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VILLAGE OF FONTANA

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November 27, 2011

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SENT BY E-MAIL

Mr. Michael Slavney  
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Dear Mike:

Re: Village of Fontana  
Resort Business District

I offer once again my thanks for your efforts in guiding us toward a final draft of the Fontana Resort Business District zoning code sections. In anticipation of a further work session with the Village, I offer these comments as the major points of concern I continue to have. Unless otherwise noted, all of my references are to section 18-40.

1. Page 1 Subsection I.(b)

I continue to object to the phrase "...except as modified by this Section...". Our intent is to provide permitted conforming status for all uses and structures. In some very limited cases, such as the west event tent, some conditions will continue. The Abbey's concern is that the confirmation of permitted status could be challenged later by noting non-conformity to the new standards, which are not intended to apply to existing uses or structures. Perhaps this phrase could be revised to: "...unless a specific condition or standard applicable to a specific use or structure is explicitly set forth in this Section."

Alternatively, because the number of exceptions is very limited, perhaps we should delete the phrase completely and instead add the phrase "...notwithstanding any other provisions to the contrary..." in those limited cases in which special exceptions are made within the code.

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2. Page 2 Subsection I.(d)(2)e.

I think the "on-site parking" use was mistakenly moved into the conditional use section. It should be in the permitted by right section immediately above, just as is "off-site parking".

3. Page 3 Subsection I.(f)

I reiterate my earlier concern that we specify which overlay districts apply, so that we can insure that changes intended to be made under RB zoning, do not unintentionally disappear under the overlays. I note that you have added the "LS" district to Article 7. But if I recall Kelly's comments correctly, there is also a Hwy. 67 overlay district to be considered.

4. Page 4 Subsection I.(g)(3)b.

Please correct me if I am wrong, but I think we agreed that the parking lot screening requirements were going to be limited to parking within a certain distance of a road. The principle being that parking added in the interior of the project need not be screened as would parking immediately adjacent to the roadway.

5. Page 4 Subsection I.(i)(2)

I believe that including the phrase "require sign approval by the Plan Commission" at the title of this subsection is contrary to intent and increases the approval burden beyond that set by Article 12.

6. Page 4 Subsection I.(i)(2)a. & b.

I recall these two classes of sign were to be provided as a matter of right, not subject to plan commission approval.

7. Page 5 Table

- a. In the first two "modification" boxes, I would recommend striking the word "only". This word is unnecessary and could lead to confusion in the event a proposed modification straddled both the central and peripheral area.

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- b. In footnote 1, the intent was to insure that full submittal requirements were not enforced when a minor project was involved. I find no solace in the revision to section 18-245(e)(6). Perhaps the following could be added at the end of footnote 1:  
"Submittal requirements shall be deemed fully satisfied if all information relevant to, but limited to the scope of the requested modification is submitted."
- c. May I recommend that we add language noting that the "cumulative" feature of the table is a reference to improvements after the effective date of the new ordinance. Perhaps even better, we should simply adopt a fixed date in close proximity to anticipated approval (e.g. April 1, 2012).

8. Page 10 Section 18-65(i)(1)c.

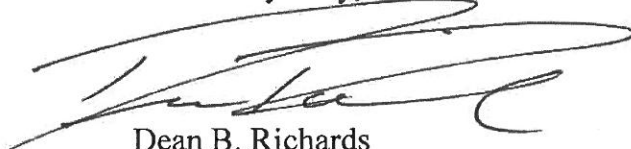
I thought limited duration special events of more than 14 days were only to obtain a temporary use permit, not require site plan review and approval as well. I believe we were going to designate a period of time as the point at which an event stopped being a "limited duration special activity and event", at which time site plan review and approval would be required.

9. Page 10 Section 18-65(i)(3)

Are you sure you meant to require a *conditional* use permit in this section?  
I thought such an event should require only a *temporary* use permit.

Thank you for giving me the opportunity to offer these comments. Unfortunately, in my memory, these comments were prepared after my trip to England and sent to you in anticipation of our last scheduled meeting. It was only when I sat down to prepare for Monday's meeting that I realized my comments had not been transmitted. You have my sincere apologies for this oversight.

Yours very truly,



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cc Mr. Cary Kerger  
Mr. Dale Thorpe  
Mr. John Maier  
Ms. Kelly Hayden