

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

MONTHLY MEETING of the VILLAGE OF FONTANA PLAN COMMISSION

Monday, December 18, 2006

President Howell called the monthly meeting of the Village of Fontana Plan Commission to order at 5:36 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: Poivey, D'Auria, McGreevy, Spadoni, Treptow, President Howell

Plan Commissioner absent: O'Connell

Also present: Cheryl Bartz, Michael Chorneyko, Village Administrator Kelly E. Hayden-Staggs, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Mac Niven, Building Inspector Ron Nyman, Trustee Ron Pollitt, Scott Ripkey, Tim Swatek, Village Attorney Dale Thorpe, Public Works Director Craig Workman

Visitors Heard

None

Announcements

Hayden-Staggs stated that the last day for incumbents to file a Notice of Noncandidacy is Friday, December 22, 2006; the last day to pay real estate taxes in person at the Village Hall is Saturday, December 30, 2006, from 8:00 am to noon; Village Hall will be closed for holidays on Monday and Tuesday, December 25 and 26, 2006, and January 1 and 2, 2007; the next meeting of the Village Board will be Wednesday, January 3, 2007, beginning at 6:00 pm; the CDA Board monthly meeting was scheduled for Thursday, January 4, 2007, but the CDA will be rescheduling the meeting; and the next monthly meeting of the Plan Commission will be Monday, January 29, 2007, beginning at 5:30 pm. A joint workshop meeting to discuss amendments to the Tree Ordinance will be held Tuesday, January 9, 2007, beginning at 5:30 pm.

Approve Minutes

Spadoni/Treptow 2nd made a MOTION to approve the minutes for the meeting held November 27, 2006, and the MOTION carried without negative vote.

Public Hearing

Conditional Use Permit Application filed by Michael Raymond Custom Homes, LLC, 2000 W. Main Street, Suite E, St. Charles, IL 60174 to cut down more than 30 percent of the existing trees on the 0.24-acre site of a proposed single-family residence located at 89 Medinah Lane in the Abbey Springs Planned Development District

President Howell opened the public hearing at 5:38 pm. Michael Chorneyko of Michael Raymond Custom Homes, LLC stated that a Conditional Use Permit is required to cut down more than 30 percent of the trees to accommodate the construction of a single-family residence on a lot at 89 Medinah Lane, in the Abbey Springs subdivision. Chorneyko stated that his proposal calls for cutting down 14 trees that are in the building envelope on the lot. Chorneyko stated that he is planning to plant 14 new trees in two designated areas in the front and side yards on the lot in order to fulfill the requirements of the Tree Ordinance. Hayden-Staggs stated that staff reviewed the application and if the Plan Commission favors approval, the staff reports lists eight suggested conditions. William

Holzman, 105 St. Andrews Trail, submitted an email to the Village that expresses his opposition of eliminating more than 30 percent of the trees since the back of his home faces the subject property. Holzman requested that the application be denied. Holzman states in the email that “it ought to be possible for this lot to be developed without eliminating more than 30 percent of the trees.”

McCarthy stated that she visited the site and its characteristics make it a difficult lot to develop.

McCarthy stated that the staff report lists the following eight suggested conditions for approval:

1. There shall be no removal of any protected tree until all contingencies have been fully satisfied, and a tree removal permit has been issued.
2. All required information regarding the description of all existing protected trees on the lot (i.e., size, species and health) shall be provided prior to the issuance of a tree removal permit.
3. All required information regarding tree mitigation (i.e., species, location and planting date of replacement trees) shall be provided prior to the issuance of a tree removal permit.
4. Any required tree mitigation fees into the Tree Reforestation Fund shall be paid in full prior to the removal of any protected trees and the issuance of a tree removal permit.
5. 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.
6. A tree removal permit shall not be issued until such time as a building permit application for the construction of a new single-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 to be removed, the applicant shall be required to seek subsequent approval through the amendment of this Conditional Use Permit.
7. 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.
8. A suitable resolution of the sewer easement shall be met for the sewer line as depicted on the survey submitted, including the creation of an easement if none exists.

