/06)
2. Minimum Lot Size Requirement Discussion (Tabled 6/26/06)
3. Abbey Harbor Condo Plat
4. Fontana Village Inn BSOP
5. Novaks' Deli – Certified Survey/Parking Lot Renovation Plan & Noncompliance Letter (Tabled 1-29-07)
6. Abbey Springs Clubhouse Renovation – PIP Amendment Proposal (Tabled 1-29-07)

#### **Adjournment**

Spadoni/O'Connell 2<sup>nd</sup> made a MOTION to adjourn at 9:04 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: 03/26/07