

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

SPECIAL PLAN COMMISSION MEETING

Tuesday, March 7, 2006

President Whowell called the special meeting of the Plan Commission to order on Tuesday, March 7, 2006 at 5:35 pm in the Village Hall located at 175 Valley View Drive, Fontana, Wisconsin.

Roll Call

Commissioners Present: Roll Call: Eakright, O'Connell, Spadoni, President Whowell, Poivey, Larson

Commissioner Absent: Treptow

Also Present: Vance Antoniou, Cheryl Bartz (arrived at 5:45 pm), Trustee John Bromfield (arrived at 5:52 pm), Village Administrator Kelly Hayden-Staggs, Peter King, Attorney John Maier, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget J. McCarthy, CDA Executive Director Joseph McHugh, Trustee Pete Petersen, Treasurer Peg Pollitt, Trustee Ron Pollitt, Don Roberts, Edwin Snyder, Village Attorney Dale Thorpe, Trustee William Turner, Public Works Director Craig Workman

General Business

Amendments to the Dockominium Plat and Condominium Declrations filed by the Abbey Harbor Condominium

Attorney John Maier, representing the ABKA, stated that the dockominium issue has been going on for years. Maier stated that the current proposal was generated in response to a ruling by the Wisconsin Supreme Court that the initial "lock-box" units were not appropriate units under condominium law. In an effort to address the ruling, Maier stated the Abbey Harbor Condominium owners are proposing an addendum to the approved plat that would define the units as "parking stalls." Also, each owner of a "parking stall" in the harbor would own a vehicle parking stall in the adjacent parking lots. Maier stated the addendum still calls for 407 units, and the proposal does not affect the current zoning designation. Maier stated that in order to ratify the proposal, the condominium declaration also has to be amended to reflect the new definition for the individually owned units. Maier stated that his clients requested the special meeting because they are concerned proposed state legislation could benefit the dockominium proposal. Maier stated that his clients want to get the dockominium plat revised before the legislation is adopted so that it would be covered by the new law if adopted. Maier stated that his clients also want to finalize the addendum proposal so an ownership issue can be resolved and further litigation can be avoided. Maier asked the Plan Commissioners if they would consider making a positive recommendation to the Village Board for approval of the dockominium plat addendum and condominium declarations with the condition that the documents be favorably reviewed by the village attorney and village engineer. Thorpe stated that he reviewed the proposed amendments to the condominium declarations and agreed the change in the definition from "lock box" to "parking stall" is the only item that was amended. Thorpe stated that he did not have time to review the proposal with regard to its adherence to the Supreme Court ruling. Maier stated that he and his partner, Lowell Sweet, have come to the determination that the proposal does comply with the Supreme Court ruling. Hayden-Staggs stated that since the documents were not submitted to the village until Saturday, March 4, 2006, there was not a great deal of time to review the proposal and the staff was not in a position to make a recommendation one way or the other. Peter King stated that Supreme Court ruling states that the "lock box is a sham." King stated changing the definition from lock box to parking stall is simply an upgrade in language and it will not address the Supreme Court ruling. King stated that the DNR has reviewed the proposal and stated that it also is illegal and will not address the inherent problems. King stated that the DNR also ruled that the Abbey could only sell 120 units, not 407. Commissioner Spadoni stated that the legal issues related to the lawsuit filed against the Abbey are not a concern for the Plan Commission, only if the addendum proposal adheres to the Village of Fontana Municipal Code. Trustee Turner stated that he agreed with Spadoni. Eakright stated that he was not convinced expedited approval was necessary for the proposal, and that he did not have an opinion on the propoal one way or the other at this time. Eakright stated that he did not see a connection between the

Abbey's dockominium proposal and the current state legislation, which is at the committee level. Larson stated that how the Abbey defines the units in the condominium declarations is an issue that does not affect the Plan Commission; however, she did not receive the submitted documents until that night and she was not ready to vote on anything. Poivey stated that he agreed with Larson and he felt like he was being rushed into making a decision when he did not have enough time to think about the issues. Thorpe stated that after he reviewed the status of Assembly Bill 850, he did not think the approval of the dockominium plat addendum and condominium declarations was urgent with regard to the proposed legislation. Thorpe stated that the current proposed AB850 does not appear to have an affect on the dockominium issue, and the proposed legislation is only at the committee level at this time. Spadoni stated that the proposal was a simple definition amendment and there is no proposed change in use. Spadoni stated that the proposal could be approved that night with the condition that it is favorably reviewed by staff. O'Connell stated that she would rather have the staff complete the review and make recommendations prior to Plan Commission consideration. President Whowell stated that none of the Plan Commissioners stated they were opposed to the proposal; however, the majority of them stated they wanted the proposal reviewed by staff prior to taking any action. In response to a question from President Whowell, Maier stated that his clients would like the proposal reviewed by staff and considered at the next meeting of the Plan Commission on Tuesday, March 28, 2006.

Poivey/Larson 2nd made a MOTION to table the issue until the March 28, 2006 meeting of the Plan Commission, and the MOTION carried without negative vote.

Adjournment

Eakright/Larson 2nd made a MOTION to adjourn at 6:13 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, 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: 03/29/06