

PLAN COMMISSION RESOLUTION NO. 05-29-07-01

WHEREAS, Barton Love and Joan Love (together the "Petitioner") have petitioned the Village for a conditional use permit (the "Petition") for a three unit residential condominium on a property in the RS-1 zoning district, which said property is described in Exhibit "A", attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Petitioner has submitted a set of plans for the development of the Property (the "Plans"), which said Plans include all materials previously filed by the Petitioner with the Village, including the proposed condominium plat and declaration for the proposed Westgate Condominium; and

WHEREAS, the Plan Commission did hold a public hearing on the Petition as required by the Village Municipal Code; and

WHEREAS, the Petitioner did previously agree on the record to an extension of the 60 day deadline for an action on a conditional use permit as set forth more specifically in Sec. 18-136 of the Village Municipal Code, which said extended deadline is later than May 29, 2007; and

WHEREAS, the Plan Commission has considered the submittals made by the Petitioner and the comments made at the public hearing and the information provided by the Village staff in making those determinations called for by Secs. 18-136, 18-62, and 18-63 of the Village Municipal Code; and

WHEREAS, the Plan Commission, by this resolution does intend to make those findings called for by the Village Municipal Code and to take action on the Petition for a conditional use permit; and

WHEREAS, the Petitioner has simultaneously petitioned the Village for a variance to the terms of Chapter 17, the Land Division Regulations for the Village of Fontana-on-Geneva Lake, to the extent inconsistent with the Plans.

NOW, THEREFORE, be it resolved by the Plan Commission for the Village of Fontana-on-Geneva Lake as follows;

1. That the recitals set forth above are incorporated herein by reference as if set forth at length herein.
2. That the Village Plan Commission makes the following findings:
 - a. That the Plan Commission has considered the effect of the use proposed in the Petition on the health, general welfare, safety, and economic prosperity of the Village, and the immediate neighborhood in which the use proposed by the Petition

is located.

b. That the Plan Commission has considered the effect of the use proposed in the Petition on the established character and quality of the area in which the use is proposed, its physical attractiveness, the movement of traffic, and the possible hazardous, harmful, noxious, offensive, or nuisance effect as a result of noise, dust, smoke or odor generated by the use proposed in the Petition.

c. That the Plan Commission has considered the anticipated effect or impact of the use proposed in the Petition upon adjoining properties and the neighborhood as a whole, upon the total community character and upon the capabilities of the community infrastructure and upon the general environment while taking into account the particular characteristics of the use proposed in the Petition at the specified Property.

d. That the Plan Commission has considered a number of guidelines or conditions for the petitioned for conditional use permit.

e. That the Plans have been evaluated as to their conformity with the planning goals of the Village and the objectives set forth in the Village of Fontana-on-Geneva Lake Comprehensive Master Plan, including, but not limited to, the traffic patterns that would be generated by the use proposed in the Petition.

f. That the Plan Commission has considered the compatibility of the use proposed in the Petition with the existing character and appearance of the surrounding neighborhood and the possible adverse impact on the value of surrounding property, and any impact the use proposed in the Petition might have on the use and enjoyment of such surrounding property to which owners of the surrounding properties have been accustomed and to which they are reasonably entitled.

g. Notwithstanding anything stated herein to the contrary, the Plan Commission has also considered those other factors set forth more specifically in Article VI and Article IV of the Village Municipal Code.

h. Therefore, the Plan Commission finds that the proposed three unit residential condominium, as described in the Plans, does not have the potential for an adverse or negative impact on neighboring property owners, would not create over crowding on the site which would have an impact on the neighborhood as a whole, would not increase traffic at the site such that the general environment of the neighborhood and the ability of the local infrastructure to manage such traffic would be put at risk, and that the overall residential use and density are generally consistent with the existing character and appearance of the surrounding neighborhood and the use of

surrounding properties.

i. That the Plan Commission further finds that the proposed three unit residential condominium as described in the Plans is consistent with those goals and factors set forth more specifically in Article VI and Article IV of the Village Municipal Code.

j. That the Plan Commission does hereby find that the Petition For Variance to the terms of Chapter 17 of the Village Municipal Ordinances is necessary so that substantial justice may be done and that the public interest shall be secured where, in this case, it would be inappropriate to apply literally the provisions of Chapter 17 to the extent inconsistent with the Plans.