Thorpe stated he researched the easement issue and it is certain that the public sewer line traverses the privately owned lots; however, it has not been determined why there was not an easement entered into or recorded when the sewer line was constructed. Thorpe stated that the Conditional Use Permit application filed by Michael Raymond Custom Homes provides the Village an opportunity to fix the problem. Thorpe stated that an easement is needed to protect the sewer line. Thorpe stated he can resolve the easement issue in a meeting with the Village engineer, Workman and the developer’s engineer. Workman stated that since there were no easements recorded or filed with the original plans for the sewer line installation, the determination of the depth of the current sewer line and the width of an easement is needed to protect the line during construction. McCarthy then explained the replacement/tree mitigation requirements of the tree ordinance in response to questions from Chorneyko. Spadoni suggested that the Plan Commission table the matter until the easement issue is resolved and the tree mitigation plans are filed. President Whowell stated that the public hearing was still open and he wanted to solicit further input for the applicants. Chorneyko stated that the sewer line easement will not be problem, and he urged the Plan Commission to approve the application as presented, with the staff recommended conditions. Chorneyko stated that every month that construction is delayed is costing his company money. In response to a question, Workman stated that the Village would not approve the planting of trees in a sewer easement area. President Whowell stated that the Village needs more information on the exact location of the sewer line and an easement agreement needs to be worked out. Hayden-Staggs stated that the proposed home may be too large for the lot because of the characteristics of the terrain and the sewer line easement issue. McGreevy stated that his only concern with the proposal is the sewer line and the necessity for an easement. D’Auria stated that he visited the site and he also is concerned that the sewer line be protected; however, he has no issue with constructing a home on the lot. D’Auria stated

that with regard to the concern stated in the email from Holzman, all 14 of the trees to be removed should be replaced with newly planted trees somewhere on the site. Poivey stated that he favors the proposal as presented with the staff recommended conditions. Poivey asked if the staff would recommend approval that night with the conditions listed in the report. Thorpe stated that the easement issue is not a complicated issue and its resolution could be made a condition for approval in order to allow the developer to earn CUP approval that night and move forward with the project. Treptow stated that he favored the proposal as long as the developers meet all of the conditions suggested by staff. Spadoni stated that he also would vote to approve the application as presented as long as the staff conditions are met and the eighth condition be expanded to state "a suitable resolution of the sewer easement shall be met for the sewer line as depicted on the survey submitted, including the creation of an easement if none exists or relocating the sewer line at the expense of the applicant." President Whowell closed the public hearing at 6:19 pm.

Spadoni/Poivey 2nd made a MOTION to approve the Conditional Use Permit application as submitted with the conditions that there shall be no removal of any protected tree until all contingencies have been fully satisfied, and a tree removal permit has been issued; that all required information regarding the description of all existing protected trees on the lot (i.e., size, species and health) shall be provided prior to the issuance of a tree removal permit; that all required information regarding tree mitigation (i.e., species, location and planting date of replacement trees) shall be provided prior to the issuance of a tree removal permit; that any required tree mitigation fees into the Tree Reforestation Fund shall be paid in full prior to the removal of any protected trees and the issuance of a tree removal permit; that 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; that a tree removal permit shall not be issued until such time as a building permit application for the construction of a new single-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); that 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; and that a suitable resolution of the sewer easement shall be met for the sewer line as depicted on the survey submitted, including the creation of an easement if none exists or relocating the sewer line at the expense of the applicant. The MOTION carried without negative vote.

General Business

Abbey Springs Boat Storage Expansion - PIP Amendment Proposal

Niven stated that Abbey Springs would like to amend its Precise Implementation Plan to accommodate a boat storage expansion proposal that would increase the total boats on the site from 158 to 206. The plan calls for reconstructing the boat storage facility to create underground storage space to accommodate 25 boats within an enclosed structure. Niven stated that the plan calls for excavating into the hill that comprises the current boat storage area. There also would be 105 boats stored on the upper level and 76 on the lower level of the structure. There currently are 68 boats stored on the upper level and 90 on the lower level of the parking structure. Niven stated that the landscaping plan along the western fence of the storage area features 46 Techny Arborvitae, two Autumn Maples, three Norway Maples, six Spruces and numerous other plantings. The opening of the new structure would face the interior of the property and the view from South Lakeshore Drive will not be altered if the proposal is approved. Niven stated that they would like to earn approval and commence with construction in April or May so the project can be completed in time for the boating season. President Whowell asked if a public hearing is required to approve the proposal. Hayden-Staggs stated that a PIP amendment does not require