3. That the Petition is hereby approved, as follows:

a. That for the reasons and based on the findings stated herein, a conditional use permit for a three unit residential condominium as set forth in the Plans is approved, subject to the conditions set forth at paragraph 3.b., herein.

b. That the following shall be the conditions of approval with regard to the three unit residential condominium as set forth in the Plans:

- 1) Sheet 2 of the Condo Plat shall be submitted (signature page).
- 2) Proposed piers have not been submitted or approved by the Village of Fontana Lakefront & 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.
- 3) Detached garage to be removed (depicted on west property line) shall have a clearly defined "remove by" date.
- 4) Proper tree removal permits shall be obtained prior to the removal of any protected tree. All proposed tree removal shall be in compliance with Village of Fontana Municipal Codes at the time of proposed removal.
- 5) All signage and lighting shall conform to Village of Fontana Municipal Codes.
- 6) Conservation easement(s) in the locations noted in the Plans shall be worked out to the satisfaction of the Geneva Lake Conservancy.

- 7) An erosion control plan shall be prepared and approved prior to the issuance of building and zoning permits.
- 8) The Condominium Association shall have individual sanitary sewer and water services, which shall be privately owned and maintained.
- 9) Proposed retaining walls shall be clearly defined (i.e., length, height, materials used) and approved.
- 10) Partial or complete removal of the existing stone wall parallel to South Lakeshore Drive shall be prohibited. Future proposed modification of the existing stone wall shall be proposed to Plan Commission in the form of an amendment to this CUP approval. Regular maintenance and repair shall be allowed to ensure the wall is kept in good repair.
- 11) The existing drive widths (proposed private roads) of 10' wide shall be allowed to remain as long as no parking on or partially on, the drive is allowed. The entire width of the existing drives shall remain free of obstruction at all times to allow for emergency access to all properties serviced by these private roads. Parking shall be allowed in private driveways only, or in other designated parking areas (currently not depicted on any submitted plans). The inclusion of additional designated parking areas is strongly encouraged.
- 12) Parking requirements shall be clearly defined in the condominium declarations.
- 13) In the event parking and obstructions on the private roads becomes a habitual nuisance, the Village may deem the applicant non-compliant and in violation, which may result in daily citations being issued against the property, or in the Village seeking a termination of this condition, and require the private roads be widened to the minimum width required by Village Ordinance.
- 14) A minimum amount of minimum sized "NO PARKING" signs shall be installed along both sides of the drives. All drives shall be paved.
- 15) All trees shall be trimmed to allow for a minimum 12' clear (obstruction free) height along the drive.
- 16) All outstanding cost recovery fees billed to date applicable to this project shall be paid prior to the issuance of any building, zoning or

raze permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed.

- 17) All proper building, zoning, and raze permits shall be applied for, approved, paid in full, and properly issued prior to the commencement of any building or construction activities, including site preparation.
 - 18) All other state and local codes and ordinances shall apply.
 - 19) No construction on Sundays. No construction is to take place outside of the hours of 7:00 a.m. to 6:00 p.m.
4. That a variance shall be granted to the terms of Chapter 17, the Land Division Regulations for the Village of Fontana-on-Geneva Lake, to the extent inconsistent with the Plans and the conditional use permit approved by this Resolution.

PASSED AND ADOPTED by the Village Plan Commission of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin this 29th day of May, 2007.

VILLAGE OF FONTANA-ON-GENEVA LAKE

By: _____

George Spadoni, Chairman

Attest: _____

Dennis Martin, Village Clerk