a public hearing as long as the amendment does not change the use of the area. Thorpe stated that since the scope of the Planned Development will not be changing, the proposal is a PIP amendment issue. Thorpe stated that since the boat storage area of the Abbey Springs Planned Development was initially drafted with the neighboring property owners and their attorney, it would be appropriate to receive their input on the proposal. Niven stated that he has presented the proposal to the neighbors, Clarence and Marilyn Schawk, and they did not have any objections; however, following discussion it was determined that Niven talked to them a couple years ago. McCarthy stated that the location of the road is not apparent in the submitted plans. After Niven clarified the road layout, he stated that the plan is to fill in the new storage stalls during a 5- to 10-year period. In response to concerns stated about increased launch activity produced by the storage of 48 additional boats at the site, Niven stated that there still will be only two launch facilities and the number of boats that can be launched will not increase because of time considerations. President Whowell stated that there were some staff concerns to rectify with regard to elevation drawings, and the neighbors should be notified before the Plan Commission votes on the proposal. Thorpe stated that the plans are very hard to read as submitted, and that some type of confirmed dialogue is needed with the Schawks prior to the Plan Commission voting on the proposal. Thorpe stated that the boat storage portion of the PIP was negotiated in good faith with the Schawks and their attorney and it would be a mistake to act on the amendment proposal without their input. Poivey stated that he has no concerns with regard to the proposal, but the plans submitted are not complete and the neighbors should be contacted for input. D'Auria stated that he agrees with Poivey since the expansion plan will create a long-lasting impact. McGreevy stated that he has no concerns with regard to the proposal since everything on the site will be hidden from the neighboring properties. McGreevy asked how long the neighbors owned their property, and Treptow responded about 35 years. President Whowell directed Niven to obtain elevation drawings of the proposal and to solicit the input of the Schawks prior the next meeting of the Plan Commission on Monday, January 29, 2007. Spadoni/Poivey 2nd made a MOTION to table the PIP Amendment proposal, and the MOTION carried without negative vote.

Lake Geneva Yacht Club Annexation Proposal

President Whowell stated that the Yacht Club has been discussing its proposal to be annexed from Linn Township into the Village at the staff level for some time. President Whowell stated that he and Bill Turner have stated in the past that the Yacht Club property, which is the first property out of the Village on the eastern border of South Lake Shore Drive, should be annexed into the Village. President Whowell stated that the Yacht Club would like to hook into the Village water and sewer service. President Whowell stated that he supports the proposal because the Yacht Club is a wonderful property and it will provide the Village with an opportunity to relocate the lift station that services the area. Attorney Tim Swatek stated that the Yacht Club membership will provide an easement for the sewer line to the relocated lift station, and there already have been meetings with regard to the assigning of an assessed value for the property. Thorpe stated that he has a preliminary draft of a preannexation agreement that will be finalized with Swatek and then presented to the Village for consideration. Hayden-Staggs stated that concerns regarding the Yacht Club proposal to reserve an area for the possible future development of a 6- to 8-unit residential development also have to be worked out. Swatek stated that the residential provision is being pursued as a financial security measure in case the club needs to raise revenue in the future. Swatek stated that the residential proposal really is only a measure to protect the club if a future revenue source is needed. The Plan Commissioners were in consensus that the annexation proposal is a good idea and it should be pursued by staff.

VCP Language – SEWRPC Recodification Error List

Thorpe stated that he discovered two errors and two code changes that were caused by the Southeastern Wisconsin Regional Planning Commission when it recodified the Municipal Code.

Thorpe stated that all of the items will be brought forward for action at the same time the Plan Commission considers some other pending amendments to Chapter 18. Thorpe stated that the error list project turned out to be too complex for his office secretarial staff to complete, and he will complete the task himself for next month's Plan Commission meeting.

Adult Oriented Business Regulations

Thorpe stated that the item will be brought forward for action at the same time the Plan Commission considers other pending amendments to Chapter 18.

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

Adjournment

Spadoni/McGreevy 2nd made a MOTION to adjourn at 6:58 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: 01/29/07